

**THE ONE HUNDRED AND TWENTIETH DAY**

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CARSON CITY (Monday), June 3, 2013

Assembly called to order at 9:43 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Bruce Henderson.

Lord,

For many years in these sessions, I prayed with the Psalmist, "How long, O' Lord, how long?" Well, they say that today is it! Are we really almost done? That being so, Father, we owe You lots of thanks.

I thank You for these people who have spent these four months serving You by serving the people of Nevada. But we thank You, too, for these precious servants behind the front desk, and all those behind the scenes who have done the paperwork, leg work, tech, maintenance, cleaning, feeding, and protecting.

Without all, none of this could have happened. Thank You, Lord! May we always be people who serve.

AMEN.

Pledge of allegiance to the Flag.

Assemblyman Horne moved that further reading of the Journal be dispensed with and the Speaker and Chief Clerk be authorized to make the necessary corrections and additions.

Motion carried.

**REPORTS OF COMMITTEES**

*Madam Speaker:*

Your Committee on Taxation, to which was referred Senate Bill No. 165, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

IRENE BUSTAMANTE ADAMS, *Chair*

**MOTIONS, RESOLUTIONS AND NOTICES**

Assemblyman Horne moved that Senate Bill No. 165 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Horne moved that the Assembly dispense with the reprinting of all bills and resolutions for this legislative day.

Motion carried.

Assemblyman Bobzien moved that Senate Bill No. 123 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 165.

Bill read third time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 964.

AN ACT relating to taxation; authorizing the Office of Economic Development to approve and issue a certificate of transferable tax credits to a producer that produces a qualified film or other production in this State under certain circumstances; providing for the calculation of the transferable tax credits; requiring the Office to provide notice of certain hearings; requiring a producer to return any portion of transferable tax credits to which he or she is not entitled; authorizing the governing body of a city or county to grant abatements of certain permitting and licensing fees imposed or charged by the city or county; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 8** of this bill authorizes a producer that produces a film, television or other media production in this State to apply, on or before December 31, 2017, to the Office of Economic Development for a certificate of transferable tax credits. **Section 8** requires the Office to approve transferable tax credits for such a producer if, in addition to certain other requirements: (1) the production is in the economic interest of this State; (2) at least 60 percent of the total qualified expenditures and production costs for the production will be incurred in this State; and (3) the production costs of the qualified production exceed \$500,000. Upon approval of transferable tax credits and a determination of the amount of tax credits by the Office, **section 8** requires the Office to issue to the producer a certificate of transferable tax credits. **Section 8** also sets forth the fees and taxes to which the transferable tax credits may be applied. Additionally, **section 8** requires that, at the completion of the qualified production, the producer provide the Office with an audit of the qualified production that is certified by an independent certified public accountant in this State who is approved by the Office. **Section 9** of this bill sets forth the types of qualified expenditures and production costs that may serve as a basis for transferable tax credits, and **sections 10-12** of this bill provide for the calculation of the transferable tax credits. **Section 12** prohibits the Office from approving any applications for transferable tax credits received on or after January 1, 2018. **Section 14** of this bill requires the Office to meet certain notice requirements before holding a hearing to approve or disapprove an application for

transferable tax credits. **Section 16** of this bill requires a producer to repay any portion of transferable tax credits to which the producer is not entitled if the producer becomes ineligible for the tax credits after receiving the tax credits.

**Section 15.5** of this bill authorizes the governing body of a city or county to grant to the producer of a qualified production an abatement of all or any percentage of the amount of certain permitting fees and licensing fees imposed by the city or county if the governing body provides by ordinance for a pilot project for the abatement of such fees.

**Section 19** of this bill provides that this bill expires on June 30, 2023.

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

**Section 1.** Chapter 360 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 2.5 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 2.5.** *“Above-the-line personnel” means a producer, director, writer, actor, other than an extra, or other similar personnel whose compensation is negotiated before the start of the qualified production. The term does not include below-the-line personnel.*

**Sec. 3.** (Deleted by amendment.)

**Sec. 3.5.** *“Below-the-line personnel” means a person employed to work on a qualified production after production begins and before production is completed, including, without limitation, a best boy, boom operator, camera loader, camera operator, assistant camera operator, compositor, dialogue editor, film editor, assistant film editor, focus puller, Foley operator, Foley editor, gaffer, grip, key grip, lighting crew, lighting board operator, lighting technician, music editor, sound editor, sound effects editor, sound mixer, steadicam operator, first assistant camera operator, second assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects and other similar personnel. The term does not include above-the-line personnel.*

**Sec. 4.** *“Nevada business” means a proprietorship, corporation, partnership, company, association, trust, unincorporated organization or other enterprise that:*

1. *Has a physical location and at least one full-time equivalent employee in this State; and*

2. *Is licensed to transact business in this State.*

Sec. 5. *“Nevada resident” means a bona fide resident as that term is defined in NRS 361.015.*

Sec. 6. *“Producer” means a natural person or business that finances, arranges to finance or supervises the production of a qualified production.*

Sec. 7. 1. *“Qualified production” includes preproduction, production and postproduction and means:*

(a) *A theatrical, direct-to-video or other media motion picture.*

(b) *A made-for-television motion picture.*

(c) *Visual effects or digital animation sequences.*

(d) *A television pilot program.*

(e) *Interstitial television programming.*

(f) *A television, Internet or other media series, including, without limitation, a comedy, drama, miniseries, soap opera, talk show or telenovela.*

(g) *A national or regional commercial or series of commercials.*

(h) *An infomercial.*

(i) *An interstitial advertisement.*

(j) *A music video.*

(k) *A documentary film or series.*

(l) *Other visual media productions, including, without limitation, video games and mobile applications.*

2. *The term does not include:*

(a) *A news, weather or current events program.*

(b) *A production that is primarily produced for industrial, corporate or institutional use.*

(c) *A telethon or any production that solicits money, other than a production which is produced for national distribution.*

(d) *A political advertisement.*

(e) *A sporting event.*

(f) *A gala or awards show.*

(g) *Any other type of production that is excluded by regulations adopted by the Office of Economic Development pursuant to section 8 of this act.*

Sec. 8. 1. *A producer of a qualified production that is produced in this State in whole or in part may, on or before December 31, 2017, apply to the Office of Economic Development for a certificate of eligibility for transferable tax credits for any qualified expenditures and production costs identified in section 9 of this act. The transferable tax credits may be applied to:*

(a) *Any tax imposed by chapters 363A and 363B of NRS;*

- (b) The gaming license fees imposed by the provisions of NRS 463.370;*
- (c) Any tax imposed pursuant to chapter 680B of NRS; or*
- (d) Any combination of the fees and taxes described in paragraphs (a), (b) and (c).*

*2. The Office shall approve an application for a certificate of eligibility for transferable tax credits if the Office finds that the producer of the qualified production qualifies for the transferable tax credits pursuant to subsection 3 and shall calculate the estimated amount of the transferable tax credits pursuant to sections 10, 11 and 12 of this act.*

*3. To be eligible for transferable tax credits pursuant to this section, a producer must:*

- (a) Submit an application that meets the requirements of subsection 4;*
- (b) Provide proof satisfactory to the Office that the qualified production is in the economic interest of the State;*
- (c) Provide proof satisfactory to the Office that 50 percent or more of the funding for the qualified production has been placed in an escrow account or trust account for the benefit of the qualified production;*
- (d) Provide proof satisfactory to the Office that at least 60 percent of the total qualified expenditures and production costs for the qualified production, including preproduction and postproduction, will be incurred in this State;*
- (e) At the completion of the qualified production, provide the Office with an audit of the qualified production that includes an itemized report of qualified expenditures and production costs which:*
  - (1) Shows that the qualified production incurred qualified expenditures and production costs in this State of \$500,000 or more; and*
  - (2) Is certified by an independent certified public accountant in this State who is approved by the Office;*
- (f) Pay the cost of the audit required by paragraph (e); and*
- (g) Meet any other requirements prescribed by regulation pursuant to this section.*

*4. An application submitted pursuant to subsection 3 must contain:*

- (a) A script, storyboard or synopsis of the qualified production;*
- (b) The names of the producer, director and proposed cast;*
- (c) An estimated timeline to complete the qualified production;*
- (d) A detailed budget for the entire production, including projected expenses incurred outside of Nevada;*
- (e) Details regarding the financing of the project, including, without limitation, any information relating to a binding financing commitment, loan application, commitment letter or investment letter;*
- (f) An insurance certificate, binder or quote for general liability insurance of \$1,000,000 or more;*

*(g) The business address of the producer, which must be an address in this State;*

*(h) Proof that the qualified production meets any applicable requirements relating to workers' compensation insurance;*

*(i) Proof that the producer has secured all licenses required to do business in each location in this State at which the qualified production will be produced; and*

*(j) Any other information required by regulations adopted by the Office pursuant to subsection 8.*

*5. If the Office approves an application for a certificate of eligibility for transferable tax credits pursuant to this section, the Office shall immediately forward a copy of the certificate of eligibility which identifies the estimated amount of the tax credits available pursuant to section 10 of this act to:*

*(a) The applicant;*

*(b) The Department; and*

*(c) The State Gaming Control Board.*

*6. Within 14 business days after receipt of an audit provided by the producer pursuant to paragraph (e) of subsection 3 and any other accountings or other information required by the Office, the Office shall determine whether to certify the audit and make a final determination of whether a certificate of transferable tax credits will be issued. If the Office certifies the audit and determines that all other requirements for the transferable tax credits have been met, the Office shall notify the producer that the transferable tax credits will be issued. Within 30 days after the receipt of the notice, the producer shall make an irrevocable declaration of the amount of transferable tax credits that will be applied to each fee or tax set forth in subsection 1, thereby accounting for all of the credits which will be issued. Upon receipt of the declaration, the Office shall issue to the eligible producer a certificate of transferable tax credits in the amount approved by the Office for the fees or taxes included in the declaration of the producer. The producer shall notify the Office upon transferring any of the transferable tax credits. The Office shall notify the Department and the State Gaming Control Board of all transferable tax credits issued, segregated by each fee or tax set forth in subsection 1, and the amount of any transferable tax credits transferred.*

*7. An applicant for transferable tax credits pursuant to this section shall, upon the request of the Executive Director of the Office, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 3.*

*8. The Office:*

*(a) Shall adopt regulations prescribing:*

- (1) Any additional requirements to receive transferable tax credits;
- (2) Any additional qualified expenditures or production costs that may serve as the basis for transferable tax credits pursuant to section 9 of this act;
- (3) Any additional information that must be included with an application pursuant to subsection 4;
- (4) The application review process;
- (5) Any type of qualified production which, due to obscene or sexually explicit material, is not eligible for transferable tax credits; and
- (6) The requirements for notice pursuant to section 14 of this act; and
- (b) May adopt any other regulations that are necessary to carry out the provisions of sections 2 to 17, inclusive, of this act.

9. The Nevada Tax Commission and the Nevada Gaming Commission:

- (a) Shall adopt regulations prescribing the manner in which transferable tax credits will be administered.
- (b) May adopt any other regulations that are necessary to carry out the provisions of sections 2 to 17, inclusive, of this act.

Sec. 9. 1. Qualified expenditures and production costs that may serve as a basis for transferable tax credits issued pursuant to section 8 of this act must be purchases of tangible personal property or services from a Nevada business on or after the date on which an applicant submits an application for the transferable tax credits, must be customary and reasonable and must relate to:

- (a) Set construction and operation;
- (b) Wardrobe and makeup;
- (c) Photography, sound and lighting;
- (d) Filming, film processing and film editing;
- (e) The rental or leasing of facilities, equipment and vehicles;
- (f) Food and lodging;
- (g) Editing, sound mixing, special effects, visual effects and other postproduction services;
- (h) The payroll for Nevada residents or other personnel who provided services in this State;
- (i) Payment for goods or services provided by a Nevada business;
- (j) The design, construction, improvement or repair of property, infrastructure, equipment or a production or postproduction facility;
- (k) State and local government taxes to the extent not included as part of another cost reported pursuant to this section;
- (l) Fees paid to a producer who is a Nevada resident; and
- (m) Any other transaction, service or activity authorized in regulations adopted by the Office of Economic Development pursuant to section 8 of this act.

2. *Expenditures and costs:*

(a) *Related to:*

- (1) *The acquisition, transfer or use of transferable tax credits;*
- (2) *Marketing and distribution;*
- (3) *Financing, depreciation and amortization;*
- (4) *The payment of any profits as a result of the qualified production;*
- (5) *The payment for the cost of the audit required by section 8 of this act; and*

(6) *The payment for any goods or services that are not directly attributable to the qualified production;*

(b) *For which reimbursement is received, or for which reimbursement is reasonably expected to be received;*

(c) *Which provide a pass-through benefit to a person who is not a Nevada resident; or*

(d) *Which have been previously claimed as a basis for transferable tax credits,*

↪ *are not eligible to serve as a basis for transferable tax credits issued pursuant to section 8 of this act.*

Sec. 10. 1. *Except as otherwise provided in subsection 3 and sections 11 and 12 of this act, the base amount of transferable tax credits issued to an eligible producer pursuant to section 8 of this act must equal 15 percent of the cumulative qualified expenditures and production costs.*

2. *Except as otherwise provided in subsection 3 and section 12 of this act, in addition to the base amount calculated pursuant to subsection 1, transferable tax credits issued to an eligible producer pursuant to section 8 of this act must include credits in an amount equal to:*

(a) *An additional 2 percent of the cumulative qualified expenditures and production costs if more than 50 percent of the below-the-line personnel of the qualified production are Nevada residents; and*

(b) *An additional 2 percent of the cumulative qualified expenditures and production costs if more than 50 percent of the filming days of the qualified production occurred in a county in this State in which, in each of the 2 years immediately preceding the date of application, qualified productions incurred less than \$10,000,000 of direct expenditures.*

3. *The Office may:*

(a) *Reduce the cumulative amount of transferable tax credits that are calculated pursuant to this section by an amount equal to any damages incurred by the State or any political subdivision of the State as a result of a qualified production that is produced in this State; or*

(b) *Withhold the transferable tax credits, in whole or in part, until any pending legal action in this State against a producer or involving a qualified production is resolved.*



Sec. 11. 1. In calculating the base amount of transferable tax credits pursuant to subsection 1 of section 10 of this act:

(a) Wages and salaries, including fringe benefits, paid to above-the-line personnel who are not Nevada residents must be included in the calculation at a rate of ~~17~~ 12 percent.

(b) Wages and salaries, including fringe benefits, paid to below-the-line personnel ~~++~~ who are not Nevada residents:

(1) For the period beginning January 1, 2014, and ending December 31, 2015, must be included in the calculation at a rate of ~~17~~ 12 percent.

(2) For the period beginning January 1, 2016, and ending December 31, 2016, must be included in the calculation at a rate of ~~17~~ 10 percent.

(3) For the period beginning January 1, 2017, and ending December 31, 2017, must be included in the calculation at a rate of ~~7~~ 8 percent.

2. As used in this section, “fringe benefits” means employee expenses paid by an employer for the use of a person’s services, including, without limitation, payments made to a governmental entity, union dues, health insurance premiums, payments to a pension plan and payments for workers’ compensation insurance.

Sec. 12. 1. Except as otherwise provided in this subsection, the Office of Economic Development shall not approve any application for transferable tax credits:

(a) If approval of the application would cause the total amount of transferable tax credits approved pursuant to section 8 of this act for the current fiscal year to exceed \$20,000,000. If the Office does not approve \$20,000,000 of transferable tax credits during any fiscal year, the remaining amount of transferable tax credits must be carried forward and made available for approval during the immediately following 2 fiscal years.

(b) Received on or after January 1, 2018.

2. The transferable tax credits issued to any producer for any qualified production pursuant to section 8 of this act:

(a) Must not exceed a total amount of \$6,000,000; and

(b) Expire 4 years after the date on which the transferable tax credits are issued to the producer.

3. For the purposes of calculating qualified expenditures and production costs:

(a) The compensation payable to all producers who are Nevada residents must not exceed 10 percent of the portion of the total budget of the qualified production that was expended in or attributable to any expenses incurred in this State.

(b) The compensation payable to all producers who are not Nevada residents must not exceed 5 percent of the portion of the total budget of the

*qualified production that was expended in or attributable to any expenses incurred in this State.*

*(c) The compensation payable to any employee, independent contractor or any other person paid a wage or salary as compensation for providing labor services on the production of the qualified production must not exceed \$750,000.*

Sec. 13. (Deleted by amendment.)

Sec. 14. 1. *An application for a certificate of eligibility for transferable tax credits submitted pursuant to section 8 of this act must be submitted not earlier than 90 days before the date of commencement of principal photography of the qualified production, if any. The Office of Economic Development shall prescribe by regulation the procedure for determining the date of commencement of qualified productions that do not include photography for the purposes of this section.*

2. *If the Office of Economic Development receives an application for transferable tax credits pursuant to section 8 of this act, the Office shall, not later than 30 days before a hearing on the application, provide notice of the hearing to:*

- (a) The applicant;*
- (b) The Department; and*
- (c) The State Gaming Control Board.*

3. *The notice required by this section must set forth the date, time and location of the hearing on the application. The date of the hearing must be not later than 60 days after the Office receives the completed application.*

4. *The Office shall issue a decision on the application not later than 30 days after the conclusion of the hearing on the application.*

5. *The producer of a qualified production shall submit all accountings and other required information to the Office and the Department not later than 30 days after completion of the qualified production. Production of the qualified production must be completed within 1 year after the date of commencement of principal photography. If the Office or the Department determines that information submitted pursuant to this subsection is incomplete, the producer shall, not later than 30 days after receiving notice that the information is incomplete, provide to the Office or the Department, as applicable, all additional information required by the Office or the Department.*

6. *The Office shall give priority to the approval and processing of an application submitted by the producer of a qualified production that promotes tourism in the State of Nevada.*

Sec. 15. (Deleted by amendment.)

Sec. 15.5. 1. *For the purpose of encouraging local economic development, the governing body of a city or county may, on or before*

*December 31, 2017, grant to a producer of a qualified production for which a certificate of eligibility for transferable tax credits has been approved pursuant to section 8 of this act an abatement of all or any percentage of the amount of any permitting fee or licensing fee which the local government is authorized to impose or charge pursuant to chapter 244 or 268 of NRS.*

*2. Before granting any abatement pursuant to this section, the governing body of the city or county must provide by ordinance for a pilot project for granting abatements to producers of qualified productions for which a certificate of eligibility for transferable tax credits has been approved pursuant to section 8 of this act.*

*3. A governing body of a city or county that grants an abatement pursuant to this section shall, on or before October 1 of each year in which such an abatement is granted, prepare and submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature an annual report which includes, for the immediately preceding fiscal year:*

*(a) The number of qualified productions produced within the jurisdiction of the governing body for which a certificate of eligibility for transferable tax credits was approved;*

*(b) The number and dollar value of the abatements granted by the governing body pursuant to this section;*

*(c) The number of persons within the jurisdiction of the governing body that were employed by each qualified production and the amount of wages paid to those persons; and*

*(d) The period during which each qualified production was produced within the jurisdiction of the governing body.*

*Sec. 16. 1. A producer that is found to have submitted any false statement, representation or certification in any document submitted for the purpose of obtaining transferable tax credits or who otherwise becomes ineligible for transferable tax credits after receiving the transferable tax credits pursuant to section 8 of this act shall repay to the Department or the State Gaming Control Board, as applicable, any portion of the transferable tax credits to which the producer is not entitled.*

*2. Transferable tax credits purchased in good faith are not subject to forfeiture unless the transferee submitted fraudulent information in connection with the purchase.*

*Sec. 17. The Office of Economic Development shall, on or before October 1 of each year, prepare and submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature an annual report which includes, for the immediately preceding fiscal year:*

1. *The number of applications submitted for transferable tax credits;*
2. *The number of qualified productions for which transferable tax credits were approved;*
3. *The amount of transferable tax credits approved;*
4. *The amount of transferable tax credits used;*
5. *The amount of transferable tax credits transferred;*
6. *The amount of transferable tax credits taken against each allowable fee or tax, including the actual amount used and outstanding, in total and for each qualified production;*
7. *The total amount of the qualified expenses and production costs incurred by each qualified production and the portion of those expenses and costs that were incurred in Nevada;*
8. *The number of persons in Nevada employed by each qualified production and the amount of wages paid to those persons; and*
9. *The period during which each qualified production was in Nevada and employed persons in Nevada.*

**Sec. 18.** The Office of Economic Development, the Nevada Gaming Commission and the Nevada Tax Commission shall each adopt such regulations as are respectively required to implement the provisions of sections 2 to 17, inclusive, of this act on or before December 31, 2013.

**Sec. 19.** 1. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2014, for all other purposes.

2. This act expires by limitation on June 30, 2023.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Remarks by Assemblywoman Bustamante Adams.

Amendment adopted.

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

Assembly Bill No. 273.

Bill read third time.

Remarks by Assemblyman Eisen.

ASSEMBLYMAN EISEN:

Assembly Bill 273 requires the trustee of a deed of trust to provide certain information, including the notice for the Foreclosure Mediation Program, to the borrower, both with and separately from the notice of default, before exercising the power of sale on owner-occupied housing. This bill also revises the notice informing the borrower that he or she will be enrolled in mediation unless the borrower waives mediation or fails to pay his or her share of the mediation fee. If the borrower elects to not waive mediation and pays for his or her share of the mediation fee, the trustee may not exercise the power of sale until the mediation is complete. The measure also prohibits a homeowners' association from foreclosing by sale the association's lien on owner-occupied housing for which the lender has recorded a notice of default and the

trustee has not notified the administrator that no mediation is required or that mediation has been completed. Finally, the bill makes a \$100 appropriation from the State General Fund to the Account for Foreclosure Mediation.

This bill is intended to streamline the process through the Foreclosure Mediation Program by setting timelines for the completion of the various steps. It also automatically enrolls an owner of owner-occupied housing in the Foreclosure Mediation Program upon the service of notice of default. If after 90 days the homeowners have not paid their share of the mediation fee, then mediation is not required, and the lender may proceed with foreclosure of the lien by sale. There has been a lot of work that has gone into this bill trying to make sure we are fair to all parties involved, and I urge its passage.

Roll call on Assembly Bill No. 273:

YEAS—42.

NAYS—None.

Assembly Bill No. 273 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 3.

Bill read third time.

Remarks by Assemblyman Thompson.

ASSEMBLYMAN THOMPSON:

Senate Bill 3 requires the board of county commissioners in counties with a population of less than 100,000—currently all counties other than Clark and Washoe Counties—to remit money for medical assistance to indigent persons in an amount determined by the Director of the Department of Health and Human Services to be adequate for the State Plan for Medicaid to include the payment of the nonfederal share of certain expenditures relating to long-term care. However, the maximum amount remitted must not exceed an amount equivalent to 8 cents for each \$100 of assessed valuation of all taxable property in the county making the allocation.

Roll call on Senate Bill No. 3:

YEAS—42.

NAYS—None.

Senate Bill No. 3 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 21.

Bill read third time.

Remarks by Assemblywoman Neal.

ASSEMBLYWOMAN NEAL:

Senate Bill 21 requires the State Controller to pay certain state officers and employees through an electronic payment system and requires, with some exceptions, those officers and employees to receive their pay electronically. The Board of Regents of the University of Nevada is authorized to create a similar system for academic staff and employees.

The bill provides a uniform interest rate applicable to debts assigned by state agencies to the Controller for collection. It also prohibits certain licensing agencies from renewing licenses, certifications, registrations, permits, or other authorizations that grant the authority to engage in certain professions or occupations if: (1) the person owes a debt to a state agency that has been assigned to the State Controller for collection, or (2) the person has not provided required

information to those licensing agencies. These provisions do not apply to professions or occupations regulated by the Department of Motor Vehicles, the Division of Insurance, the Commissioner of Insurance, or local governments.

This bill also revises costs and fees debtors must pay for collection of a debt owed to the state.

Roll call on Senate Bill No. 21:

YEAS—42.

NAYS—None.

Senate Bill No. 21 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 328.

Bill read third time.

Remarks by Assemblywoman Fiore.

ASSEMBLYWOMAN FIORE:

Senate Bill 328 requires the Executive Officer of the State Board for Career and Technical Education to appoint a person to oversee career and technical education programs in the public schools of this state.

The measure also requires that before allocating any state money to provide leadership and training activities, 30 percent of the state money must be awarded as competitive grants to school districts and charter schools, and 5 percent of the state money must be distributed to certain pupil organizations for career and technical education. Following these distributions, the Board may authorize no more than 7.5 percent of the state funds appropriated in any one fiscal year to be used to provide leadership and training activities, with the balance of state funding being allocated as grants. The bill also sets forth criteria to be used in awarding these grants. The Board may request that the industry sector councils appointed by the Governor's Workforce Investment Board name a representative from each council to review and make recommendations to the Executive Officer concerning career and technical grant applications.

Finally, the bill provides for an evaluation of the effectiveness of the programs and requires that the results of the review be reported to the Board.

Roll call on Senate Bill No. 328:

YEAS—42.

NAYS—None.

Senate Bill No. 328 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 374.

Bill read third time.

Remarks by Assemblymen Martin and Hickey.

ASSEMBLYMAN MARTIN:

Senate Bill 374 provides for the registration by the Health Division of the Department of Health and Human Services of three types of medical marijuana establishments: cultivation facilities, facilities for the production of edible products, and dispensaries.

The measure requires revenues generated from fees to be used to support the costs of the Division in implementing the bill, including certification of an independent testing laboratory.

Any excess revenues must be paid to the State Treasurer for credit to the State Distributive School Account. The measure also imposes a 2 percent excise tax on retail and wholesale sales, three-quarters of which is directed to the State Distributive School Account and one-quarter to defray program costs.

The measure authorizes the Division to issue not more than 40 registration certificates for dispensaries in a county whose population is 700,000 or more, currently Clark County; 10 in a county whose population is 100,000 or more but less than 700,000, currently Washoe County; 2 in a county whose population is 55,000 or more but less than 100,000, currently Carson City; and 1 in each other county.

The measure provides for the security and oversight of an establishment and for the immediate revocation of a registration certificate under certain circumstances. Finally, S.B. 374 requires the Advisory Commission on the Administration of Justice to appoint a subcommittee on the medical use of marijuana, which must include legislative and non-legislative members, to evaluate and review various issues concerning the use and dispensation of marijuana for medical purposes.

It is truly an honor to carry the floor statement on this bill. I have seen how medical marijuana has touched many people's lives in the course of my professional occupation advising people, and I urge its passage.

ASSEMBLYMAN HICKEY:

I rise in opposition to Senate Bill 374. For those of you that know me, you know I am not a cynical person—I really am not, and I accept reality. I rather suspect that this is going to pass. I will agree with the proponents of this that there are economic benefits, and a lot of what I have been hearing, and probably members of this body who have been lobbied on it are hearing, is just that. But unfortunately to me, one of the economic benefits is going to be that unscrupulous doctors and physicians are going to find a new clientele, and we are also going to have a number of willing participants in that, many of them young, who will take advantage of this bill. For that, I am going to vote against it, and for some other reasons. But I hope we can do it right, and I think the dispensaries, the way they are set up, are a model. I acknowledge that and I acknowledge that there will be financial gains from this, but I worry terribly, as someone from that generation, and have contemporaries who have taken advantage of legislation like this in California and other places for alleged chronic problems that don't exist. So I'm sorry; I don't mean to sound cynical, but I am going to vote against this. But I congratulate those who got it passed, if it does.

Roll call on Senate Bill No. 374:

YEAS—26.

NAYS—Paul Anderson, Carlton, Duncan, Ellison, Grady, Hambrick, Hansen, Hardy, Hickey, Horne, Kimer, Livermore, Oscarson, Stewart, Wheeler, Woodbury—16.

Senate Bill No. 374 having failed to receive a two-thirds majority, Madam Speaker declared it lost.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Carlton moved the Assembly reconsider the vote whereby Senate Bill No. 374 was this day refused passage.

Motion carried.

Assemblywoman Carlton moved that Senate Bill No. 374 be placed on the Chief Clerk's desk.

Motion carried.

## GENERAL FILE AND THIRD READING

Senate Bill No. 479.

Bill read third time.

Remarks by Assemblyman Hardy.

ASSEMBLYMAN HARDY:

Senate Bill 479 authorizes an insurer to carry forward credits against the premium tax paid for its policies of industrial insurance. The credits do not expire and may be carried forward into subsequent years until entirely used.

Roll call on Senate Bill No. 479:

YEAS—42.

NAYS—None.

Senate Bill No. 479 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 516.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

I rise in support in support of Senate Bill 516. The bill, as amended, revises and expands the procedures and licensing requirements of wholesale dealers, nonparticipating manufacturers, and the Office of the Attorney General related to the statutory enforcement of the tobacco Master Settlement Agreement. Specifically, Senate Bill 516, as amended, requires the Department of Taxation to notify wholesale dealers when a manufacturer or brand of cigarettes is added to or removed from the directory of cigarette manufacturers and stipulates that a wholesale dealer shall not purchase cigarettes for resale from a manufacturer not listed in the directory.

It also expands the provisions governing the importation of cigarettes and provides that an importer is jointly and severely liable for certain escrow deposits. It also authorizes the state to enter into an agreement with an Indian tribe to enforce and administer provisions related to the licensing, taxing, and manufacturing of tobacco products, and it defines qualified tribal land and requires that each cigarette package sold on qualified tribal land bear a tribal stamp issued by the Department of Taxation. It also authorizes the state to release to an Indian tribe, pursuant to a compact with that tribe, not more than 50 percent of the amounts deposited in a qualified escrow fund in accordance with the MSA—the Master Settlement Agreement—for cigarettes sold on or after January 1, 2015, from a retailer on the qualified tribal land for the purposes of public safety and social services. It also authorizes the Department of Taxation to temporarily suspend or permanently revoke a license of a wholesale dealer if the dealer fails to file or inaccurately files its monthly report to the Department of Taxation or fails to pay certain taxes or cure certain liabilities; sells unauthorized cigarettes; or imports or exports any unauthorized cigarettes.

Sections 17, 31, 33, and 34 of Senate Bill 516, as amended, become effective on January 1, 2014. The remaining sections of Senate Bill 516, as amended, become effective July 1, 2013. Yes, this is a very important bill for us to get these issues settled. That's why I thought it was appropriate to read the whole floor statement and make sure everybody understands where we're going with this.



Roll call on Senate Bill No. 516:

YEAS—42.

NAYS—None.

Senate Bill No. 516 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 521

Bill read third time.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 10:13 a.m.

#### ASSEMBLY IN SESSION

At 10:20 a.m.

Madam Speaker presiding.

Quorum present.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Carlton moved that Senate Bill No. 521 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Horne moved that Senate Bill No. 374 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 374.

Bill read third time.

Roll call on Senate Bill No. 374:

YEAS—28.

NAYS—Paul Anderson, Duncan, Ellison, Grady, Hambrick, Hansen, Hardy, Hickey, Kirner, Livermore, Oscarson, Stewart, Wheeler, Woodbury—14.

Senate Bill No. 374 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Horne moved that the Assembly recess until 1 p.m.

Motion carried.

Assembly in recess at 10:25 a.m.

## ASSEMBLY IN SESSION

At 1:38 p.m.

Madam Speaker presiding.

Quorum present.

## REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Education, to which were referred Senate Bills Nos. 320, 391, 500, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ELLIOT T. ANDERSON, *Chair*

*Madam Speaker:*

Your Committee on Government Affairs, to which was referred Assembly Bill No. 503, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERESA BENITEZ-THOMPSON, *Chair*

*Madam Speaker:*

Your Committee on Judiciary, to which were referred Senate Bills Nos. 221, 519, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JASON FRIERSON, *Chair*

*Madam Speaker:*

Your Committee on Taxation, to which was referred Senate Bill No. 400, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Taxation, to which was referred Senate Bill No. 406, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

IRENE BUSTAMANTE ADAMS, *Chair*

*Madam Speaker:*

Your Committee on Ways and Means, to which was referred Senate Bill No. 522, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 33, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

## MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2013

*To the Honorable the Assembly:*

It is my pleasure to inform your esteemed body that the Senate on this day passed Assembly Bills Nos. 46, 138, 423, 424, 472.

Also, it is my pleasure to inform your esteemed body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 338, Amendment No. 946, and respectfully requests your honorable body to concur in said amendment.

Also, it is my pleasure to inform your esteemed body that the Senate on this day passed, as amended, Senate Bills Nos. 322, 357, 475.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bills Nos. 33, 503; Senate Bill No. 406, be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Horne moved that Senate Bill No. 521 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Carlton moved that Senate Bill No. 522, just reported out of committee, be placed at the top of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 522.

Bill read third time.

Remarks by Assemblymen Carlton, Wheeler, and Hickey.

#### ASSEMBLYWOMAN CARLTON:

This is our "education first" bill. Senate Bill 522 appropriates \$1.135 billion in the first year and \$1.11 billion in the second year of the 2013-15 biennium from the State General Fund to the Distributive School Account. In addition, there are \$282.8 million and \$294.2 million of other revenues authorized to be received and expended for the state support of public education in Fiscal Year 2014 and Fiscal Year 2015, respectively. These other revenues include an annual excise tax on slot machines, sales tax collected on out of state sales, interest earned on the Permanent School Fund, revenue from mineral leases on federal land, and room tax revenues from the legislatively approved 2009 Initiative Petition 1.

The statewide average basic support per pupil increases over the upcoming biennium from the \$5,374 in the current year to \$5,590 in Fiscal Year 2014 and \$5,676 in Fiscal Year 2015. Enrollment is projected to increase slightly by 0.61 percent, from a weighted enrollment of 429,718 pupils in Fiscal Year 2013 to 432,346 pupils in Fiscal Year 2014, and increase by 0.39 percent to 434,023 pupils in Fiscal Year 2015.

State funding for special education continues to be allocated on the basis of special education units. Total funding for the units amounts to \$126.9 million for 3,049 units of \$41,608 in Fiscal Year 2014 and \$130.3 million for 3,049 units of \$42,475 in Fiscal Year 2015. As in the past, 40 of those units will be reserved for the State Board of Education to assign to districts that have unexpected needs and to charter schools. There are another two to three pages going through class-size reduction, flexibility for school districts, other educational program accounts, state educational programs, early childhood, and all of the other components that now make up what I believe is one of the best DSA budgets I have seen in my history in this building.

#### ASSEMBLYMAN WHEELER:

Since we started this session and long before, we've heard of many, many things that are for the children—many taxes, many different ideas. Everything from marijuana to mining is for the

children. Today we will be approving all-day kindergarten for schools that do not have the facilities nor the specially trained teachers that we need for these. For years I have heard that modulars are not the answer, but here in this budget we will be approving modulars. We pay our teachers in some cases what I consider to be a miserable wage, while we pay some of our administrators a very bloated wage. We mandate class size to 25 people, then we give waivers because we actually don't have the facilities to keep it at or below 25 people. I know my vote today will pretty much be a protest vote. What I'd like you to think about over the next 19 months is when we come back here, let's look at some real ways to save the people's money and actually improve our education system. Let's look at something that helps the most important commodity in this state—actually in this world—our children.

ASSEMBLYMAN HICKEY:

I rise in support of Senate Bill 522. This budget—unprecedented, as my colleague previously referred to—represents a commitment that began when the discussion began for this body at the State of the State when we convened here with a commitment from our Governor. It represents spending more on education—almost \$500 million more than we did last biennium. I would also say that this added commitment is not just the result of what the Governor laid out, but also this body—and my colleagues from the other side of the aisle have certainly been the most vocal in saying what we need to spend and where the priorities ought to be. While there are always ways when we spend this much money to be concerned if there are accompanying reforms and commitments from all the people involved in this, whether it be teachers, parents, or community, this decision by us to approve this budget represents what the citizens of this state—our businesses, the public, parents, and all of us—have contributed. By putting more into education than we ever have, I think it represents, as Nevadans, that we know what is most important, and I rise in support of that. Like my colleague from Gardnerville said, I do hope we find ways going forward to make this money well spent, but I think it is money that is being spent, and we have done our job for those of us who can support this budget, both Democrats and Republicans, and I'm proud to be among those.

Roll call on Senate Bill No. 522:

YEAS—38.

NAYS—Ellison, Fiore, Hambrick, Wheeler—4.

Senate Bill No. 522 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 521.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

I rise in support of Assembly Bill 521. This is the appropriate time to move this bill. This is the authorizations act. It allows us to fund what we need to fund. It is a collaborative work over months of different agencies and the Legislature working together through thousands of hours of hearings and multiple layers of minutes on the discussion points that we have had, and this is the final product that we present before you today.

Roll call on Senate Bill No. 521:

YEAS—40.

NAYS—Fiore, Hambrick—2.

Senate Bill No. 521 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 33.

Bill read third time.

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

Amendment No. 970.

AN ACT relating to energy; revising provisions governing the partial abatement of certain property taxes for certain buildings and structures which meet certain energy efficiency standards; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Director of the Office of Energy to grant a partial abatement of certain property taxes for the: (1) construction of a building or other structure that meets certain energy efficiency standards under the Green Building Rating System adopted by the Director; or (2) renovation by certain manufacturers of an existing building or other structure to bring the building or other structure into compliance with such energy efficiency standards. Existing law provides that the Green Building Rating System adopted by the Director must include standards and ratings equivalent to those provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System. (NRS 701A.100, 701A.110, 701A.115) **Section 1** of this bill provides that the Green Building Rating System adopted by the Director must include standards and ratings equivalent to those provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System or an equivalent rating system. **Section 1** additionally revises provisions relating to the Green Building Rating System used by the Director to determine the eligibility of a building or other structure for certain tax abatements.

**Section 4** of this bill repeals the provisions which authorize partial abatements of property taxes specifically for certain manufacturers who renovate existing buildings. **Section 2** of this bill provides that a partial abatement for a building or other structure that qualifies for the abatement under the Leadership in Energy and Environmental Design "Existing Buildings: Operations and Maintenance" rating system, or an equivalent rating system, must be for a period of not more than 5 years. **Section 2 also prohibits the Director from granting a partial abatement unless the application for the partial abatement has been approved or deemed approved by the board of county commissioners. Section 2 further prohibits the Director from granting a partial abatement** for a building or

structure that qualifies under such a rating system in an amount which exceeds \$100,000 annually.

**Section 3.5 of this bill provides that this bill does not apply to a building or other structure for which a partial abatement has been received or for which an application for a partial abatement has otherwise been submitted pursuant to NRS 701A.110 before the effective date of this act.**

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

**Section 1.** NRS 701A.100 is hereby amended to read as follows:

701A.100 1. The Director of the Office of Energy shall adopt a Green Building Rating System for the purposes of determining the eligibility of a building or other structure for a tax abatement pursuant to NRS 701A.110 .  
~~[and 701A.115.]~~

2. The Green Building Rating System must include standards and ratings equivalent to the standards and ratings provided pursuant to the Leadership in Energy and Environmental Design Green Building Rating System ~~[.]~~ **or an equivalent rating system**, except that the standards adopted by the Director:

(a) Except as otherwise provided in paragraphs (b) and (c), must not include:

(1) Any standard that has not been included in the Leadership in Energy and Environmental Design Green Building Rating System **or the equivalent rating system** for at least 2 years; or

(2) Standards for homes;

(b) Must provide reasonable exceptions based on the size of the area occupied by the building or other structure; and

(c) Must require a building or other structure to obtain:

(1) At least ~~[3]~~ 5 points ~~[of]~~ **in the Optimize Energy Performance credit [for energy conservation], or its equivalent**, to meet the equivalent of the silver level;

(2) At least ~~[5]~~ 7 points ~~[of]~~ **in the Optimize Energy Performance credit [for energy conservation], or its equivalent**, to meet the equivalent of the gold level; and

(3) At least ~~[8]~~ 11 points ~~[of]~~ **in the Optimize Energy Performance credit [for energy conservation], or its equivalent**, to meet the equivalent of the platinum level.

3. As used in this section, “home” means a building or other structure for which the principal use is as a residential dwelling for not more than four families.

**Sec. 2.** NRS 701A.110 is hereby amended to read as follows:

701A.110 1. Except as otherwise provided in this section, the Director, in consultation with the Office of Economic Development, shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design, ~~for~~ construction **or renovation** of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term “private activity bond” has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

(I) Chief of the Budget Division of the Department of Administration;

(II) Department of Taxation;

(III) County assessor;

(IV) County treasurer;

(V) Office of Economic Development;

(VI) Board of county commissioners; and

(VII) City manager and city council, if any.

(c) The abatement is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053.

2. The Director shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to this section by the owner of the property unless the application is approved or deemed approved by the board of county commissioners pursuant to this subsection. The board of county commissioners of a county must provide notice to the Director that the board intends to consider an application and, if such notice is given, must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners:

(a) Shall, in considering an application pursuant to this subsection, make a recommendation to the Director regarding the application;

(b) May, in considering an application pursuant to this subsection, deny an application only if the board of county commissioners determines, based on relevant information, that:

(1) The projected cost of the services that the local government is required to provide to the building or other structure for which the abatement is received will exceed the amount of tax revenue that the local government is projected to receive as a result of the abatement; or

(2) The projected financial benefits that will result to the county from any employment resulting from the use of the building or other structure and from capital investments by the owner of the building or other structure in the county will not exceed the projected loss of tax revenue that will result from the abatement; and

(c) May, without regard to whether the board has provided notice to the Director of its intent to consider the application, make a recommendation to the Director regarding the application.

↪ If the board of county commissioners does not approve or deny the application pursuant to this subsection within 30 days after the board receives a copy of the application, the application shall be deemed approved.

3. As soon as practicable after the Director receives the application and proof required by subsection 1, the Director, in consultation with the Office of Economic Development, shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (a) Department of Taxation;
- (b) County assessor;
- (c) County treasurer; and
- (d) Office of Economic Development.

~~3.1~~ 4. The Director may, with the assistance of the Chief of the Budget Division and the Department of Taxation, publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and on



each affected local government. If the Director publishes a fiscal note that estimates the fiscal impact of the partial abatement on local government, the Director shall forward a copy of the fiscal note to each affected local government. As soon as practicable after receiving a copy of a certificate of eligibility pursuant to subsection ~~4-1 3~~, the Department of Taxation shall forward a copy of the certificate to each affected local government.

~~4-1 5~~. The partial abatement ~~is~~ for:

(a) ~~Must~~ **A building or other structure must, except as otherwise provided in paragraph (b), be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:**

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be ~~payable~~ **owed** for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be ~~payable~~ **owed** for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be ~~payable~~ **owed** for the building or other structure, excluding the associated land.

(b) ~~Does~~ **A building or other structure that qualifies for an abatement under the Leadership in Energy and Environmental Design “Existing Buildings: Operations and Maintenance” rating system, or its equivalent, must be for a duration of not more than 5 years and in an annual amount that equals, except as otherwise provided in subsection ~~5-1 6~~, for a building or other structure that meets the equivalent of:**

(1) **The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be owed for the building or other structure, excluding the associated land;**

(2) **The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be owed for the building or other structure, excluding the associated land; or**

(3) **The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be owed for the building or other structure, excluding the associated land.**

~~15.1~~ 6. *The Director shall not grant a partial abatement of more than \$100,000 in any year for a building or other structure that qualifies for an abatement pursuant to paragraph (b) of subsection 4.*

~~6.1~~ 5.

7. *A partial abatement granted pursuant to this section:*

(a) *Does* not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

~~1(e)~~ (b) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Office of Economic Development.

~~1(d)~~ ~~Must not be for an existing building or structure that is renovated.~~

~~5.1~~ ~~17.1~~ 8. If a partial abatement terminates pursuant to paragraph ~~1(e)~~ (b) of subsection ~~14.1~~ ~~16.1~~ 7., the owner of the property to which the partial abatement applied shall repay to the county treasurer the amount of the exemption that was allowed pursuant to this section before the date of that termination. The owner shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~16.1~~ ~~19.1~~ 9. The Director, in consultation with the Office of Economic Development, shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for **and the duration of** the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

↪ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

~~{7.}~~ ~~{9.}~~ **10.** The Director shall:

(a) Cooperate with the Office of Economic Development in carrying out the provisions of this section; and

(b) Submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted pursuant to this section.

~~{8.}~~ ~~{10.}~~ **11.** As used in this section:

(a) “Building or other structure” does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) “Director” means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) “Taxes imposed for public education” means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

**Sec. 3.** The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and

2. Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.

**Sec. 3.5. The amendatory provisions of this act do not apply to a building or other structure for which an abatement has been received or for which an application for an abatement has otherwise been submitted pursuant to NRS 701A.110 before the effective date of this act.**

**Sec. 4.** 1. NRS 701A.115 is hereby repealed.

2. Section 21 of chapter 298, Statutes of Nevada 2011, at page 1656, is hereby repealed.

**Sec. 5.** This act becomes effective upon passage and approval.

**TEXT OF REPEALED SECTION OF NRS AND  
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA**

**701A.115 Partial abatement of certain property taxes for certain buildings or structures which are renovated for use by manufacturer and which meet certain standards under Green Building Rating System; requirements and limitations; regulations.**

1. Except as otherwise provided in this section, the Director of the Office of Energy shall grant a partial abatement from the portion of taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on an existing building or other structure which is renovated for use by a manufacturer if:

(a) The building or other structure is determined after the renovation to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100.

(b) The applicant:

(1) Is a manufacturer who intends to locate a new manufacturing business in this State;

(2) Employs at least 25 full-time employees at the new manufacturing business in this State during the entire period in which the applicant will receive the tax abatement; and

(3) The average hourly wage that will be paid by the manufacturer to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(c) No funding is provided by any governmental entity in this State for the acquisition, design, construction or renovation of the building or other structure or for the acquisition of any land therefore. For the purpose of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term “private activity bond” has the meaning ascribed to it in 26 U.S.C. § 141.

(d) The manufacturer:

(1) Submits an application for the abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

- (I) Chief of the Budget Division of the Department of Administration;
- (II) Department of Taxation;
- (III) County assessor;
- (IV) County treasurer;
- (V) Office of Economic Development;
- (VI) Board of county commissioners; and
- (VII) City manager and city council, if any.

2. As soon as practicable after the Director receives an application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (a) Department of Taxation;
- (b) County assessor;
- (c) County treasurer; and
- (d) Office of Economic Development.

3. As soon as practicable after receiving a copy of:

(a) An application pursuant to subparagraph (3) of paragraph (d) of subsection 1:

(1) The Chief of the Budget Division shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State; and

(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on each affected local government, and forward a copy of the fiscal note to each affected local government.

(b) A certificate of eligibility pursuant to subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

(a) Must be for a duration not to exceed 1 year, and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public

education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Office of Economic Development.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (d) of subsection 1,

➡ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling, even if the building or other structure is used for more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) “Manufacturer” means a person engaged primarily in manufacturing or processing which changes raw or unfinished materials into another form or creates another product.

(d) “Taxes imposed for public education” means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

**Section 21 of chapter 298, Statutes of Nevada 2011:**

Sec. 21. An application for a partial abatement of taxes requested pursuant to NRS 701A.110 submitted on or after the effective date of this section must not be granted if the application is for a partial abatement of taxes for an existing building or other structure which is being renovated.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:53 p.m.

ASSEMBLY IN SESSION

At 1:54 p.m.

Madam Speaker presiding.

Quorum present.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblymen Carlton, Grady, and Hickey.

Amendment adopted.

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

Assembly Bill No. 503.

Bill read third time.

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

Amendment No. 973.

AN ACT relating to local financial administration; revising temporarily provisions governing the use by a local government of money in an enterprise fund; requiring the Committee on Local Government Finance to adopt certain regulations; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law restricts the use by a local government of money in an enterprise fund, money collected from fees imposed for the purpose for which an enterprise fund was created or any income or interest earned on money in an enterprise fund under certain circumstances. (NRS 354.613) **Section 1** of this bill authorizes temporarily the governing body of a local government to loan or transfer such money if the ending fund balance of the general fund of the local government at the end of a fiscal year is less than ~~10~~ 9 percent of the total expenditures of the local government from the general fund during that fiscal year. Any such loan or transfer requires the prior approval of the Committee on Local Government Finance. Any money loaned or transferred by the governing body pursuant to **section 1** must be used only ~~for~~ , in order of priority: (1) to restore police and fire services; (2) to restore ~~fire services;~~ (3) to restore the operation of libraries, parks and other recreational services; ~~(4)~~ and (3) to settle any legal claim outstanding on the date on which the loan or transfer is made . ~~for~~ or (5) for any combination of those uses. **Section 1** requires the governing body of a local government that loans or transfers money pursuant to that section to make certain quarterly reports to the Committee on Local Government Finance concerning the loan or transfer . ~~and~~ Section 1 also requires the Committee to adopt regulations specifying the ~~content and frequency of such reports.~~ procedure for obtaining the approval of the Committee required by that section.

Section 9.5 of this bill requires the governing body of any local government which makes such a loan or transfer to report certain information to the Director of the Legislative Counsel Bureau on or before January 15, 2015, for transmittal to the Audit Division of the Bureau and to the Legislature.

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

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

1. ~~Notwithstanding~~ Except as otherwise provided in this section and notwithstanding any provision of NRS 354.613 to the contrary, if the ending fund balance of the general fund of a local government at the end of a fiscal year is less than ~~10~~ 9 percent of the total expenditures of the local government from the general fund during that fiscal year, as reflected in the report of the annual audit prepared for the local government pursuant to NRS 354.624, the governing body of the local government may, during the following fiscal year, by resolution ~~for~~ and with the prior approval of the Committee on Local Government Finance, loan or transfer



money from an enterprise fund, money collected from fees imposed for the purpose for which an enterprise fund was created or any income or interest earned on money in an enterprise fund.

2. Any money loaned or transferred by the governing body of a local government pursuant to subsection 1 may be used only ~~for the purposes listed in this subsection, in the following order of priority:~~

- (a) To restore police and fire services;
- (b) To restore ~~fire services;~~
- ~~(c) To restore the operation of libraries, parks and other recreational services; and~~
- ~~((d)) (c) To settle any legal claim outstanding on the date on which the loan or transfer authorized by subsection 1 is made.~~ ~~for~~
- ~~(e) For any combination of the uses described in paragraphs (a), (b), (c) and (d).~~

3. The governing body of a local government that loans or transfers any money pursuant to subsection 1 shall ~~for~~ ~~at such times as may be specified by regulations of the Committee on Local Government Finance but not less frequently than annually on or before August 1 of the fiscal year following the fiscal year in which the governing body of a local government loans or transfers any money pursuant to subsection 1,~~ submit a quarterly report to the Committee on Local Government Finance which includes all of the information required ~~by the regulations adopted by the Committee pursuant to subsection 4,~~ subsections 4 and 5.

4. Each report submitted by the governing body of a local government pursuant to subsection 3 must include, without limitation:

- (a) Information about any increase in a fee described in subsection 1 imposed by the local government;
- (b) Any change to salaries or benefits paid to employees of the local government;
- (c) Any change to a collective bargaining agreement negotiated pursuant to chapter 288 of NRS to which the local government is a party; and
- (d) Any information prescribed by regulation of the Committee on Local Government Finance pursuant to subsection 6.

5. In addition to the requirements set forth in subsection 4, if, for any fiscal year, the difference between budgeted and actual general fund revenues or expenditures for the local government is more than 5 percent for any category of revenues or expenditures, as provided in the report of the annual audit prepared for the local government pursuant to NRS 354.624, in addition to the requirements set forth in subsection 4, the first quarterly report submitted to the Committee on Local Government

Finance after the audit report is submitted to the local government must include an explanation of the difference.

6. The Committee on Local Government Finance ~~shall~~ :

(a) Shall adopt regulations specifying ~~the~~

~~(a) The~~ the procedure for obtaining the approval of the Committee required by subsection 1; and

(b) May prescribe by regulation any additional information which must be included in the reports submitted by the governing body of a local government pursuant to subsection 3 . ~~It and~~

~~(b) The frequency of the reports.~~

7. The provisions of this section:

(a) Apply only to a local government which has, during each of the 5 fiscal years immediately preceding the effective date of this act, loaned or transferred:

(1) Money from an enterprise fund;

(2) Money collected from fees imposed for the purpose for which an enterprise fund was created; or

(3) Any income or interest earned on money in an enterprise fund.

(b) Do not apply to an enterprise fund created for an airport owned and operated by a local government.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) “Local government” includes the Nevada Rural Housing Authority for the purpose of loans of money from a local government in a county whose population is less than 100,000 to the Nevada Rural Housing Authority in accordance with NRS 354.6118. The term does not include the Nevada Rural Housing Authority for any other purpose.

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

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

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

354.476 As used in NRS 354.470 to 354.626, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 354.479 to 354.578, inclusive, have the meanings ascribed to them in those sections.

**Sec. 6.** NRS 354.590 is hereby amended to read as follows:

354.590 Whenever the terms of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** require or refer to action of a governing body by resolution, the governing body may at its discretion act by ordinance, if it is otherwise authorized by law to adopt ordinances.

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

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

**Sec. 8.** NRS 354.613 is hereby amended to read as follows:

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

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

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

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

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

(II) The purpose of the loan or transfer;

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

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

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

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

(d) Upon the dissolution of the enterprise fund.

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

agenda for a regular meeting of the governing body, and the governing body determines that:

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

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

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

5. This section must not be construed to:

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

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

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

7. A fee increase imposed in violation of this section must not be invalidated on the basis of that violation. The sole remedy for a violation of this section is the penalty provided in NRS 354.626. Any person who pays a fee for the enterprise for which the enterprise fund is created may file a

complaint with the district attorney or Attorney General alleging a violation of this section for prosecution pursuant to NRS 354.626.

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

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

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

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

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

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

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

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

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

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts

appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, **and section 1 of this act** is guilty of a misdemeanor and upon conviction thereof ceases to hold his or her office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

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

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

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

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

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

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

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

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

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

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

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

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing

fiscal year and which, under the method of accounting adopted by the local government, will be charged against an appropriation of a subsequent fiscal year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

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

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

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

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

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

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

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

**Sec. 9.5. 1. The governing body of any local government that loans or transfers money from an enterprise fund pursuant to section 1 of this act on or before December 1, 2014, shall, on or before January 15, 2015, submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Audit Division of the Bureau. The report must include:**

**(a) A copy of the audit report prepared for the local government pursuant to NRS 354.624 for the fiscal years ending on June 30, 2013, and June 30, 2014; and**

**(b) A copy of each quarterly report previously submitted by the governing body to the Committee on Local Government Finance pursuant to section 1 of this act.**

**2. The Audit Division shall review the report submitted by the governing body pursuant to subsection 1 and transmit the report, with the comments of the Audit Division, to the 78th Session of the Legislature.**

**Sec. 10.** This act becomes effective upon passage and approval and expires by limitation on June 30, 2017.

Assemblywoman Benitez-Thompson moved the adoption of the amendment.

Remarks by Assemblywoman Benitez-Thompson.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.



Senate Bill No. 406.

Bill read third time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 963.

AN ACT relating to tourism improvement districts; prohibiting, with limited exceptions, the pledge of the proceeds of certain taxes to finance a project within a tourism improvement district created or revised on or after July 1, 2013; eliminating the prohibition on certain local governments creating a tourism improvement district that includes any property within the boundaries of a redevelopment area; revising provisions relating to certain reports prepared by the Department of Taxation; prohibiting, with limited exceptions, the financing or reimbursement from the proceeds of certain taxes that are collected from any retail facilities of a retailer that, on or after July 1, 2013, locate within the boundary of a tourism improvement district; making various other changes relating to tourism improvement districts; providing that prevailing wage requirements apply to certain contracts and agreements relating to tourism improvement districts; **revising the duties of a contractor or developer who enters into a subcontract for the construction, improvement, repair, demolition or reconstruction of certain projects**; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the governing body of any city or county to create a tourism improvement district (TID) and to pledge revenue from several sales and use taxes imposed in that district to finance certain projects within the district. The projects may be owned by the municipality, another governmental entity or any person and may be financed through the issuance of bonds or the entry into agreements for the reimbursement of the costs of the projects. (Chapter 271A of NRS) **Section 1** of this bill prohibits, with limited exceptions, a municipality from pledging the proceeds of the Local School Support Tax to finance a project within a TID created or revised on or after July 1, 2013. **Sections 1.5, 2.3, 2.7 and 3.5** of this bill make conforming changes.

**Section 1** also eliminates provisions which prohibit a city or county from creating after October 1, 2009, a TID that includes within its boundaries any property included within the boundaries of a redevelopment area. In the case of a TID created after October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area, **section 1** prohibits a redevelopment agency and the governing body of a county or city from providing financing or reimbursement pursuant to the financing and reimbursement mechanisms of both a TID and a redevelopment area.

Existing law requires the Department of Taxation to prepare and submit to the Legislature and a municipality that creates a TID semiannual reports

regarding businesses within the TID. (NRS 271A.105) **Section 2** of this bill requires the report to provide information separately for each TID within the municipality unless the reporting of information separately for each TID would disclose or result in the disclosure of information about an individual business, in which case **section 2** requires the report to provide information in the aggregate. **Section 2** also provides that the Department of Taxation is not required to prepare and submit a semiannual report if the report cannot be prepared and submitted in a manner which would not disclose or lead to the disclosure of information about an individual business.

**Section 3** prohibits any financing or reimbursement from the proceeds of the Local School Support Tax that are collected from retail facilities that, on or after July 1, 2013, locate within the boundary of the TID. **Section 3** further provides an exception to this prohibition if the governing body of the municipality, with respect to any district created before July 1, 2013, obtains an opinion from independent bond counsel stating that the applicability of the provision would impair an existing contract for the sale of bonds that were issued before July 1, 2013.

**Section 3** also requires an owner of a project to provide, upon request, to the Department of Taxation information that identifies the retail facilities which open or close within the project.

**Section 3.2** of this bill provides that prevailing wage requirements (chapter 338 of NRS) apply to the construction of, improvement of, repair to, demolition of or reconstruction of an improvement to any building that will be leased to a tenant who has entered into an agreement to receive financing or reimbursement through the financing or reimbursement mechanisms of a TID.

**Section 3.4** of this bill provides that existing duties relating to subcontracts also apply to those contracts or agreements ~~that~~ **and revises the procedure for the solicitation of bids for such contracts and subcontracts.**

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

**Section 1.** NRS 271A.070 is hereby amended to read as follows:

271A.070 1. Except as otherwise provided in this section and NRS 271A.080, the governing body of a municipality may:

(a) Create a tourism improvement district for the purposes of carrying out this chapter and revise the boundaries of the district by adopting an ordinance describing the boundaries of the district and generally describing the types of projects which may be financed within the district pursuant to this chapter.

(b) Without any election, acquire, improve, equip, operate and maintain a project within a district created pursuant to paragraph (a). The project may be

owned by the municipality, another governmental entity, any other person, or any combination thereof.

(c) For the purposes of carrying out paragraph (b), include in an ordinance adopted pursuant to paragraph (a) the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(1) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of a sum equal to 1.75 percent of the amount of those proceeds;

(2) The amount of the proceeds of the taxes imposed pursuant to NRS 374.110 and 374.190 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds; and

(3) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 1.75 percent of the amount of those proceeds.

**2. *The governing body of a municipality may not include in an ordinance adopted to create or revise the boundaries of a district pursuant to paragraph (a) of subsection 1 on or after July 1, 2013, the pledge of any proceeds described in subparagraph (2) of paragraph (c) of subsection 1. The provisions of this subsection do not apply to the governing body of a municipality with respect to any district created before July 1, 2013, if the governing body obtains an opinion from independent bond counsel stating that the applicability of this provision would impair an existing contract for the sale of bonds which were issued before July 1, 2013.***

**3.** A district created pursuant to this section by:

(a) A city must be located entirely within the boundaries of that city.

(b) A county must be located entirely within the boundaries of that county and, when the district is created, entirely outside of the boundaries of any city.

~~{3.}~~ **4.** If any property within the boundaries of a district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, the total amount of money pledged pursuant to this section and NRS 271.650 with respect to such property by all such districts must not exceed the amount authorized pursuant to this section.

~~{4.—The}~~

**5. *If the governing body of a municipality shall not, after October 1, 2009, create} creates* a tourism improvement district :**

*(a) On or before October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS, the governing body and agency may provide financing or reimbursement related to a project or redevelopment project pursuant to the provisions of both NRS 271A.120 and 279.610 to 279.685, inclusive.*

*(b) After October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS ~~1-1~~, the governing body and an agency:*

*(1) May provide financing or reimbursement related to a project or redevelopment project pursuant to the provisions of NRS 271A.120 or 279.610 to 279.685, inclusive, whichever is applicable.*

*(2) Shall not provide such financing or reimbursement related to the project or redevelopment project pursuant to the provisions of both NRS 271A.120 and 279.610 to 279.685, inclusive.*

**6. As used in this section:**

*(a) "Agency" has the meaning ascribed to it in NRS 279.386.*

*(b) "Redevelopment project" has the meaning ascribed to it in NRS 279.412.*

**Sec. 1.5.** NRS 271A.080 is hereby amended to read as follows:

271A.080 The governing body of a municipality shall not adopt an ordinance pursuant to NRS 271A.070 unless:

1. If the ordinance:

(a) Creates a district, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within the district on or within the 120 days immediately preceding the date of the adoption of the ordinance; or

(b) Amends the boundaries of the district to add any additional area, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within that area on or within 120 days immediately preceding the date of the adoption of the ordinance.

2. The governing body has made a written finding at a public hearing that the project will benefit the district.

3. The governing body has made a written finding at a public hearing, based upon reports from independent consultants which were addressed to the governing body ~~1-1~~ **and** to the board of county commissioners, if the governing body is not the board of county commissioners for the county in which the tourism improvement district is or will be located, ~~and to the board of trustees of the school district in which the tourism improvement district is or will be located,~~ as to whether the project and the financing thereof pursuant to this chapter will have a positive fiscal effect on the provision of local governmental services, after considering:

(a) The amount of the proceeds of all taxes and other governmental revenue projected to be received as a result of the properties and businesses expected to be located in the district;

(b) The use of any money proposed to be pledged pursuant to NRS 271A.070;

(c) Any increase in costs for the provision of local governmental services, including, without limitation, services for education, including operational and capital costs, and services for police protection and fire protection, as a result of the project and the development of land within the district; and

(d) Estimates of any increases in the proceeds from sales and use taxes collected by retailers located outside of the district and of any displacement of the proceeds from sales and use taxes collected by those retailers, as a result of the properties and businesses expected to be located in the district.

➡ The reports required from independent consultants pursuant to this subsection must be obtained from independent consultants selected by the governing body from a list of independent consultants provided by the Commission on Tourism. For the purposes of this subsection, the Commission shall, upon the request of a governing body, provide the governing body with a list of at least three qualified independent consultants, each of whom must be located outside of this State.

4. ~~{The governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of trustees of the school district in which the tourism improvement district is or will be located:~~

~~—(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and~~

~~—(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services, including education.~~

➡ ~~After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of trustees shall conduct a hearing regarding the fiscal effect on the school district, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body shall consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.~~

~~—5.} If the governing body is not the board of county commissioners for the county in which the tourism improvement district is or will be located,~~

the governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of county commissioners in the county in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services.

➡ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of county commissioners may conduct a hearing regarding the fiscal effect on local governmental services, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body may consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

~~{6.}~~ 5. The governing body has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(a) As a result of the project:

(1) Retailers will locate their businesses as such in the district; and

(2) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district; and

(b) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

~~{7.}~~ 6. The Commission on Tourism has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to subsection ~~{6.}~~ 5 will be attributable to transactions with tourists who are not residents of this State.

~~{8.} The Governor has determined that the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:~~

~~—(a) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to subsection 4 by the school district in which the tourism~~

improvement district is or will be located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide an appropriate fiscal report; and

~~—(b) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the tourism improvement district is or will be located during the term of the use of any money pledged pursuant to NRS 271A.070. The payments may be provided pursuant to agreements with owners of property within the district authorized by NRS 271A.110 or from sources other than the owners of property within the district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the use of any money pledged pursuant to NRS 271A.070.~~

~~—9.1~~ 7. If any property within the boundaries of the district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, all of the governing bodies which created those districts have entered into an interlocal agreement providing for:

(a) The apportionment of any money pledged pursuant to NRS 271.650 and 271A.070 with respect to such property; and

(b) The priority of the application of that money between:

(1) Bonds issued pursuant to chapter 271 of NRS; and

(2) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

↪ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to chapter 271 of NRS to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

**Sec. 2.** NRS 271A.105 is hereby amended to read as follows:

271A.105 1. On or before September 1 of each year, the governing body of a municipality that creates a district before, on or after July 1, 2011, shall prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, an annual report containing:

(a) A statement of the status of each project located or expected to be located in the district, and of any changes in that status since the last annual report.

(b) An assessment of the financial impact of the district on the provision of local governmental services, including, without limitation, services for police protection and fire protection.

2. If the governing body of a municipality creates a district before, on or after July 1, 2011, the Department of Taxation shall:

(a) On or before April 1 and October 1 of each year, ***except as otherwise provided in subsection 3***, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, and to the governing body of the municipality a semiannual report which states:

(1) The amount of revenue from the taxable sales made each month by ~~each business~~ ***the businesses*** within the district;

(2) To the extent that the pertinent information is available, the portion of that revenue which is attributable to persons who are not residents of this State;

(3) The amount of the wages paid each month by ~~each business~~ ***the businesses*** within the district; and

(4) The number of full-time and part-time employees employed each month by ~~each business~~ ***the businesses*** within the district.

↪ ***The report must provide the information separately for each district in the municipality unless reporting the information separately would disclose or result in the disclosure of information about an individual business, in which case the report must provide the information in the aggregate.***

(b) Require each business within the district to report to the Department of Taxation, at such times as the Department may specify on a form provided by the Department, such information as the Department determines to be necessary to carry out the provisions of paragraph (a).

3. ~~Except as otherwise provided in subsection 2 or another specific statute, the~~ ***The Department of Taxation shall not disclose any information reported to the Department pursuant to subsection 2. It is not required to prepare and submit a report pursuant to paragraph (a) of subsection 2 if the report cannot be prepared in a manner which would not disclose or result in the disclosure of information about an individual business.***

4. As used in this section, “taxable sales” means any sales that are taxable pursuant to chapter 372 of NRS.

**Sec. 2.3.** NRS 271A.110 is hereby amended to read as follows:

271A.110 1. The governing body of a municipality may, except as otherwise provided in subsection 2, enter into an agreement with one or more of the owners of any interest in property within a district, pursuant to which that owner would agree to make payments to the municipality or to another local government that provides services in the district, or to both, to defray, in whole or in part, the cost of local governmental services during the term of



the use of any money pledged pursuant to NRS 271A.070. Such an agreement must specify the amount to be paid by the owner of the property interest, which may be stated as a specified amount per year or as an amount based upon any formula upon which the municipality and owner agree.

2. The governing body of a municipality shall not enter into an agreement pursuant to subsection 1 unless ~~it~~:

~~—(a) The~~ **the** governing body has made a written finding pursuant to subsection 3 of NRS 271A.080 that the project and the use of any money pledged pursuant to NRS 271A.070 will not have a positive fiscal effect on the provision of local governmental services . ~~it or~~

~~—(b) The Governor requires a commitment from the municipality for the provision of specified payments to the school district in which the district is located during the term of the use of any money pledged pursuant to NRS 271A.070.]~~

**Sec. 2.7.** NRS 271A.120 is hereby amended to read as follows:

271A.120 1. Except as otherwise provided in this section, if the governing body of a municipality adopts an ordinance pursuant to NRS 271A.070, the municipality may:

(a) Issue, at one time or from time to time, bonds or notes as special obligations under the Local Government Securities Law to finance or refinance projects for the benefit of the district. Any such bonds or notes may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(b) Enter into an agreement with one or more governmental entities or other persons to reimburse that entity or person for the cost of acquiring, improving or equipping, or any combination thereof, any project, which may contain such terms as are determined to be desirable by the governing body of the municipality, including the payment of reasonable interest and other financing costs incurred by such entity or other person. Any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. Such an agreement is not subject to the limitations of subsection 1 of NRS 354.626 and may, at the option of the governing body, be binding on the municipality beyond the fiscal year in which it was made, only if the agreement pertains solely to one or more projects that are owned by the municipality or another governmental entity.

2. The governing body of a municipality shall not, with respect to any district created before, on or after July 1, 2011, provide any financing or reimbursement pursuant to this section:

(a) Except as otherwise provided in this paragraph, to any governmental entity for any project within the district if any nongovernmental entity is or was entitled to receive any financing or reimbursement from the municipality pursuant to this section under the original financing agreements for the initial projects within the district. This paragraph does not prohibit the provision of such financing or reimbursement to ~~the~~

~~—(1) A school district; or~~

~~—(2) A~~ a governmental entity that is or was entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

(b) To any person or other entity for any project within the district, other than a person or other entity that is or was entitled to receive such financing or reimbursement from the municipality under the original financing agreements for the initial projects within the district, without the consent of all the persons and other entities that were entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

3. Before the issuance of any bonds or notes pursuant to this section, the municipality must obtain the results of a feasibility study, commissioned by the municipality, which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the bonds or notes, taking into account the revenue from any other revenue-producing projects also pledged for the payment of the bonds or notes, if any. A failure to make payments of any amounts due:

(a) With respect to any bonds or notes issued pursuant to subsection 1; or

(b) Under any agreements entered into pursuant to subsection 1,  
➔ because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

4. No bond, note or other agreement issued or entered into pursuant to this section may be secured by or payable from the general fund of the municipality, the power of the municipality to levy ad valorem property taxes, or any source other than any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. No bond, note or other agreement issued or entered into pursuant to this section may ever become a general obligation of the municipality or a charge against its general credit or

taxing powers, nor may any such bond, note or other agreement become a debt of the municipality for purposes of any limitation on indebtedness.

5. Any bond or note issued pursuant to this section, including any bond or note issued to refund any such bond or note, must mature on or before, and any agreement entered pursuant to this section must automatically terminate on or before, the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs.

**Sec. 3.** NRS 271A.125 is hereby amended to read as follows:

271A.125 ~~The~~

**1. The** governing body of a municipality:

~~1.1~~ **(a)** Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to provide any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor.

~~2.1~~ **(b)** Shall not ~~be with~~:

**(1) With** respect to any district created on or after July 1, 2011, provide any financing or reimbursement pursuant to NRS 271A.120 for:

~~1(a)~~ **(I)** Any legal fees, accounting fees, costs of insurance, fees for legal notices or costs to amend any ordinances.

~~1(b)~~ **(II)** Any project that includes the relocation on or after July 1, 2011, to the district of any retail facilities of a retailer from another location outside of and within 3 miles of the boundary of the district. Each pledge of money pursuant to NRS 271A.070 shall be deemed to exclude any amounts attributable to any tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year by a retailer who, on or after July 1, 2011, relocates any of its retail facilities to the district from another location outside of and within 3 miles of the boundary of the district.

**(2) Provide any financing or reimbursement pursuant to NRS 271A.120 from the proceeds of the taxes described in subparagraph (2) of paragraph (c) of subsection 1 of NRS 271A.070 that are collected from any retail facilities of a retailer which, on or after July 1, 2013, locates within the boundary of a district.**

**2. The provisions of subparagraph (2) of paragraph (b) of subsection 1 do not apply to the governing body of a municipality with respect to any district created before July 1, 2013, if the governing body obtains an opinion from independent bond counsel stating that the applicability of those provisions would impair an existing contract for the sale of bonds that were issued before July 1, 2013.**

**3. The owner of a project shall, upon request, provide to the Department of Taxation information that identifies the retail facilities that open or close within the project.**

**Sec. 3.2.** NRS 271A.130 is hereby amended to read as follows:

271A.130 1. Except as otherwise provided in this section and NRS 271A.140 and notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.

2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. Except as otherwise provided in subsection 4, a person who enters into any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,

↪ shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The governing body of the municipality, the contractor who is awarded the contract or enters into the agreement to perform the construction, improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body of the municipality had undertaken the project or had awarded the contract.

4. The provisions of subsection 3 do not apply to a contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any improvement to a building leased to a tenant that is paid for, in whole or in part, or which benefits from the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120 or pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120 and which is entered into after completion of the original construction:

(a) For any subsequent improvement to the building by the original tenant or a subsequent tenant.

(b) For any improvement to the building by the original tenant which is undertaken more than 60 months after the building is first made available for lease.

5. The *provisions of NRS 338.013 to 338.090, inclusive, apply to a contract or other agreement for the construction of, improvement of, repair to, demolition of or reconstruction of an improvement to any building that will be leased to a tenant who has entered into an agreement to receive financing or reimbursement pursuant to NRS 271A.120. The owner of the building or proposed building and the contractor who is awarded the contract or enters into the agreement to perform the construction, improvement, repair, demolition or reconstruction shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The owner of the building or proposed building and the contractor who is awarded the contract or enters into the agreement to perform the construction, improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement, shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body of a municipality had undertaken the construction, improvement, repair, demolition or reconstruction or had awarded the contract. The tenant shall ensure that the owner and each contractor and developer to whom the provisions of NRS 271A.140 apply complies with those provisions.*

6. *Except as otherwise provided in subsection 5, the governing body of the municipality shall ensure that each contractor and developer to whom the provisions of NRS 271A.140 apply complies with those provisions.*

~~6.~~ 7. As used in this section:

(a) “Original construction” means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of a project paid for, in whole or in part, or which benefits:

(1) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(2) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.

(b) “Original tenant” means the first tenant of any leased property after the property is first made available for lease.

**Sec. 3.4.** NRS 271A.140 is hereby amended to read as follows:

271A.140 1. Except as otherwise provided in subsection ~~2~~ 4, a contractor or developer who enters into a contract to which the provisions of subsection 3 **or** 5 of NRS 271A.130 apply shall:

(a) Advertise for at least 7 calendar days for bids on each subcontract for the performance of any portion of the contract;

(b) At least 2 business days before the first day of that advertisement, provide notice of that advertisement to the governing body of the municipality;

(c) Make available to all prospective bidders on the subcontract a written set of plans and specifications for the pertinent work;

(d) Provide public notice of the name and address of each person who submits a bid on the subcontract; and

(e) ~~After~~ **Except as otherwise provided in subsection 2, after** closing the period for the solicitation of bids and receiving at least three timely and responsive bids, select any subcontractor from those timely and responsive bids that the contractor or developer, in his or her sole discretion, determines to be appropriate. ~~It, except that the~~

**2. If the contractor or developer does not receive at least three timely and responsive bids during the period for the solicitation of bids, the contractor or developer shall repeat the process set forth in paragraphs (a) to (d), inclusive, of subsection 1. After closing the second period for the solicitation of bids prescribed by this subsection, the contractor or developer shall select any subcontractor from the timely and responsive bids received pursuant to this subsection or subsection 1 that the contractor or developer, in his or her sole discretion, determines to be appropriate, regardless of whether the contractor or developer received at least three timely and responsive bids.**

**3. The** contractor or developer shall ensure that each subcontractor who will perform any portion of the contract is appropriately licensed pursuant to chapter 624 of NRS.

~~2~~ **4.** The provisions of ~~subsection~~ **subsections 1, 2 and 3** do not apply to:

(a) Any contract which is awarded by a municipality; or

(b) Any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

~~2~~ **5.** A governing body of a municipality that receives a notice of an advertisement for bids pursuant to paragraph (b) of subsection 1 ~~or~~ **subsection 2:**

(a) Shall, upon such receipt, post notice of the advertisement on an Internet website maintained by the municipality; and

(b) May otherwise provide notice of the advertisement to local trade organizations and the general public.

**Sec. 3.5.** NRS 360.855 is hereby amended to read as follows:

360.855 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070, in the manner provided pursuant to an agreement made pursuant to NRS 271A.100:

(a) From the State General Fund the amount of money pledged pursuant to the ordinance in accordance with subparagraph (1) of paragraph (c) of subsection 1 of NRS 271A.070, which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund the amount of the proceeds pledged pursuant to the ordinance in accordance with subparagraphs (2) and (3) of paragraph (c) of subsection 1 of NRS 271A.070.

2. Except as otherwise provided in subsection 3, the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070 shall at the end of each fiscal year remit to the State Controller any amount received pursuant to this section in excess of the amount required to make payments due during that fiscal year of the principal of, interest on, and other payments or security-related costs with respect to, any bonds or notes issued pursuant to NRS 271A.120 and payments due during that fiscal year under any agreements made pursuant to NRS 271A.120. The State Controller shall deposit any money received from a governing body of a municipality pursuant to this subsection in the appropriate account in the State General Fund for distribution and use as if the money had not been pledged by an ordinance adopted pursuant to NRS 271A.070, in the following order of priority:

(a) First, to the credit of the county school district fund for the county in which the improvement district is located to the extent that the money would have been transferred to that fund, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in which the State Controller receives the money;

(b) Second, to the State General Fund to the extent that the money would not have been appropriated, if not for the pledge of the money pursuant to that ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the State Controller receives the money; and

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money pursuant to that ordinance, for the fiscal year in which the State Controller receives the money.

3. The provisions of subsection 2 do not require a governing body to remit to the State Controller any money received pursuant to this section and expended for the purpose of prepaying, defeasing or otherwise retiring all or a portion of any bonds or notes issued pursuant to NRS 271A.120 or of prepaying amounts due under any agreements entered into pursuant to NRS 271A.120, or any combination thereof, with respect to a tourism improvement district if that use of the money has been:

(a) Authorized by the governing body in the ordinance creating the district pursuant to NRS 271A.070, or in an amendment thereto; and

(b) Approved by the governing body ~~and the~~ **and the** Commission on Tourism ~~and Governor~~ in the manner required to satisfy the requirements of subsections **5 and 6** ~~1, 7 and 8~~ of NRS 271A.080,

↪ and after the provision of notice to and an opportunity to make comments ~~by the board of trustees of the school district in which the tourism improvement district is located in accordance with subsection 4 of NRS 271A.080 and, if applicable,~~ by the board of county commissioners of the county in which the tourism improvement district is located in accordance with subsection ~~5~~ **4** of NRS 271A.080.

4. The Nevada Tax Commission may adopt such regulations as it deems appropriate to ensure the proper collection and distribution of any money pledged by an ordinance adopted pursuant to NRS 271A.070.

**Sec. 4.** This act becomes effective on July 1, 2013.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Remarks by Assemblywoman Bustamante Adams.

Amendment adopted.

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

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:03 p.m.

#### ASSEMBLY IN SESSION

At 2:06 p.m.

Madam Speaker presiding.

Quorum present.

#### INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 322.

Assemblyman Carrillo moved that the bill be referred to the Committee on Transportation.

Motion carried.



Senate Bill No. 357.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 475.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bills Nos. 33, 503; Senate Bill No. 406 be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Assembly Bill No. 33.

Bill read third time.

Remarks by Assemblyman Bobzien.

#### ASSEMBLYMAN BOBZIEN:

Assembly Bill 33 revises provisions relating to rating systems adopted by the Director of the Office of Energy for purposes of granting partial tax abatements. The measure also repeals the partial tax abatement for certain buildings or structures renovated for use by manufacturers and instead allows any building or structure that has been newly constructed or renovated under certain rating standards to qualify for a partial tax abatement. Additionally, A.B. 33 revises the requirements for the board of county commissioners in reviewing an application for a partial tax abatement for renewable generation facilities. The bill requires a board to make a recommendation to the Director of the Office of Energy regarding the abatement, and an application may only be denied if it is determined the projected cost of the services to support the project will exceed the revenue the local government would receive as a result of the abatement or if the projected financial benefits to the county from any employment opportunities and capital investments will not exceed the projected lost tax revenue.

Finally, these provisions do not apply to a building or other structure for which a partial abatement has been received or for which an application for partial abatement has otherwise been submitted before the effective date of this act.

Roll call on Assembly Bill No. 33:

YEAS—41.

NAYS—Daly.

Assembly Bill No. 33 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 503.

Bill read third time.

Remarks by Assemblywoman Benitez-Thompson.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

Assembly Bill 503 authorizes a local government's governing body to loan or transfer money in an enterprise fund if the ending balance of the general fund of the local government at the end of the fiscal year is less than 9 percent of the local government's total expenditures from the general fund during the past fiscal year. The main loan or transfer must be used exclusively for the purposes listed in the following order of priority: (1) to restore fire and police services; (2) to restore the operation of libraries, parks, and other recreational services; and (3) to settle any outstanding legal claims on the date in which the loan or transfer is authorized.

The authority to use an enterprise fund for these purposes applies only to a local government that has, during each of the five fiscal years immediately preceding the effective date of this act, made certain loans or transfers relative to an enterprise fund. Any local government that loans or transfers the money in an enterprise fund as authorized in this measure must provide certain information at least quarterly in a report to the Committee on Local Government Finance as prescribed by regulation of that committee.

Roll call on Assembly Bill No. 503:

YEAS—41.

NAYS—Livermore.

Assembly Bill No. 503 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 406.

Bill read third time.

Remarks by Assemblywoman Benitez-Thompson.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

Senate Bill 406, in its third reprint, makes various changes to provisions governing tourism improvement districts and Sales Tax Anticipated Revenue—otherwise known as STAR—bonds, including specifying that a tourism improvement district created within a redevelopment district on or after October 1, 2009, may utilize the financing mechanisms allowed for either the tourism improvement district or the redevelopment district, and not both; specifying that a developer may not provide financing or reimbursement in a new district for facilities that relocate into the district on or after July 1, 2013; and specifying that prevailing wage requirements in Chapter 338 of NRS apply to certain projects within the district. The bill also clarifies the information that must be provided in certain reports currently required to be prepared by the Department of Taxation.

Roll call on Senate Bill No. 406:

YEAS—38.

NAYS—Ellison, Fiore, Livermore, Wheeler—4.

Senate Bill No. 406 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 496.

The following Senate amendment was read:

Amendment No. 676.

AN ACT relating to taxation; providing the legislative approval required for an increase in the tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005; suspending temporarily the application of certain provisions of the Act; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Board of County Commissioners of Clark County to impose a sales and use tax in Clark County of one-quarter of 1 percent to employ and equip additional police officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department, and allows the imposition of an increase in that tax of not more than one-quarter of 1 percent if the date on which the increased rate is first imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate. (Clark County Sales and Use Tax Act of 2005) **Section 3** of this bill provides the legislative approval required for the imposition of an increase in that tax of not more than fifteen-hundredths of 1 percent on or after October 1, 2013, if the increase is approved by two-thirds of the members of the Board of County Commissioners of Clark County ~~and~~ **and if the increased rate expires on or before September 30, 2017.**

**Section 1** of this bill amends the Clark County Sales and Use Tax Act of 2005 to suspend temporarily certain provisions of the Act which require a governing body to approve expenditures by a police department of proceeds received from the taxes imposed pursuant to the Act if the governing body determines that the proposed expenditure will not replace or supplant existing funding for the police department. **Section 1** also requires that certain periodic reports required by the Act include a separate detailed description of any expenditures as a result of the temporary suspension of those provisions of the Act. **Additionally, section 1 requires that a copy of the separate detailed description be submitted to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee.** **Section 2** of this bill amends the Act to specify the method for calculating the base fiscal year for certain purposes of the Act.

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

**Section 1.** The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 13.3, immediately following section 13, to read as follows:

**Sec. 13.3. 1. *The provisions of paragraph (b) of subsection 1 and subsections 3 to 8, inclusive, of section 13 of this act do not apply to any***

*expenditure of proceeds from any sales and use tax imposed pursuant to this act on or after July 1, 2013, but before July 1, 2016.*

*2. In addition to the requirements of section 13.5 of this act ~~to the~~ :*

*(a) The periodic reports required by that section must include, with respect to the period covered by the report, a separate detailed description of the expenditure of any proceeds from the sales and use tax imposed pursuant to this act as a result of the provisions of subsection 1 ~~to the~~ ; and*

*(b) A governing body that is required to submit a report pursuant to section 13.5 of this act shall submit a copy of the separate detailed description required by paragraph (a) for the period covered by the report to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee on or before the date by which the governing body is required to submit the report for that period to the Department pursuant to section 13.5 of this act.*

**Sec. 2.** The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 13.7, immediately following section 13.5, to read as follows:

**Sec. 13.7.** *Notwithstanding the provisions of subsection 8 of section 13 of this act, for Fiscal Year 2015-2016, the base fiscal year for each body must be adjusted for the purposes of section 13 of this act as provided in this section, and that adjusted base fiscal year must be used as the base fiscal year for all purposes, including future calculations of base fiscal years. To determine the adjusted base fiscal year for Fiscal Year 2015-2016, any expenditures authorized as a result of the provisions of subsection 1 of section 13.3 of this act must not be included when calculating the amount of money received or expended in that fiscal year.*

**Sec. 3.** The Legislature hereby approves an increase, pursuant to paragraph (b) of subsection 1 of section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, in the rate of the tax imposed pursuant to that Act in the amount of not more than fifteen-hundredths of 1 percent, if:

1. The increase authorized by this section is enacted by an ordinance approved by a two-thirds majority of the members of the Board of County Commissioners of Clark County; ~~and~~

2. The date on which that increased rate is first imposed is on or after October 1, 2013. ~~to the~~ ; and

**3. That increased rate expires on or before September 30, 2017.**

**Sec. 4.** 1. This act becomes effective upon passage and approval.

2. Sections 1 and 2 of this act expire by limitation on October 1, 2025.

Assemblywoman Bustamante Adams moved that the Assembly do not concur in the Senate Amendment No. 676 to Assembly Bill No. 496.

Remarks by Assemblywoman Bustamante Adams.

Motion carried.

Bill ordered transmitted to the Senate.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bill No. 221 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 221.

Bill read third time.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:26 p.m.

#### ASSEMBLY IN SESSION

At 2:31 p.m.

Madam Speaker presiding.

Quorum present.

Remarks by Assemblymen Frierson, Wheeler, Diaz, Bobzien, Hansen, Carrillo, Horne, and Fiore.

##### ASSEMBLYMAN FRIERSON:

Senate Bill 221 requires that a person who wishes to transfer a firearm to another person who does not hold a permit to carry a concealed firearm must coordinate with the holder of a federal firearms license to perform a background check on the person who wishes to acquire the firearm. A fee of not more than \$30 may be charged for the background check. The bill also specifies certain types of firearms and circumstances of transfer that are not subject to the provisions of the bill.

A person who fails to comply with the provisions of the bill is prohibited from possessing a firearm for two years after the date of conviction

This measure also prohibits a person from owning or possessing a firearm if he or she is prohibited by federal law from possessing a firearm or in a court of law, has been found or entered a plea of guilty but mentally ill, or has been acquitted by reason of insanity.

Lastly, S.B. 221 requires that mental health professionals take certain steps to report an explicit, specific, and imminent threat reported by persons under their care, and in these circumstances, the measure provides such professionals with certain protections from civil or criminal liability.

##### ASSEMBLYMAN WHEELER:

I rise in opposition to Senate Bill 221. As most of you in this body know, there were some really good parts to Senate Bill 221, but those good parts, as said by my colleague on the other side of the house, were put into S.B. 38 yesterday. All the parts to do with mental health reporting and all of the parts to do with criminal reporting are now in S.B. 38, which we will vote to concur on in just a few moments. So what that leaves in this bill is not so much policy

anymore, but politics. The background check portion of this bill, as we heard in our committee, does lead to a de facto gun registration. We know this. We've seen it. We also know that the people that were flown in here from outside interests probably would not have been helped by one of these background checks. I ask you to vote no on Senate Bill 221. I ask you to send the outside interests a message from Nevada—a strong message—that says, “Please don't interfere in our politics here. This is our policy we're talking about: you play politics outside.”

ASSEMBLYWOMAN DIAZ:

I rise in support of S.B. 221. I had to deliberate on my decision as to whether I was going to be supportive of S.B. 221. In my research in the area, I did find out that about 60 percent of gun owners do acquire their firearms in a legal way through a gun store, pawn shop, or other licensed retailers, but there is that 40 percent that is unaccounted for, by which they usually acquire it through a private sale. I believe that S.B. 221 is attempting to close some loopholes. Also, the white paper I read referenced that a lot of the firearms in the black market do come through the private sales aspect of it. While I am not naïve, I know that by enacting S.B. 221, we might not be preventing a Sandy Hook or what happened to Congresswoman Gabby Giffords, but I've been thinking long and hard that it could prevent a father taking the life of a mother; a mother taking the life of her children and of herself because she acquired that firearm through a private purchase. I received information that this takes maybe five to ten minutes if you go to an FFL and do that background check; is five to ten minutes too much to ask to save somebody's life?

ASSEMBLYMAN BOBZIEN:

I rise in support of S.B. 221. In my four sessions here in the Nevada Legislature, I've backed legislation supporting the rights of gun owners. I sponsored a bill that streamlined the qualification process for carrying concealed weapons permits. I'm an advocate for sportsmen, championing a bill creating Nevada's apprentice hunting program in recognition of the importance of our state's sporting traditions. Madam Speaker, I am a gun owner, and I have had shot guns all my life. I'm also the father of two small boys. When it comes to making laws, I believe we must be vigilant against legislation that exists solely as a knee-jerk response to the tragedies in the news, but I also believe that we have an obligation to be courageous representatives of our constituents and their interests.

While I represent many constituents who have serious misgivings about this bill, I've also had long conversations with others, many of whom are like me—fathers and gun owners who believe that we must have the courage to enact legislation to ensure commonsense, dual background checks cover more firearms transactions.

Madam Speaker, upon passage of this bill, gun violence will not cease; tragedies will not end. I believe in the use of firearms for protection. Guns are, and always will be, a part of our way of life in this state, but we can't let the perfect be the enemy of the good. By passing this bill, we will have taken an important step forward in engaging in a rational discussion of how to both protect our gun rights and the safety of our families and children.

ASSEMBLYMAN HANSEN:

I rise in opposition to S.B. 221. I, too, like my colleague from Reno, am a father of four sons and have been raised by gun owners all my life. I'm active in the National Rifle Association, and I can tell you right now the sportsmen's community is overwhelmingly opposed to S.B. 221. If we check our own policy, the polls clearly show the people in this state do not want this kind of legislation. Why don't they? They think that people who have mental issues should be allowed to have firearms? Of course not. This is commonsense thinking on the part of Nevadans. They recognize that people who disobey the laws aren't going to be forced to suddenly obey the laws because we pass something. All this is, like every gun control act in my lifetime—I've watched the Gun Control Act of 1968 and then the assault weapons ban in the 1990s—is another example of feel-good gun control legislation right here in Nevada that is

absolutely going to have zero impact on anybody but honest law-abiding citizens. All those other gun control acts have had no impact on reducing crime.

I asked the Senator from Las Vegas point blank during his testimony in front of our committee whether this was going to stop things like Sandy Hook. He said that it would not, even though the testimony was all about Sandy Hook. I think we need to recognize that this is a constitutional right. When you have somewhere between 300 million and 400 million firearms in the United States, there are going to be some people that abuse those kind of privileges. To punish all the law-abiding people—by forcing them through all these private party sales to go to a gun store and go through this background check when there is zero evidence that those things have stopped these sorts of situations—is unfair to the honest law-abiding Nevadan. I would urge my colleagues to vote no on S.B. 221.

ASSEMBLYMAN CARRILLO:

I rise in opposition. We started this whole thing 120 days ago, and this bill is something that should have been addressed a long time ago instead of on the 120th day—to feel that we’re being put in a box to vote on something that we have convictions about. I myself—as a gun owner, as a father, as a grandfather—know what is important. I know we need to protect our children and our family members, but when it comes down to feeling like you’re going to be threatened if you don’t vote a certain way—and I hate to go this route, but I’m going there—I’m voting no on this just for that reason.

ASSEMBLYMAN HORNE:

I rise in support of Senate Bill 221. I’d like to remind the body that we don’t pass laws here for perfect; we pass for better. I will disagree with my colleague from Sparks that no one wants this legislation in Nevada. Eighty-six percent plus in Nevada—poll after poll—say that they do want this. We probably couldn’t get 86 percent of Nevadans to agree that today is Monday, but this they agree on. If we took the position that we are not going to pass something unless it absolutely stops what we are trying to prevent, we wouldn’t have anything. We wouldn’t have seatbelts in cars or airbags in cars. And by the way, the auto industry fought hard for years to stop that from happening, over and over again lobbying Washington that this was going to be a burden on us. What has that done today? Has it stopped fatalities on the road? No. But do we believe that it has saved lives? Yes, we do. Is this going to stop a criminal from committing a deadly act? No, we are going to have that. As long as we have guns, somebody is going to do that. But will it save some? I believe it will. Until you are that person who is that close to that type of crime, maybe you won’t know. My oldest daughter—and thank God she is 26 years old today and pregnant with my second grandchild—when she was in school, a kid came to school with a gun and fired it in her classroom when she was there. And when I got the news from that, my heart sank. I can’t imagine when you get the calls that there are shootings at schools and parents know it’s their school and their child is there. I am not going to sit here and promise you that that’s never going to happen again. But what I think I can promise you is that this law will be better than what we have today. It is not a punishment. It is no more a punishment for me to go and get a background check when I buy a firearm than it is a punishment when the government tells me that I have to obey the speed limit, because it is for the benefit of everybody. And there are people who are going to speed by me and are going to be reckless drivers. That doesn’t mean I’m being punished because I’m asked to act responsibly on the roads. This bill is asking all of us gun owners, who are responsible gun owners, to ask everybody else to be responsible as well. That means when you go and buy a firearm, do a background check, and let’s make it a little more difficult for those who would do harm with these firearms to get a hold of them. I urge your support.

ASSEMBLYWOMAN FIORE:

I was hesitating to even speak about this issue, because you all know how I feel about it. But since my colleague from the south got up and talked about how important this bill is, it was just

as important as a bill, A.B. 143, that he killed, and now this is revived. This is quite sneaky. It is 120 days, I don't appreciate it, and I urge us not to play politics in this Chamber and to vote no on this, because this just isn't right.

Roll call on Senate Bill No. 221:

YEAS—23.

NAYS—Paul Anderson, Carrillo, Daly, Duncan, Ellison, Fiore, Grady, Hambrick, Hansen, Hardy, Hickey, Kirner, Livermore, Ohrenschall, Oscarson, Sprinkle, Stewart, Wheeler, Woodbury—19.

Senate Bill No. 221 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 2:50 p.m.

#### ASSEMBLY IN SESSION

At 6:52 p.m.

Madam Speaker presiding.

Quorum present.

#### REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Transportation, to which was referred Senate Bill No. 322, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RICHARD CARRILLO, *Chair*

*Madam Speaker:*

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 293, 461, 462, 475, 480, 484, 485, 486, 487, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAGGIE CARLTON, *Chair*

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bill No. 123 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 165.

Bill read third time.

Remarks by Assemblywoman Neal.



ASSEMBLYWOMAN NEAL:

Senate Bill 165 provides for a transferable tax credit to be administered by the Governor's Office of Economic Development and granted to a producer of certain qualified productions who meet certain conditions.

The base amount for the transferable tax credit is 15 percent of specified qualified expenditures which are incurred in Nevada. Senate Bill 165 limits the amount of credits that may be granted for any single production to \$6 million and limits the amount of credits that may be granted in a single fiscal year to \$20 million. Any credits issued by the Office of Economic Development expire four years from the date on which they are issued.

Roll call on Senate Bill No. 165:

YEAS—27.

NAYS—Paul Anderson, Benitez-Thompson, Bobzien, Duncan, Ellison, Grady, Hambrick, Hansen, Hardy, Kirner, Livermore, Oscarson, Wheeler, Woodbury—14.

EXCUSED—Pierce.

Senate Bill No. 165 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 320.

Bill read third time.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bill No. 320 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

#### GENERAL FILE AND THIRD READING

Senate Bill No. 391.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

Senate Bill 391 requires the Legislative Commission to appoint a six-member committee to study methods of governance and financing for Nevada community colleges. The measure sets forth the scope of review of the committee, including the option of shifting the administration of the system to another governmental entity.

This is a bill that will help us study how to get more federal workforce grants into our community colleges and other options related to how we administer them. I urge your support.

Roll call on Senate Bill No. 391:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 391 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 400.

Bill read third time.

Remarks by Assemblymen Bustamante Adams, Grady, and Ellison.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Senate Bill 400 amends various provisions of existing law governing the taxation of mines, mining claims, and mineral extraction, contingent upon voter approval and ratification of Senate Joint Resolution 15 of the 76th Legislative Session at the November 4, 2014, General Election. The bill provides for the imposition of an excise tax upon mineral extraction for the privilege of engaging in mineral extraction in the state of Nevada and clarifies that the excise tax upon mineral extraction is not an ad valorem or property tax upon the value of the mineral extracted. Senate Bill 400 preserves, without change, the amounts appropriated to each local government or other local taxing entity from the revenue generated by the excise tax upon mineral extraction and royalties. The bill also preserves, without change, the existing tax rates applied to royalties and each extractive operation.

Senate Bill 400 maintains, with certain technical revisions, the methods, standards, and procedures used by the Department of Taxation to determine and certify the gross yield and net proceeds and to impose and collect the excise tax upon mineral extraction and royalties.

Finally, the bill makes conforming changes to existing law that become necessary because of the enactment of the excise tax upon mineral extraction and royalties and because of the repeal of the constitutional provisions governing the taxation of minerals proposed by S.J.R. 15 of the 76th Session.

The bill becomes effective only if S.J.R. 15 of the 76th Session is approved by the voters at the November 4, 2014, General Election. If S.J.R. 15 of the 76th Session is approved by the voters, it will become effective on the date of the canvass of the votes, November 25, 2014, and the bill will also become effective on that date.

ASSEMBLYMAN GRADY:

I guess for a long time in this house I've always wanted to say that I feel very strongly both ways about this bill. This is a bridge bill. It will keep local governments whole for the interim. The bill does not address future problems. The prepaid net proceeds will force the Legislature in 2015 to make some tough decisions. I appreciate the intent of the work for the rurals. Let's hope that the gold prices, declining in the last couple of months, and this legislation will not have a negative effect on employment in our rural counties. But we need this bill to get us through the next two years, and I would hope that we have the support of the body for the bill.

ASSEMBLYMAN ELLISON:

I stand in support of Senate Bill 400. This is a bill that has made a complete turnaround from S.B. 401 to what it is today. This bill helps my constituents by leaps and bounds for what it is going to do for the rural counties for the next two to three years. My biggest fear is what is going to happen in the future with S.J.R. 15 of the 76th Session. I can tell you that the hard work of the committees from the Senate to the Assembly helped make this bill happen today, and from my constituents to you, I say thank you. I ask for your support.

Roll call on Senate Bill No. 400:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 400 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 500.

Bill read third time.

Remarks by Assemblyman Kirner.

ASSEMBLYMAN KIRNER:

Senate Bill 500 creates a 15-member Task Force on K-12 Public Education Funding, and it sets forth the goal of the Nevada Legislature to equitably fund public education and to base its funding formula on the individual educational needs and demographic characteristics of its pupils. Those characteristics include, among other factors, pupils with disabilities, pupils from low-income families, and pupils who have limited proficiency in the English language. The composition of the Task Force consists of key stakeholders, including the Superintendent of Public Instruction, representatives from the school boards' association, the school superintendents' association, teachers, parents, and legislators. To the extent possible, the appointing authorities will coordinate their selections to represent the geographic and ethnic diversity of the state. The Task Force will be staffed by the Legislative Counsel Bureau. The measure sets forth the duties of the Task Force to review the 2012 report titled "Study of a New Method of Funding for Public Schools in Nevada"; survey weighted funding formulas used by other states; develop a plan to implement a weighted formula in Nevada; and provide recommendations to the next session of the Legislature.

The bill also authorizes the appointment of subcommittees and requires the chair of the task force to appoint a technical advisory committee of school district personnel with knowledge, experience, or expertise in the area of K-12 public school finance. The task force must complete its work and provide sufficient detail to ensure the weighted formula will be used to prepare the school funding portion of the Executive Budget for the 2015-2017 biennium.

This bill is effective upon passage and approval for the purposes of appointing the members of the task force and on July 1, 2013, for all other purposes. The measure expires by limitation on June 30, 2015.

This bill is a product of deliberations during the 2011-2012 interim by the Legislative Commission's Committee to Study a New Method for Funding Public Schools. The consultant, American Institutes for Research, reported that Nevada's current funding system does not include funding adjustments for the additional costs associated with individual student needs and characteristics. Based on best practices, AIR recommended that the funding adjustments be incorporated into the state's current financial model to account for individual student needs and cost factors. This measure is designed to shift the Nevada plan for school finance to a weighted funding formula that considers the needs and characteristics of unique student populations.

Roll call on Senate Bill No. 500:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 500 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 519.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Senate Bill 519 authorizes the Director of the Department of Corrections, or his or her designee, to apply for a determination of eligibility for Medicaid on behalf of an offender, after informing the offender.

There was testimony today in your Judiciary Committee that this bill has the potential to save NDOC millions of dollars to try to help these inmates who are eligible for Medicaid benefits. I urge its passage.

Roll call on Senate Bill No. 519:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 519 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 293.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 293 makes an appropriation of \$20,000 in Fiscal Year 2013-2014 and \$20,000 in Fiscal Year 2014-2015 to the account for dependents of fallen officers so that they may get their college education.

Roll call on Senate Bill No. 293:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 293 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 322.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Senate Bill 322 removes the Attorney General from the Board of Directors of the Department of Transportation and adds a member from a highway district that includes a county whose population is 700,000 or more. If one of the three constitutional offices is vacant, the Secretary of State shall serve ex officio on the Board until the vacancy is filled.

Roll call on Senate Bill No. 322:

YEAS—40.

NAYS—Livermore.

EXCUSED—Pierce.

Senate Bill No. 322 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 461.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 461 makes a one-time General Fund appropriation of \$29,553 in 2013 to replace computer equipment beyond its normal scheduled replacement. Replacement of equipment scheduled for the 2011-2013 biennium was deferred due to budget reductions. This appropriation is included in the Governor's recommended budget as a one-shot appropriation.

This act becomes effective upon passage and approval.

Roll call on Senate Bill No. 461:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 461 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 462.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 462 makes a General Fund appropriation totaling \$2,315,090 to the Central Repository for Nevada Records of Criminal History of the Department of Public Safety for the first phase of a multiyear project estimated to cost a total of \$18.8 million over six years to modernize the Nevada Criminal Justice Information System. Funds appropriated to the Central Repository for Nevada Records of Criminal History for this purpose must be obligated by June 30, 2015, and any funds not spent prior to September 18, 2015, must be reverted to the General Fund.

Senate Bill 462 becomes effective upon passage and approval.

Roll call on Senate Bill No. 462:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 462 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 475.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 475, otherwise known as the sunset bill, revises the modified business tax on nonfinancial institutions by increasing the level of taxable wages that are exempt from the tax per quarter, from \$62,500 to \$85,000 through June 30, 2015. Effective July 1, 2015, the

modified business tax on nonfinancial institutions will revert to a flat rate of 0.63 percent on all taxable wages.

Senate Bill 475 continues the advance payment of the tax on the net proceeds of minerals and royalties for two years by extending the expiration date from June 30, 2013, to June 30, 2015, and also extends the expiration date for two years for which certain expenses are not allowed as deductions against gross proceeds.

Senate Bill 475 continues the \$200 business license fee by continuing the \$100 increase for two years by extending the expiration date from June 30, 2013, to June 30, 2015.

Senate Bill 475 continues the 2.6 percent sales tax rate by continuing the 0.35 percent increase in the Local School Support Tax for two years by extending the expiration date from June 30, 2013, to June 30, 2015. This act becomes effective upon passage and approval, and section 1 of this act expires by limitation by June 30, 2015. This is a two-year fix.

Roll call on Senate Bill No. 475:

YEAS—35.

NAYS—Duncan, Ellison, Fiore, Hambrick, Livermore, Wheeler—6.

EXCUSED—Pierce.

Senate Bill No. 475 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 480.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 480 makes a General Fund appropriation totaling \$2,000,436 to the Gaming Control Board to convert from a COBOL-based technology system to a modern technology system. Funds appropriated to the Gaming Control Board for this purpose must be obligated by June 30, 2015, and any funds not spent prior to September 18, 2015, must be reverted to the General Fund. The act becomes effective upon passage and approval.

Madam Speaker, I hope this is the last time we hear the term COBOL for a very long time.

Roll call on Senate Bill No. 480:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 480 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 484.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 484, as amended, makes a General Fund appropriation of \$126,000 to the Mental Health Information System Account for division-wide encryption and work group collaboration software. This funding is a one-shot appropriation included in the Executive Budget.

This bill, as amended, becomes effective upon passage and approval.

Roll call on Senate Bill No. 484:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 484 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 485.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 485 appropriates General Funds of \$452,100 to the Division of Welfare and Supportive Services of the Department of Health and Human Services for the integration of eligibility rules for the Temporary Assistance for Needy Families program known as TANF, and the Supplemental Nutrition Assistance Program, SNAP, into the eligibility engine system. This funding is a one-shot appropriation included in the Executive Budget.

Senate Bill 485 also authorizes the expenditure of \$10,547,900 not appropriated from the State General Fund or the State Highway Fund during the 2013-2015 biennium by the Division of Welfare and Supportive Services for the integration of eligibility rules for the TANF and SNAP programs into the eligibility engine system.

This bill becomes effective upon passage and approval.

Roll call on Senate Bill No. 485:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 485 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 486.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 486 appropriates \$1.5 million for the costs of implementing a pilot program for an assessment of the school readiness of children in pre-kindergarten and kindergarten, including, without limitation, costs related to training and technical assistance and the improvement of technology.

Roll call on Senate Bill No. 486:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 486 having received a constitutional majority,  
Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 487.

Bill read third time.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:28 p.m.

#### ASSEMBLY IN SESSION

At 7:39 p.m.

Madam Speaker presiding.

Quorum present.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 487 makes a \$5 million appropriation to the Governor Guinn Millennium Scholarship Program created by NRS 396.296. It becomes effective upon passage and approval. This \$5 million gets us through Fiscal Year 2017.

Roll call on Senate Bill No. 487:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 487 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

#### UNFINISHED BUSINESS

#### REPORTS OF CONFERENCE COMMITTEES

*Madam Speaker:*

The Conference Committee concerning Senate Bill No. 185, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 791 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 14, which is attached to and hereby made a part of this report.

TERESA BENITEZ-THOMPSON

MICHAEL SPRINKLE

*Assembly Conference Committee*

DEBBIE SMITH

DAVID PARKS

BEN KIECKHEFER

*Senate Conference Committee*

Conference Amendment No. CA14.

SUMMARY—Revises ~~the limitation on the principal amount of bonds and other securities that may be issued by the Board of Regents of the University of Nevada to finance certain projects. (BDR S 914)]~~ **provisions relating to projects of the Nevada System of Higher Education. (BDR 28-914)**



AN ACT relating to the Nevada System of Higher Education; **eliminating certain exemptions for the System from the requirements relating to public works**; increasing the total principal amount of bonds and other securities that may be issued by the Board of Regents of the University of Nevada to finance certain projects at the University of Nevada, Reno; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Sections 1 and 3 of this bill eliminate certain exemptions in existing law for the Nevada System of Higher Education from the requirements relating to public works. (NRS 338.010, 338.018, 338.075)**

Existing law authorizes the Board of Regents of the University of Nevada to issue bonds and other securities to finance certain projects at the University of Nevada, Reno, in a total principal amount not exceeding \$348,360,000. ~~That~~ **Section 2 of this** bill increases the authorized amount of such bonds to \$427,715,000.

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

**Section 1. 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.
  - (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.

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.

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.

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.

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.

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.

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.

16. “Public work” means any project for the new construction, repair or reconstruction of ~~f~~

~~—(a) A~~ a project financed in whole or in part from public money for:

- ~~1(1)~~ (a) Public buildings;
- ~~1(2)~~ (b) Jails and prisons;
- ~~1(3)~~ (c) Public roads;
- ~~1(4)~~ (d) Public highways;
- ~~1(5)~~ (e) Public streets and alleys;
- ~~1(6)~~ (f) Public utilities;
- ~~1(7)~~ (g) Publicly owned water mains and sewers;
- ~~1(8)~~ (h) Public parks and playgrounds;
- ~~1(9)~~ (i) Public convention facilities which are financed at least in part with public money; and
- ~~1(10)~~ (j) 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.]~~

17. “Specialty contractor” means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

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.

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.

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.

21. “Supplier” means a person who provides materials, equipment or supplies for a construction project.

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.

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.

~~[Section 1.]~~ **Sec. 2.** Section 5 of chapter 501, Statutes of Nevada 1991, as last amended by chapter 179, Statutes of Nevada 2011, at page 817, is hereby amended to read as follows:

(a) To finance the project by the issuance of bonds and other securities of the university in a total principal amount not exceeding ~~[\$348,360,000]~~ **\$427,715,000** for ~~the construction of~~ facilities at the University of Nevada, Reno, and in a total principal amount not exceeding \$422,155,000 for facilities at the University of Nevada, Las Vegas, \$35,000,000 of which may be used for the construction, other acquisition and improvement of a dental school and other structures and clinics associated with the dental school;

(b) To issue such bonds and other securities in connection with the project in one series or more at any time or from time to time on or before January 1, 2029, as the board may determine, and consisting of special obligations of the university payable from the net pledged revenues authorized by this act and possibly subsequently other net pledged revenues, secured by a pledge thereof and a lien thereon, subject to existing contractual limitations, and subject to the limitation in paragraph (a);

(d) To exercise the incidental powers provided in the University Securities Law in connection with the powers authorized by this act, except as otherwise expressly provided in this act.

3. This act does not limit the board in funding, refunding or reissuing any securities of the university or the board at any time as provided in the University Securities Law.

~~[Sec. 2.]~~ **Sec. 4.** This act becomes effective on July 1, 2013.

**338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 16 of NRS 338.010.**

**338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education.** The provisions of NRS 338.020 to

**338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 16 of NRS 338.010.**

Assemblywoman Carlton moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 185.

Remarks by Assemblymen Carlton and Daly.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 205, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 612 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 2, which is attached to and hereby made a part of this report.

ELLIOT ANDERSON

MAGGIE CARLTON

LYNN STEWART

*Assembly Conference Committee*

AARON FORD

BARBARA CEGAVSKE

*Senate Conference Committee*

Conference Amendment No. CA2.

AN ACT relating to education; requiring that a performance framework for a charter school be incorporated into the charter contract; revising provisions governing applications for authorization to sponsor charter schools by the board of trustees of a school district or a college or university within the Nevada System of Higher Education; revising the procedure for reviewing an application to form a charter school; setting forth requirements for the execution and renewal of charter contracts; setting forth the grounds for termination of a charter contract; revising provisions relating to the enrollment of pupils in charter schools; requiring the Department of Education to adopt regulations for the comprehensive review of sponsors of charter schools approved by the Department and for the revocation of the authorization to sponsor charter schools; making various other changes relating to charter schools; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the formation and operation of charter schools. (NRS 386.490-386.610) **Section 3** of this bill requires that a written performance framework for a charter school be incorporated into the charter contract executed by the sponsor and the governing body of the charter school pursuant to **section 8** of this bill. The performance framework must include performance indicators, measures and metrics for: (1) the academic achievement and proficiency of pupils enrolled in the charter school and disparities in achievement among those pupils; (2) the attendance rate of

pupils enrolled in the charter school and the percentage of pupils who reenroll from year-to-year; (3) the financial condition and sustainability of the charter school; (4) the performance of the governing body of the charter school; and (5) if the charter school enrolls pupils at the high school grade level, the rate of graduation of those pupils. **This bill also addresses the period during which some charter schools will continue to operate under existing written charters until their expiration and potential renewal under the terms and conditions for the issuance of a charter contract.**

Existing law prescribes the circumstances under which the sponsor of a charter school is authorized to revoke the charter of a charter school. (NRS 386.535) **Section 3.5** of this bill requires the sponsor of a charter school to **revoke the written charter or** terminate the charter contract of the charter school if the charter school receives three consecutive annual ratings established as the lowest rating possible indicating underperformance of a public school, as determined by the Department of Education pursuant to the statewide system of accountability for public schools. The procedures in existing law setting forth notice and timelines for the **revocation of the written charter or the** termination of a charter contract do not apply to termination on these grounds. **Section 3.5** also provides that a rating of a charter school based upon the performance of the charter school for any school year before the 2013-2014 school year pursuant to the statewide system of accountability must not be included in the count of consecutive annual ratings for the purposes of determining whether termination is required.

Existing law authorizes the board of trustees of a school district or a college or university within the Nevada System of Higher Education to sponsor charter schools. (NRS 386.515) **Section 5** of this bill clarifies that, similar to the board of trustees of a school district, a college or university is required to submit an application to the Department to sponsor charter schools. Under existing law, the Department is also required to adopt regulations prescribing the process for submission of an application by the board of trustees of a school district for authorization to sponsor charter schools. (NRS 386.540) **Section 12** of this bill makes a college or university within the Nevada System of Higher Education subject to those regulations and requires the Department to adopt additional regulations prescribing: (1) the process and timeline for the review of an application for authorization to sponsor charter schools; (2) the process for the Department to conduct a comprehensive review of sponsors of charter schools approved by the Department at least once every 3 years; and (3) the process for the Department to continue or revoke the authorization of a board of trustees or a college or university to sponsor charter schools.

Under existing law, the proposed sponsor of a charter school may request the Department to assist in the review of an application to form a charter school by determining whether the application is substantially complete and compliant. If the Department determines that an application is not substantially complete and compliant, the staff of the Department is required to meet with the applicant to confer on the method to correct the deficiencies in the application identified by the Department. (NRS 386.520) **Sections 6 and 7** of this bill remove the provisions relating to the review of an application to form a charter school by the Department.

Existing law sets forth the process for review of an application to form a charter school by the proposed sponsor of the charter school. (NRS 386.525) **Section 7** requires the proposed sponsor to assemble a team of reviewers and to conduct a thorough evaluation of the application, including an in-person interview with the committee to form the charter school. **Section 7** also requires that to approve an application, the proposed sponsor must determine that the applicant has demonstrated competence which will likely result in a successful opening and operation of the charter school.

Under existing law, if an application to form a charter school is approved by the proposed sponsor of the charter school, the charter school is issued a written charter for a term of 6 years. (NRS 386.527) **Section 8** removes the requirement for the issuance of a written charter and instead requires the proposed sponsor of the charter school and the governing body of the charter school , on or after the effective date of this bill, to execute a charter contract for a term of 6 years.

Existing law sets forth the procedures for renewal and revocation of written charters. (NRS 386.530, 386.535) **Section 9** of this bill removes the written charter and instead prescribes the procedure for renewal of a charter contract, which includes a requirement that the sponsor provide the charter school with a written report summarizing the charter school's performance during the term of the charter contract. **Section 10** of this bill prescribes the grounds for the revocation of a written charter and the termination of a charter contract, which includes , if the charter school holds a charter contract, the ground that the charter school has persistently underperformed, as measured by the performance framework developed for the charter school.

Existing law provides that a charter school dedicated to providing educational programs and opportunities to pupils who are at risk may enroll a child who is the child of a full-time employee of the charter school before enrolling pupils who are otherwise eligible for enrollment. **Section 17** of this bill removes the provision that such a charter school must serve at-risk pupils and instead authorizes any charter school to, before enrolling children who are otherwise eligible for enrollment, enroll a child if the child is the child of: (1) an employee of the charter school; (2) a member of the committee to form



the charter school; or (3) a member of the governing body of the charter school.

**Section 19** of this bill revises requirements for the annual report that the sponsor of a charter school is required to provide to the Department of Education by including , for a charter school that it sponsors with a charter contract, a summary evaluating the performance of the charter school, as measured by the performance framework, and by removing the requirement that the sponsor of the charter school include a description of the administrative support and services provided by the sponsor. (NRS 386.610)

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

**Section 1.** Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 3.5, inclusive, of this act.

**Sec. 2.** *“Charter contract” means the contract executed between the governing body of a charter school and the sponsor of the charter school pursuant to NRS 386.527.*

**Sec. 2.5.** *“Performance framework” means the performance framework for a charter school that is required to be incorporated into a charter contract pursuant to NRS 386.527.*

**Sec. 3. 1.** *The performance framework that is required to be incorporated into the charter contract pursuant to paragraph (a) of subsection 1 of NRS 386.527 must include, without limitation, performance indicators, measures and metrics for the categories of academics, finances and organization as follows:*

*(a) The category of academics addresses:*

*(1) The academic achievement and proficiency of pupils enrolled in the charter school, including, without limitation, the progress of pupils from year-to-year based upon the model to measure the achievement of pupils adopted by the Department pursuant to NRS 385.3595;*

*(2) Disparities in the academic achievement and proficiency of pupils enrolled in the charter school; and*

*(3) If the charter school enrolls pupils at the high school grade level, the rate of graduation of those pupils and the preparation of those pupils for success in postsecondary educational institutions and in career and workforce readiness.*

*(b) The category of finances addresses the financial condition and sustainability of the charter school.*

*(c) The category of organization addresses:*

*(1) The percentage of pupils who reenroll in the charter school from year-to-year;*

(2) *The rate of attendance of pupils enrolled in the charter school; and*

(3) *The performance of the governing body of the charter school, including, without limitation, compliance with the terms and conditions of the charter contract and the applicable statutes and regulations.*

2. *In addition to the requirements for the performance framework set forth in subsection 1, the sponsor of the charter school may, upon request of the governing body of the charter school, include additional rigorous, valid and reliable performance indicators, measures and metrics in the performance framework that are specific to the mission of the charter school and that are consistent with NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act.*

3. *The governing body of a charter school shall, in consultation with the sponsor of the charter school, establish annual performance goals to ensure that the charter school is meeting the performance indicators, measures and metrics set forth in the performance framework in the charter contract.*

4. *If an application for renewal of a charter contract is approved, the sponsor of the charter school may review and, if necessary, revise the performance framework. Such a revised performance framework must be incorporated into the renewed charter contract.*

5. *The sponsor of a charter school shall ensure the collection, analysis and reporting of all data from the results of pupils enrolled in the charter school on statewide examinations to determine whether the charter school is meeting the performance indicators, measures and metrics for the achievement and proficiency of pupils as set forth in the performance framework for the charter school.*

Sec. 3.5. 1. *The sponsor of a charter school shall revoke the written charter or terminate the charter contract of the charter school if the charter school receives three consecutive annual ratings established as the lowest rating possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools. A charter school's annual rating pursuant to the statewide system of accountability based upon the performance of the charter school for any school year before the 2013-2014 school year must not be included in the count of consecutive annual ratings for the purposes of this subsection.*

2. *If a written charter is revoked or a charter contract is terminated pursuant to subsection 1, the sponsor of the charter school shall submit a written report to the Department and the governing body of the charter school setting forth the reasons for the termination not later than 10 days after revoking the written charter or terminating the charter contract.*

**3. The provisions of NRS 386.535 do not apply to the revocation of a written charter or termination of a charter contract pursuant to this section.**

**Sec. 4.** NRS 386.490 is hereby amended to read as follows:

386.490 As used in NRS 386.490 to 386.610, inclusive, **and sections 2 to 3.5, inclusive, of this act**, the words and terms defined in NRS 386.495, 386.500 and 386.503 **and sections 2 and 2.5 of this act** have the meanings ascribed to them in those sections.

**Sec. 5.** NRS 386.515 is hereby amended to read as follows:

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district ~~to~~ **in accordance with the regulations adopted by the Department pursuant to NRS 386.540.** An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

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

3. A college or university within the Nevada System of Higher Education may **submit an application to the Department to** sponsor charter schools ~~to~~ **in accordance with the regulations adopted by the Department pursuant to NRS 386.540. An application must be approved by the Department before a college or university within the Nevada System of Higher Education may sponsor charter schools.**

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

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

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

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

(d) Negotiating and executing ~~written charters~~ **charter contracts** pursuant to NRS 386.527;

(e) Monitoring, in accordance with NRS 386.490 to 386.610, inclusive, **and sections 2 to 3.5, inclusive, of this act**, and in accordance with the terms and conditions of the applicable ~~written~~ charter ~~the~~ **contract**, the performance and compliance of each charter school sponsored by the entity; and

(f) Determining whether ~~each written~~ **the** charter **contract** of a charter school that the entity sponsors merits renewal or whether the renewal of the ~~written~~ charter **contract** should be denied or **whether the written charter should be revoked or the** charter **contract** ~~should be~~ ~~revoked~~ **terminated, as applicable**, in accordance with NRS 386.530 or 386.535, **or section 3.5 of this act**, as applicable.

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

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

(b) The procedure **and criteria** for evaluating charter school applications in accordance with NRS 386.525 ~~the~~ **and for the renewal of charter contracts pursuant to NRS 386.530;**

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

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

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

**Sec. 5.5. NRS 386.515 is hereby amended to read as follows:**

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district in accordance with the regulations adopted by the Department pursuant to NRS 386.540. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The State Public Charter School Authority shall sponsor charter schools whose applications have been approved by the State Public Charter School Authority pursuant to NRS 386.525. Except as otherwise provided by

specific statute, if the State Public Charter School Authority sponsors a charter school, the State Public Charter School Authority is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may submit an application to the Department to sponsor charter schools in accordance with the regulations adopted by the Department pursuant to NRS 386.540. An application must be approved by the Department before a college or university within the Nevada System of Higher Education may sponsor charter schools.

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

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

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

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

(d) Negotiating and executing charter contracts pursuant to NRS 386.527;

(e) Monitoring, in accordance with NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, and in accordance with the terms and conditions of the applicable charter contract, the performance and compliance of each charter school sponsored by the entity; and

(f) Determining whether the charter contract of a charter school that the entity sponsors merits renewal or whether the renewal of the charter contract should be denied or whether the ~~written~~ charter contract should be ~~revoked or the charter contract~~ terminated ~~if applicable~~ in accordance with NRS 386.530 or 386.535, or section 3.5 of this act, as applicable.

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

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

(b) The procedure and criteria for evaluating charter school applications in accordance with NRS 386.525 and for the renewal of charter contracts pursuant to NRS 386.530;

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

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

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

**Sec. 6.** NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of:

(a) One member who is a teacher or other person licensed pursuant to chapter 391 of NRS or who previously held such a license and is retired, as long as his or her license was held in good standing;

(b) One member who:

(1) Satisfies the qualifications of paragraph (a); or

(2) Is a school administrator with a license issued by another state or who previously held such a license and is retired, as long as his or her license was held in good standing;

(c) One parent or legal guardian who is not a teacher or employee of the proposed charter school; and

(d) Two members who possess knowledge and expertise in one or more of the following areas:

(1) Accounting;

(2) Financial services;

(3) Law; or

(4) Human resources.

2. In addition to the members who serve pursuant to subsection 1, the committee to form a charter school may include, without limitation, not more than four additional members as follows:

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

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

3. A majority of the persons who serve on the committee to form a charter school must be residents of this State at the time that the application to form the charter school is submitted to the Department.

4. ***The committee to form a charter school shall ensure that the completed application:***

***(a) Presents the academic, financial and organizational vision and plans for the proposed charter school; and***

***(b) Provides the proposed sponsor of the charter school with a clear basis for assessing the capacity of the applicant to carry out the vision and plans.***

5. An application to form a charter school must include all information prescribed by the Department by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.490 to 386.610, inclusive ~~{ }~~, **and sections 2 to 3.5, inclusive, of this act.**

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

(1) Improving the academic achievement of pupils;

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

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

(4) Establishing accountability and transparency of public schools;

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

(6) Creating new professional opportunities for teachers.

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

(d) The proposed dates for accepting applications for enrollment in the initial year of operation of the charter school.

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

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

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

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

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

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

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

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

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125 and 391.3128. If the procedure is different from the procedure prescribed in NRS 391.3125 and 391.3128, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125 and 391.3128.

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

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

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

~~{5. The proposed sponsor of a charter school may request that the Department review an application before review by the proposed sponsor to determine whether the application is substantially complete and compliant. Upon such a request, the Department shall review an application to form a charter school to determine whether it is substantially complete and compliant. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall provide written notice to the applicant that the application is ineligible for consideration by the proposed sponsor.}~~

~~6. {The Department shall provide written notice to the applicant and the proposed sponsor of the charter school of its determination whether the application is substantially complete and compliant. If the Department determines that an application is not substantially complete and compliant, the Department shall include in the written notice the basis for that determination and the deficiencies in the application. The staff designated by the Department shall meet with the applicant to confer on the method to correct the identified deficiencies. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application. If the Department determines an~~



~~application is substantially complete and compliant, the Department shall transmit the application to the proposed sponsor for review pursuant to NRS 386.525.~~

~~—7.1~~ As used in subsection 1, “teacher” means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS or who previously held such a license and is retired, as long as his or her license was held in good standing; and

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

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

**Sec. 7.** NRS 386.525 is hereby amended to read as follows:

386.525 1. ~~{Except as otherwise provided in this subsection, a committee to form a}~~ A charter school may submit the application to the proposed sponsor of the charter school. ~~{If the proposed sponsor of a charter school requested that the Department review the application pursuant to NRS 386.520 and the Department determined that the application was not substantially complete and compliant pursuant to that section, the application may not be submitted to the proposed sponsor for review pursuant to this section.}~~ If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the proposed sponsor shall deny the application.

2. *The proposed sponsor of a charter school shall, in reviewing an application to form a charter school:*

(a) *Assemble a team of reviewers who possess the appropriate knowledge and expertise with regard to the academic, financial and organizational experience of charter schools to review and evaluate the application;*

(b) *Conduct a thorough evaluation of the application, which includes an in-person interview with the committee to form the charter school;*

(c) *Base its determination on documented evidence collected through the process of reviewing the application; and*

(d) *Adhere to the policies and practices developed by the proposed sponsor pursuant to subsection 5 of NRS 386.515.*

3. *The proposed sponsor of a charter school may approve an application to form a charter school only if the proposed sponsor determines that:*

(a) *The application:*

(1) *Complies with NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, and the regulations applicable to charter schools; and*

(2) *Is complete in accordance with the regulations of the Department; and*

***(b) The applicant has demonstrated competence in accordance with the criteria for approval prescribed by the sponsor pursuant to subsection 5 of NRS 386.515 that will likely result in a successful opening and operation of the charter school.***

4. If the board of trustees of a school district or a college or a university within the Nevada System of Higher Education, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than ~~[45]~~ 60 days after the receipt of the application, or a ***later*** period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. ~~{If the proposed sponsor requested that the Department review the application pursuant to NRS 386.520, the proposed sponsor shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.}~~ The board of trustees, the college or the university, as applicable, shall review an application ~~{to determine whether the application:~~

~~—(a) Complies with NRS 386.490 to 386.610, inclusive, and the regulations applicable to charter schools; and~~

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

~~—3.} in accordance with the requirements for review set forth in subsections 2 and 3.~~

5. ~~{The Department shall assist the board of trustees of a school district, the college or the university, as applicable, in the review of an application.}~~ The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of ~~{paragraphs (a) and (b) of}~~ subsection ~~[2.]~~ 3.

6. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

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

~~[5.]~~ 7. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection ~~[4.]~~ 6, the applicant may submit a written request for sponsorship by the State Public Charter School Authority not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant

to this subsection must be accompanied by the application to form the charter school.

~~{6,}~~ **8.** If the State Public Charter School Authority receives an application pursuant to subsection 1 or ~~{5,}~~ **7**, it shall consider the application at a meeting which must be held not later than ~~{45}~~ **60** days after receipt of the application ~~{,} or a later period mutually agreed upon by the committee to form the charter school and the State Public Charter School Authority.~~ ~~{If the State Public Charter School Authority requested that the Department review the application pursuant to NRS 386.520, the State Public Charter School Authority shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.}~~ Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Public Charter School Authority shall review the application in accordance with the ~~{factors}~~ **requirements for review** set forth in ~~{paragraphs (a) and (b) of subsection}~~ **subsections 2 {,} and 3.** ~~{The Department shall assist the State Public Charter School Authority in the review of an application.}~~ The State Public Charter School Authority may approve an application **only** if it satisfies the requirements of ~~{paragraphs (a) and (b) of}~~ subsection ~~{2,}~~ **3**. Not more than 30 days after the meeting, the State Public Charter School Authority shall provide written notice of its determination to the applicant.

~~{7,}~~ **9.** If the State Public Charter School Authority denies or fails to act upon an application, the denial or failure to act must be based upon a finding that the applicant failed to ~~{adequately address objective criteria established by regulation of the Department or the State Board.}~~ **satisfy the requirements of subsection 3.** The State Public Charter School Authority shall include in the written notice the reasons for the denial or the failure to act and the deficiencies in the application. The staff designated by the State Public Charter School Authority shall meet with the applicant to confer on the method to correct the identified deficiencies. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~{8,}~~ **10.** If the State Public Charter School Authority denies an application after it has been resubmitted pursuant to subsection ~~{7,}~~ **9**, the applicant may, not more than 30 days after the receipt of the written notice from the State Public Charter School Authority, appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~{9,}~~ **11.** On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

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

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

(c) The current status of the application; and

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

**Sec. 8.** NRS 386.527 is hereby amended to read as follows:

386.527 1. If the ~~{State Public Charter School Authority, the board of trustees of a school district or a college or university within the Nevada System of Higher Education}~~ **proposed sponsor of a charter school** approves an application to form a charter school, it shall **, before the effective date of this act, grant a written charter to the governing body of the charter school or, on or after the effective date of this act, negotiate and execute a charter** ~~{to}~~ **contract with the {applicant} governing body of the charter school.** ~~{The}~~ **A charter contract must be executed not later than 60 days before the charter school commences operation. The charter contract must be in writing and incorporate, without limitation:**

(a) The performance framework for the charter school;

(b) A description of the administrative relationship between the sponsor of the charter school and the governing body of the charter school, including, without limitation, the rights and duties of the sponsor and the governing body; and

(c) Any pre-opening conditions which the sponsor has determined are necessary for the charter school to satisfy before the commencement of operation to ensure that the charter school meets all building, health, safety, insurance and other legal requirements.

2. The charter contract must be signed by a member of the governing body of the charter school and:

(a) If the board of trustees of a school district is the sponsor of the charter school, the superintendent of schools of the school district;

(b) If the State Public Charter School Authority is the sponsor of the charter school, the Chair of the State Public Charter School Authority; or

(c) If a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the president of the college or university.

3. Before the charter contract is executed, the sponsor of the charter school must approve the charter contract at a meeting of the sponsor held in accordance with chapter 241 of NRS.

4. The ~~{State Public Charter School Authority, the board of trustees, the college or the university, as applicable,}~~ **sponsor of the charter school** shall,

not later than 10 days after the ~~{approval}~~ **execution** of the ~~{application,}~~ **charter contract**, provide ~~{written notice}~~ to the Department :

(a) **Written notice** of the ~~{approval}~~ **charter contract** and the date of ~~{the approval,}~~ **execution; and**

(b) **A copy of the charter contract and any other documentation relevant to the charter contract.**

5. If the board of trustees approves the application, ~~{a charter contract,}~~ the board of trustees shall be deemed the sponsor of the charter school.

~~{2.}~~ 6. If the State Public Charter School Authority approves the application: ~~{a charter contract,}~~

(a) The State Public Charter School Authority shall be deemed the sponsor of the charter school.

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

~~{3.}~~ 7. If a college or university within the Nevada System of Higher Education approves the application: ~~{a charter contract,}~~

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

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

~~{4.}~~ 8. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board shall adopt:

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

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

~~{5.—Except as otherwise provided in subsection 7, a written charter}~~

9. **A written charter or a charter contract, as applicable,** must be for a term of 6 years . ~~{unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in subsection 4 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State Public Charter School Authority or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to~~

~~the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.~~

~~—6.} *The term of the charter contract begins on the first day of operation of the charter school after the charter contract has been executed. The sponsor of the charter school may require, or the governing body of the charter school may request that the sponsor authorize, the charter school to delay commencement of operation for 1 school year.*~~

10. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter ~~of the~~ or charter [school] contract ~~if~~, as applicable. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school. If the proposed amendment complies with the provisions of NRS 386.490 to 386.610, inclusive, **and sections 2 to 3.5, inclusive, of this act**, and any other statute or regulation applicable to charter schools, the sponsor **and the governing body of the charter school** may amend the written charter or charter contract, as applicable, in accordance with the proposed amendment. If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.

~~{7. The State Board shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:~~

- ~~—(a) Period for which such a written charter is valid; and~~
- ~~—(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.~~

~~→ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.~~

~~—8. The holder of a written charter that is issued pursuant to subsection 7}~~

11. A **charter school** shall not commence operation ~~of the charter school~~ and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements ~~adopted by the State Board pursuant to subsection 7}~~ **of this section** have

been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

↪ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

**Sec. 8.5. NRS 386.527 is hereby amended to read as follows:**

386.527 1. If the proposed sponsor of a charter school approves an application to form a charter school, it shall ~~it, before the effective date of this act, grant a written charter to the governing body of the charter school or, on or after the effective date of this act,~~ negotiate and execute a charter contract with the governing body of the charter school. A charter contract must be executed not later than 60 days before the charter school commences operation. The charter contract must be in writing and incorporate, without limitation:

(a) The performance framework for the charter school;

(b) A description of the administrative relationship between the sponsor of the charter school and the governing body of the charter school, including, without limitation, the rights and duties of the sponsor and the governing body; and

(c) Any pre-opening conditions which the sponsor has determined are necessary for the charter school to satisfy before the commencement of operation to ensure that the charter school meets all building, health, safety, insurance and other legal requirements.

2. The charter contract must be signed by a member of the governing body of the charter school and:

(a) If the board of trustees of a school district is the sponsor of the charter school, the superintendent of schools of the school district;

(b) If the State Public Charter School Authority is the sponsor of the charter school, the Chair of the State Public Charter School Authority; or

(c) If a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the president of the college or university.

3. Before the charter contract is executed, the sponsor of the charter school must approve the charter contract at a meeting of the sponsor held in accordance with chapter 241 of NRS.

4. The sponsor of the charter school shall, not later than 10 days after the execution of the charter contract, provide to the Department:

- (a) Written notice of the charter contract and the date of execution; and
- (b) A copy of the charter contract and any other documentation relevant to the charter contract.

5. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

6. If the State Public Charter School Authority approves the application:

(a) The State Public Charter School Authority shall be deemed the sponsor of the charter school.

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

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

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

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

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

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

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

9. A ~~["written charter or a"]~~ charter contract ~~["as applicable,"]~~ must be for a term of 6 years. The term of the charter contract begins on the first day of operation of the charter school after the charter contract has been executed. The sponsor of the charter school may require, or the governing body of the charter school may request that the sponsor authorize, the charter school to delay commencement of operation for 1 school year.

10. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the ~~["written charter or"]~~ charter contract ~~["as applicable,"]~~. Such an amendment may include, without limitation, the expansion of instruction and other educational



services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school. If the proposed amendment complies with the provisions of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, and any other statute or regulation applicable to charter schools, the sponsor and the governing body of the charter school may amend the ~~written charter or~~ charter contract ~~to, as applicable,~~ in accordance with the proposed amendment. If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.

11. A charter school shall not commence operation and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements of this section have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

↪ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

**Sec. 9.** NRS 386.530 is hereby amended to read as follows:

386.530 1. ~~Except as otherwise provided in subsection 2,~~ ***On or before June 30 immediately preceding the final school year in which a charter school is authorized to operate pursuant to its charter contract, the sponsor of the charter school shall submit to the governing body of the charter school a written report summarizing the performance of the charter school during the term of the charter contract, including, without limitation:***

***(a) A summary of the performance of the charter school based upon the terms of the charter contract and the requirements of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act;***

***(b) An identification of any deficiencies relating to the performance of the charter school which the sponsor has determined may result in nonrenewal of the charter contract if the deficiencies remain uncorrected;***

*(c) Requirements for the application for renewal of the charter contract submitted to the sponsor pursuant to subsection 2; and*

*(d) The criteria that the sponsor will apply in making a determination on the application for renewal based upon the performance framework for the charter school and the requirements of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act.*

*2. The governing body of a charter school may submit a written response to the sponsor of the charter school concerning the performance report prepared by the sponsor pursuant to subsection 1, which may include any revisions or clarifications that the governing body seeks to make to the report.*

*3. If a charter school seeks to renew its charter contract, the governing body of the charter school shall submit an application for renewal ~~of a written charter may be submitted~~ to the sponsor of the charter school ~~not less than 120 days before the expiration of the charter. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:~~*

~~—(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and~~

~~—(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.~~

~~➔ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.~~

~~—2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:~~

~~—(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and~~

~~—(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.~~

~~→ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.~~ **on or before October 15 of the final school year in which the charter school is authorized to operate pursuant to its charter contract. The application for renewal must include, without limitation:**

**(a) The requirements for the application identified by the sponsor in the performance report prepared by the sponsor pursuant to subsection 1;**

**(b) A description of the academic, financial and organizational vision and plans for the charter school for the next charter term;**

**(c) Any information or data that the governing body of the charter school determines supports the renewal of the charter contract in addition to the information contained in the performance report prepared by the sponsor pursuant to subsection 1 and any response submitted by the governing body pursuant to subsection 2; and**

**(d) A description of any improvements to the charter school already undertaken or planned.**

**4. The sponsor of a charter school shall consider the application for renewal of the charter contract at a meeting held in accordance with chapter 241 of NRS. The sponsor shall provide written notice to the governing body of the charter school concerning its determination on the application for renewal of the charter contract not more than 60 days after receipt of the application for renewal from the governing body. The determination of the sponsor must be based upon:**

**(a) The criteria of the sponsor for the renewal of charter contracts; and**

**(b) Evidence of the performance of the charter school during the term of the charter contract in accordance with the performance framework for the charter school.**

**5. The sponsor of the charter school shall:**

**(a) Make available to the governing body of the charter school the data used in making the renewal decision; and**

**(b) Post a report on the Internet website of the sponsor summarizing the decision of the sponsor on the application for renewal and the basis for its decision.**

**6. A charter contract may be renewed for a term of 6 years.**

**Sec. 10.** NRS 386.535 is hereby amended to read as follows:

**386.535 Except as otherwise provided in section 3.5 of this act:**

**1. The sponsor of a charter school may revoke ~~the~~ a written charter ~~for~~ or terminate a charter ~~school~~ contract before the expiration of the charter ~~contract~~ if the sponsor determines that:**

(a) The charter school, its officers or its employees : ~~have failed to comply with;~~

(1) ~~The~~ **Committed a material breach of the** terms and conditions of the written charter ~~;~~

~~(2) Generally;~~ **or charter contract;**

**(2) Failed to comply with generally** accepted standards of ~~accounting and~~ fiscal management; ~~or~~

(3) ~~The~~ **Failed to comply with the** provisions of NRS 386.490 to 386.610, inclusive, **and sections 2 to 3.5, inclusive, of this act**, or any other statute or regulation applicable to charter schools; **or**

**(4) ~~Has~~ If the charter school holds a charter contract, has persistently underperformed, as measured by the performance indicators, measures and metrics set forth in the performance framework for the charter school;**

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate; or

(c) There is reasonable cause to believe that revocation or termination is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located.

2. Before the sponsor revokes a written charter or terminates ~~the~~ a charter ~~or~~ **contract**, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to revoke the written charter or terminate the charter ~~or~~ **contract**.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to revoke the written charter or terminate the ~~written~~ charter ~~or~~ **contract**. If the charter

school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not revoke the written charter or terminate the ~~written~~ charter **contract** of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected.

4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.

**5. If the written charter is revoked or the charter contract is terminated, the sponsor of the charter school shall submit a written report to the Department and the governing body of the charter school setting forth the reasons for the termination not later than 10 days after revoking the written charter or terminating the charter contract.**

**Sec. 10.5. NRS 386.535 is hereby amended to read as follows:**

386.535 Except as otherwise provided in section 3.5 of this act:

1. The sponsor of a charter school may ~~revoke a written charter or~~ terminate a charter contract before the expiration of the charter if the sponsor determines that:

(a) The charter school, its officers or its employees:

(1) Committed a material breach of the terms and conditions of the ~~written charter or~~ charter contract;

(2) Failed to comply with generally accepted standards of fiscal management;

(3) Failed to comply with the provisions of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, or any other statute or regulation applicable to charter schools; or

(4) ~~If the charter school holds a charter contract, has~~ **Has** persistently underperformed, as measured by the performance indicators, measures and metrics set forth in the performance framework for the charter school;

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate; or

(c) There is reasonable cause to believe that ~~revocation or~~ termination is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located.

2. Before the sponsor ~~revokes a written charter or~~ terminates a charter contract, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to ~~revoke the written charter or~~ terminate the charter contract.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to ~~revoke the written charter or~~ terminate the charter contract. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not ~~revoke the written charter or~~ terminate the charter contract of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected.

4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.

5. If the ~~written charter is revoked or the~~ charter contract is terminated, the sponsor of the charter school shall submit a written report to the Department and the governing body of the charter school setting forth the reasons for the termination not later than 10 days after ~~revoking the written charter or~~ terminating the charter contract

**Sec. 11.** NRS 386.536 is hereby amended to read as follows:

386.536 1. Except as otherwise provided in subsections 2 and 3, if a charter school ceases to operate voluntarily , ***if a charter contract is not renewed*** or upon revocation of a written charter or termination of ~~its written~~ ***a charter contract***, the governing body of the charter school shall appoint an administrator of the charter school, subject to the approval of the sponsor of the charter school, to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

(a) Charter school;

- (b) Employees of the charter school; and
- (c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection 2, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 1.

4. The governing body of the charter school or the sponsor of the charter school may, to the extent practicable, provide financial compensation to the administrator or person appointed to carry out the provisions of this section. If the sponsor of the charter school provides such financial compensation, the sponsor is entitled to receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.

**Sec. 11.5. NRS 386.536 is hereby amended to read as follows:**

386.536 1. Except as otherwise provided in subsections 2 and 3, if a charter school ceases to operate voluntarily, if a charter contract is not renewed or upon ~~revocation of a written charter or~~ termination of a charter contract, the governing body of the charter school shall appoint an administrator of the charter school, subject to the approval of the sponsor of the charter school, to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

- (a) Charter school;
- (b) Employees of the charter school; and
- (c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection 2, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 1.

4. The governing body of the charter school or the sponsor of the charter school may, to the extent practicable, provide financial compensation to the administrator or person appointed to carry out the provisions of this section. If the sponsor of the charter school provides such financial compensation, the

sponsor is entitled to receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.

**Sec. 12.** NRS 386.540 is hereby amended to read as follows:

386.540 1. The Department shall adopt regulations that prescribe:

(a) The process for submission of an application *pursuant to NRS 386.515* by the board of trustees of a school district *or a college or university within the Nevada System of Higher Education* to the Department for authorization to sponsor charter schools, ~~and~~ the contents of the application ~~to~~, *the process for the Department to review the application and the timeline for review;*

(b) *The process for the Department to conduct a comprehensive review of the sponsors of charter schools that it has approved for sponsorship pursuant to NRS 386.515 at least once every 3 years;*

(c) *The process for the Department to determine whether to continue or to revoke the authorization of a board of trustees of a school district or a college or university within the Nevada System of Higher Education to sponsor charter schools;*

(d) The process for submission of an application to form a charter school to the board of trustees of a school district, the State Public Charter School Authority and a college or university within the Nevada System of Higher Education, and the contents of the application;

~~(e)~~ (e) The process for submission of an application to renew a ~~written~~ charter ~~to~~ *contract;*

~~(d)~~ (f) The criteria and type of investigation that must be applied by the board of trustees, the State Public Charter School Authority and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school, an application to renew a ~~written~~ charter *contract* or a request for an amendment of a written charter ~~to~~ *or a charter contract;* and

~~(e)~~ (g) The process for submission of an amendment of a written charter *or a charter contract* pursuant to NRS 386.527 and the contents of the application.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.490 to 386.610, inclusive, *and sections 2 to 3.5, inclusive, of this act*, including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

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



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

**Sec. 12.5. NRS 386.540 is hereby amended to read as follows:**

386.540 1. The Department shall adopt regulations that prescribe:

(a) The process for submission of an application pursuant to NRS 386.515 by the board of trustees of a school district or a college or university within the Nevada System of Higher Education to the Department for authorization to sponsor charter schools, the contents of the application, the process for the Department to review the application and the timeline for review;

(b) The process for the Department to conduct a comprehensive review of the sponsors of charter schools that it has approved for sponsorship pursuant to NRS 386.515 at least once every 3 years;

(c) The process for the Department to determine whether to continue or to revoke the authorization of a board of trustees of a school district or a college or university within the Nevada System of Higher Education to sponsor charter schools;

(d) The process for submission of an application to form a charter school to the board of trustees of a school district, the State Public Charter School Authority and a college or university within the Nevada System of Higher Education, and the contents of the application;

(e) The process for submission of an application to renew a charter contract;

(f) The criteria and type of investigation that must be applied by the board of trustees, the State Public Charter School Authority and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school, an application to renew a charter contract or a request for an amendment of a ~~written charter or a~~ charter contract; and

(g) The process for submission of an amendment of a ~~written charter or a~~ charter contract pursuant to NRS 386.527 and the contents of the application.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

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

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

**Sec. 13.** NRS 386.551 is hereby amended to read as follows:

386.551 The provisions of NRS 386.490 to 386.610, inclusive, **and sections 2 to 3.5, inclusive, of this act**, and any other statute or regulation applicable to a charter school or its officers or employees govern the formation and operation of charter schools in this State. ~~{Upon the first renewal of a written charter and each renewal thereafter, the sponsor of a charter school shall not prescribe additional requirements or otherwise require a charter school to comply with additional terms or conditions unless the sponsor is specifically authorized by statute, regulation or the written charter.}~~

**Sec. 14.** NRS 386.561 is hereby amended to read as follows:

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

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

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

**Sec. 14.5. NRS 386.561 is hereby amended to read as follows:**

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

2. If a service agreement is entered into pursuant to this section, the sponsor of the charter school shall, not later than August 1 after the

completion of the school year, provide to the governing body of the charter school an itemized accounting of the actual costs of those services purchased by the charter school. Any difference between the amount paid by the charter school pursuant to the service agreement and the actual cost for those services must be reconciled and paid to the party to whom it is due. If the governing body or the sponsor disputes the amount due, the party making the dispute may request an independent review by the Department, whose determination is final.

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

**Sec. 15.** NRS 386.565 is hereby amended to read as follows:

386.565 The board of trustees of a school district in which a charter school is located shall not:

1. Assign any pupil who is enrolled in a public school in the school district or any employee who is employed in a public school in the school district to a charter school.

2. Interfere with the operation and management of the charter school except as authorized by the written charter ~~or~~ **or charter contract, as applicable,** NRS 386.490 to 386.610, inclusive, **and sections 2 to 3.5, inclusive, of this act,** and any other statute or regulation applicable to charter schools or its officers or employees.

**Sec. 15.5. NRS 386.565 is hereby amended to read as follows:**

386.565 The board of trustees of a school district in which a charter school is located shall not:

1. Assign any pupil who is enrolled in a public school in the school district or any employee who is employed in a public school in the school district to a charter school.

2. Interfere with the operation and management of the charter school except as authorized by the ~~written charter or~~ charter contract, ~~as applicable,~~ NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, and any other statute or regulation applicable to charter schools or its officers or employees.

**Sec. 16.** NRS 386.578 is hereby amended to read as follows:

386.578 1. If the governing body of a charter school has a written charter ~~issued~~ **or a charter contract executed** pursuant to NRS 386.527, the governing body may submit an application to the Department for a loan from the Account for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The Department shall, within the limits of money available for use in the Account, make loans to charter schools whose applications have been approved. If the Department makes a loan from the Account, the Department shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. The State Board:

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the Department by a charter school that desires to receive a loan from the Account; and

(2) Period for repayment and the rate of interest for loans made from the Account.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

**Sec. 16.5. NRS 386.578 is hereby amended to read as follows:**

386.578 1. If the governing body of a charter school has a ~~written charter issued or a~~ charter contract executed pursuant to NRS 386.527, the governing body may submit an application to the Department for a loan from the Account for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The Department shall, within the limits of money available for use in the Account, make loans to charter schools whose applications have been approved. If the Department makes a loan from the Account, the Department shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. The State Board:

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the Department by a charter school that desires to receive a loan from the Account; and

(2) Period for repayment and the rate of interest for loans made from the Account.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

**Sec. 17. NRS 386.580 is hereby amended to read as follows:**

386.580 1. An application for enrollment in a charter school may be submitted to the governing body of the charter school by the parent or legal guardian of any child who resides in this State. Except as otherwise provided in this subsection and subsection 2, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the

charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district. Except as otherwise provided in subsection 2, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

2. Before a charter school enrolls pupils who are eligible for enrollment, a charter school ~~{that is dedicated to providing educational programs and opportunities to pupils who are at risk}~~ may enroll a child who:

- (a) Is a sibling of a pupil who is currently enrolled in the charter school;
- (b) Was enrolled, **free of charge and** on the basis of a lottery system, in a prekindergarten program at the charter school or any other early childhood educational program affiliated with the charter school;
- (c) Is a child of a person ~~{employed in a full-time position}~~ **who is:**
  - (1) Employed** by the charter school;
  - (2) A member of the committee to form the charter school; or**
  - (3) A member of the governing body of the charter school;**
- (d) Is in a particular category of at-risk pupils and the child meets the eligibility for enrollment prescribed by the charter school for that particular category; or
- (e) Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

➤ If more pupils described in this subsection who are eligible apply for enrollment than the number of spaces available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

3. Except as otherwise provided in subsection 8, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

- (a) Race;
  - (b) Gender;
  - (c) Religion;
  - (d) Ethnicity; or
  - (e) Disability,
- ➔ of a pupil.

4. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his or her school or homeschool or participate in an extracurricular activity at the charter school if:

- (a) Space for the child in the class or extracurricular activity is available;
- (b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity; and
- (c) The child is a homeschooled child and a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 392.705.

➔ If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

6. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school pursuant to subsection 5 if the governing body determines that the child has failed to comply with applicable statutes, or applicable rules and regulations. If the governing body so revokes its approval, neither the governing body nor

the charter school is liable for any damages relating to the denial of services to the child.

7. The governing body of a charter school may, before authorizing a homeschooled child to participate in a class or extracurricular activity pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

8. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

(a) With disabilities;

(b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or

(c) Who are at risk.

➡ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

**Sec. 18.** NRS 386.595 is hereby amended to read as follows:

386.595 1. All employees of a charter school shall be deemed public employees.

2. The governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.311 to 391.3197, inclusive, unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.

3. Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.

4. Except as otherwise provided in this subsection, if the written charter ~~contract~~ of a charter school is revoked or a charter contract is terminated, as applicable, or if a charter school ceases to operate as a charter school, the licensed employees of the charter school must be reassigned to employment

within the school district in accordance with the applicable collective bargaining agreement. A school district is not required to reassign a licensed employee of a charter school pursuant to this subsection if the employee:

(a) Was not granted a leave of absence by the school district to accept employment at the charter school pursuant to subsection 5;

(b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with subsection 5; or

(c) Does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.

5. The board of trustees of a school district shall grant a leave of absence, not to exceed 3 years, to any licensed employee who is employed by the board of trustees who requests such a leave of absence to accept employment with a charter school. After the first school year in which a licensed employee is on a leave of absence, the employee may return to a comparable teaching position with the board of trustees. After the third school year, a licensed employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted. The board of trustees shall grant a written request to return to a comparable position pursuant to this subsection even if the return of the licensed employee requires the board of trustees to reduce the existing workforce of the school district. The board of trustees is not required to accept the return of the licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school. The board of trustees may require that a request to return to a comparable teaching position submitted pursuant to this subsection be submitted at least 90 days before the employee would otherwise be required to report to duty.

6. Upon the request of the board of trustees of a school district, the governing body of a charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to this section, transmit to the school district a copy of the employment record of the employee that is maintained by the charter school before the return of the employee to employment with the school district pursuant to subsection 4 or 5. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the charter school and any disciplinary action taken by the charter school against the licensed employee. Before the return of the licensed employee, the board of trustees



of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate disciplinary action as to the status of the person as an employee of the school district, including, without limitation:

(a) The dismissal of the employee from employment with the school district; or

(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.

7. If a school district conducts an investigation pursuant to subsection 6:

(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and

(b) The investigation must be conducted within a reasonable time.

8. A licensed employee who is on a leave of absence from a school district pursuant to this section:

(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.

(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district only with respect to any matter relating to his or her status or employment with the district.

➤ The time during which such an employee is on a leave of absence and employed in a charter school does not count toward the acquisition of permanent status with the school district.

9. Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in a charter school.

10. An employee of a charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.

11. For all employees of a charter school:

(a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.

(b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.

12. If the board of trustees of a school district in which a charter school is located manages a plan of group insurance for its employees, the governing body of the charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the board of trustees offers to its employees. If the employees of the charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the charter school shall:

(a) Ensure that the premiums for that insurance are paid to the board of trustees; and

(b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the charter school.

**Sec. 18.5. NRS 386.595 is hereby amended to read as follows:**

386.595 1. All employees of a charter school shall be deemed public employees.

2. The governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.311 to 391.3197, inclusive, unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.

3. Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.

4. Except as otherwise provided in this subsection, if the ~~written charter of a charter school is revoked or a~~ charter contract of a charter school is terminated ~~[, as applicable,]~~ or if a charter school ceases to operate as a charter school, the licensed employees of the charter school must be reassigned to employment within the school district in accordance with the applicable collective bargaining agreement. A school district is not required to reassign a licensed employee of a charter school pursuant to this subsection if the employee:

(a) Was not granted a leave of absence by the school district to accept employment at the charter school pursuant to subsection 5;

(b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with subsection 5; or

(c) Does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.

5. The board of trustees of a school district shall grant a leave of absence, not to exceed 3 years, to any licensed employee who is employed by the board of trustees who requests such a leave of absence to accept employment with a charter school. After the first school year in which a licensed employee is on a leave of absence, the employee may return to a comparable teaching position with the board of trustees. After the third school year, a licensed employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted. The board of trustees shall grant a written request to return to a comparable position pursuant to this subsection even if the return of the licensed employee requires the board of trustees to reduce the existing workforce of the school district. The board of trustees is not required to accept the return of the licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school. The board of trustees may require that a request to return to a comparable teaching position submitted pursuant to this subsection be submitted at least 90 days before the employee would otherwise be required to report to duty.

6. Upon the request of the board of trustees of a school district, the governing body of a charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to this section, transmit to the school district a copy of the employment record of the employee that is maintained by the charter school before the return of the employee to employment with the school district pursuant to subsection 4 or 5. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the charter school and any disciplinary action taken by the charter school against the licensed employee. Before the return of the licensed employee, the board of trustees of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate disciplinary action as to the status of the person as an employee of the school district, including, without limitation:

(a) The dismissal of the employee from employment with the school district; or

(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.

7. If a school district conducts an investigation pursuant to subsection 6:

(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and

(b) The investigation must be conducted within a reasonable time.

8. A licensed employee who is on a leave of absence from a school district pursuant to this section:

(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.

(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district only with respect to any matter relating to his or her status or employment with the district.

➡ The time during which such an employee is on a leave of absence and employed in a charter school does not count toward the acquisition of permanent status with the school district.

9. Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in a charter school.

10. An employee of a charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.

11. For all employees of a charter school:

(a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.

(b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.

12. If the board of trustees of a school district in which a charter school is located manages a plan of group insurance for its employees, the governing body of the charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the board of trustees

offers to its employees. If the employees of the charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the charter school shall:

(a) Ensure that the premiums for that insurance are paid to the board of trustees; and

(b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the charter school.

**Sec. 19.** NRS 386.610 is hereby amended to read as follows:

386.610 ~~1.~~ On or before ~~August 15~~ **October 1** of each year, the sponsor of a charter school shall submit a written report to the Department. The written report must include :

~~1(a) An~~

**1. For each charter school that it sponsors with a written charter, an evaluation of the progress of ~~for~~ each such charter school ~~that it sponsors~~ in achieving the educational goals ~~+~~**

~~1. A and objectives of the written charter.~~

**2. For each charter school that it sponsors with a charter contract, a summary evaluating the academic, financial and organizational performance of the charter school, as measured by the performance indicators, measures and ~~objectives of the charter school.~~**

~~(b) A description of all administrative support and services provided by the sponsor to the charter school, including, without limitation, an itemized accounting for the costs of the support and services.~~

~~(c) metrics set forth in the performance framework for the charter school.~~

~~2.~~ **3.** An identification of each charter school approved by the sponsor:

~~1(a)~~ **(a)** Which has not opened and the scheduled time for opening, if any;

~~2(b)~~ **(b)** Which is open and in operation;

~~3(c)~~ **(c)** Which has transferred sponsorship;

~~4(d)~~ **(d)** Whose written charter **has been revoked or whose charter contract** has been ~~revoked~~ **terminated** by the sponsor;

~~5(e)~~ **(e)** Whose ~~written~~ charter **contract** has not been renewed by the sponsor; and

~~6(f)~~ **(f)** Which has voluntarily ceased operation.

~~4.~~ **4.** A description of the strategic vision of the sponsor for the charter schools that it sponsors and the progress of the sponsor in achieving that vision.

~~5.~~ **5.** A description of the services provided by the sponsor pursuant to a service agreement entered into with the governing body of the

charter school pursuant to NRS 386.561, including an itemized accounting of the actual costs of those services.

~~{2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.}~~

~~{5.}~~ **6.** *The amount of any money from the Federal Government that was distributed to the charter school, any concerns regarding the equity of such distributions and any recommendations on how to improve access to and distribution of money from the Federal Government.*

**Sec. 19.5. NRS 386.610 is hereby amended to read as follows:**

386.610 On or before October 1 of each year, the sponsor of a charter school shall submit a written report to the Department. The written report must include:

1. ~~{For each charter school that it sponsors with a written charter, an evaluation of the progress of each such charter school in achieving the educational goals and objectives of the written charter.}~~

~~2. For each charter school that it sponsors with a charter contract, a~~ **1.** A summary evaluating the academic, financial and organizational performance of the charter school, as measured by the performance indicators, measures and metrics set forth in the performance framework for the charter school.

~~{2.}~~ **2.** An identification of each charter school approved by the sponsor:

- (a) Which has not opened and the scheduled time for opening, if any;
- (b) Which is open and in operation;
- (c) Which has transferred sponsorship;
- (d) Whose ~~{written charter has been revoked or whose}~~ charter contract has been terminated by the sponsor;
- (e) Whose charter contract has not been renewed by the sponsor; and
- (f) Which has voluntarily ceased operation.

~~{4.}~~ **3.** A description of the strategic vision of the sponsor for the charter schools that it sponsors and the progress of the sponsor in achieving that vision.

~~{5.}~~ **4.** A description of the services provided by the sponsor pursuant to a service agreement entered into with the governing body of the charter school pursuant to NRS 386.561, including an itemized accounting of the actual costs of those services.

~~{6.}~~ **5.** The amount of any money from the Federal Government that was distributed to the charter school, any concerns regarding the equity of such

distributions and any recommendations on how to improve access to and distribution of money from the Federal Government.

**Sec. 19.7. Section 3.5 of this act is hereby amended to read as follows:**

Sec. 3.5. 1. The sponsor of a charter school shall ~~revoke the written charter or~~ terminate the charter contract of the charter school if the charter school receives three consecutive annual ratings established as the lowest rating possible indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools. A charter school's annual rating pursuant to the statewide system of accountability based upon the performance of the charter school for any school year before the 2013-2014 school year must not be included in the count of consecutive annual ratings for the purposes of this subsection.

2. If a ~~written charter is revoked or a~~ charter contract is terminated pursuant to subsection 1, the sponsor of the charter school shall submit a written report to the Department and the governing body of the charter school setting forth the reasons for the termination not later than 10 days after ~~revoking the written charter or~~ terminating the charter contract.

3. The provisions of NRS 386.535 do not apply to the ~~revocation of a written charter or~~ termination of a charter contract pursuant to this section.

**Sec. 20.** 1. Except as otherwise provided in subsection 2, a charter school that is operating under a written charter issued before the effective date of this act shall continue to operate under the terms of the written charter until the expiration of the written charter, unless the written charter is revoked before the expiration of the current term. Before the expiration of the written charter, if the charter school seeks to continue operation, the charter school must apply to the sponsor of the charter school for a charter contract **in the form and on the date prescribed by the sponsor.**

2. If a charter school that is operating under a written charter issued before the effective date of this act does not wish to continue operation under the written charter until its expiration, upon approval of the sponsor of the charter school, the charter school may apply to the sponsor for a charter contract **in the form and on the date prescribed by the sponsor.**

3. **An application submitted pursuant to subsection 1 or 2 must include, without limitation:**

**(a) A description of the academic, financial and organizational vision and plans for the charter school for the next charter term;**

**(b) Any information or data that the governing body of the charter school determines supports the renewal of the charter under the terms and conditions for the issuance of a charter contract;**

**(c) A description of any improvements to the charter school already undertaken or planned; and**

**(d) Any other requirements or information prescribed by the sponsor.**

**4. Upon receipt of an application pursuant to subsection 1 or 2, the sponsor of the charter school shall consider the application for a charter contract at a meeting held in accordance with chapter 241 of NRS. The sponsor shall provide written notice to the governing body of the charter school concerning its determination on the application not more than 60 days after receipt of the application. The determination of the sponsor must be based upon:**

**(a) The criteria of the sponsor for the issuance and renewal of charter contracts based upon the requirements of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act; and**

**(b) Evidence of the performance of the charter school during the term of the written charter.**

**5.** Upon approval of an application for a charter contract pursuant to subsection 1 or 2:

(a) A written performance framework for the charter school in accordance with section 3 of this act must be incorporated into the charter contract executed pursuant to paragraph (b).

(b) The sponsor of the charter school and the governing body of the charter school shall execute a charter contract pursuant to NRS 386.527, as amended by section 8 of this act.

**Sec. 20.5. The Legislative Counsel shall:**

**1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to the term “written charter” to include “or charter contract, as applicable” through January 1, 2020, and thereafter to refer only to a “charter contract.”**

**2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to the term “written charter” to include “or charter contract, as applicable” through January 1, 2020, and thereafter to refer only to a “charter contract.”**

**Sec. 21. 1. This section and sections 1 to 5, inclusive, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 20.5 of this act become effective upon passage and approval.**

**2. Sections 5.5, 8.5, 10.5, 12.5, 14.5, 15.5, 16.5, 18.5, 19.5 and 19.7 become effective on January 1, 2020.**

**3. Section 11.5 of this act becomes effective on July 1, 2020.**

Assemblyman Elliot Anderson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 205.

Remarks by Assemblyman Elliot Anderson.

Motion carried by a constitutional majority.



*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 66, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 675 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 4, which is attached to and hereby made a part of this report.

IRENE BUSTAMANTE ADAMS

DINA NEAL

RANDY KIRNER

*Assembly Conference Committee*

RUBEN KIHUEN

BEN KIECKHEFER

DAVID PARKS

*Senate Conference Committee*

Conference Amendment No. CA4.

SUMMARY—Revises the manner in which the State Board of Equalization must provide ~~notice of a proposed increase~~ **certain notices concerning increases** in the valuation of property ~~under certain circumstances.~~ (BDR 32-301)

AN ACT relating to property tax; revising the manner in which the State Board of Equalization must provide ~~notice of a proposed increase~~ **certain notices concerning increases** in the valuation of property ~~under certain circumstances;~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, the State Board of Equalization is required to give 10 days' notice by registered or certified mail or by personal service to interested persons if the Board proposes to increase the valuation of any property on the assessment roll. (NRS 361.395) ~~For notices of proposed increases in the valuation of property that relate to a fiscal year that began before July 1, 2013, this bill requires the Board to continue to provide the notice required under the current law. For~~ **Section 1 of this bill maintains this requirement if the Board proposes to increase the valuation of any property on the assessment roll in a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403. However, for** notices of proposed increases in the valuation of **a class or group of** property that relate to a fiscal year that begins on or after July 1, 2013, ~~this bill~~ **section 1** requires the Board to give 30 days' notice ~~if~~ **(1)** by first-class mail to interested persons ~~if the Board proposes to increase the property values of a class or group of properties; and (2) by registered or certified mail or by personal service to interested persons if the Board proposes to increase property values in a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403.~~

**Under existing law, whenever the valuation of any property is raised by the Board, the Secretary of the Board is required to forward notice of the increased valuation by certified mail to the property owner or owners affected. (NRS 361.405) Section 1.5 of this bill: (1) maintains the**

**requirement that this notice be provided by certified mail if the Board increases the valuation in a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403; and (2) requires this notice to be provided by first-class mail to the property owner or owners affected if the Board increases the valuation of a class or group of properties.**

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

**Section 1.** NRS 361.395 is hereby amended to read as follows:

361.395 1. During the annual session of the State Board of Equalization beginning on the fourth Monday in March of each year, the State Board of Equalization shall:

(a) Equalize property valuations in the State.

(b) Review the tax rolls of the various counties as corrected by the county boards of equalization thereof and raise or lower, equalizing and establishing the taxable value of the property, for the purpose of the valuations therein established by all the county assessors and county boards of equalization and the Nevada Tax Commission, of any class or piece of property in whole or in part in any county, including those classes of property enumerated in NRS 361.320.

2. If the State Board of Equalization proposes to increase the valuation of any property on the assessment roll ~~it~~:

*(a) Pursuant to paragraph (b) of subsection 1, it shall give 30 days' notice to interested persons by first-class mail.*

*(b) In a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403, it shall give 10 ~~30~~ days' notice to interested persons by registered or certified mail or by personal service. ~~The~~*

↪ A notice *provided pursuant to this subsection* must state the time when and place where the person may appear and submit proof concerning the valuation of the property. A person waives the notice requirement if he or she personally appears before the Board and is notified of the proposed increase in valuation.

**Sec. 1.5. NRS 361.405 is hereby amended to read as follows:**

361.405 1. The Secretary of the State Board of Equalization forthwith shall certify any change made by the Board in the assessed valuation of any property in whole or in part to the county auditor of the county where the property is assessed, and whenever the valuation of any property is raised ~~it~~ :

*(a) In a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403, the Secretary of the*

~~[State] Board [of Equalization]~~ shall forward by certified mail to the property owner or owners affected, notice of the increased valuation.

**(b) Pursuant to paragraph (b) of subsection 1 of NRS 361.395, the Secretary of the Board shall forward by first-class mail to the property owner or owners affected, notice of the increased valuation.**

2. As soon as changes resulting from cases having a substantial effect on tax revenues have been certified to the county auditor by the Secretary of the State Board of Equalization, the county auditor shall:

(a) Enter all such changes and the value of any construction work in progress and net proceeds of minerals which were certified to him or her by the Department, on the assessment roll before the delivery thereof to the tax receiver.

(b) Add up the valuations and enter the total valuation of each kind of property and the total valuation of all property on the assessment roll.

(c) Certify the results to the board of county commissioners and the Department.

3. The board of county commissioners shall not levy a tax on the net proceeds of minerals added to the assessed valuation pursuant to paragraph (a) of subsection 2, but, except as otherwise provided by specific statute, the net proceeds of minerals must be included in the assessed valuation of the taxable property of the county and all local governments in the county for the determination of the rate of tax and all other purposes for which assessed valuation is used.

4. As soon as changes resulting from cases having less than a substantial effect on tax revenue have been certified to the county tax receiver by the Secretary of the State Board of Equalization, the county tax receiver shall adjust the assessment roll or the tax statement or make a tax refund, as directed by the State Board of Equalization.

**Sec. 2.** The amendatory provisions of **section 1 of** this act apply only to notices of proposed increases in the valuation of property that relate to a fiscal year that begins on or after July 1, 2013.

**Sec. 3.** This act becomes effective on July 1, 2013.

Assemblywoman Bustamante Adams moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 66.

Remarks by Assemblywoman Bustamante Adams.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Senate Joint Resolution No. 9, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 691 of the Assembly 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.

DAVID BOBZIEN  
RICHARD CARRILLO  
TOM GRADY

*Assembly Conference Committee*

JUSTIN JONES  
MARK MANENDO  
PETE GOICOECHEA  
*Senate Conference Committee*

Conference Amendment No. CA5.

SENATE JOINT RESOLUTION—Urging the Director of the Bureau of Land Management to expedite the process for approving special recreation permits for certain uses of federal public lands in Nevada.

WHEREAS, Outdoor recreation in Nevada generates \$14.9 billion in consumer spending annually, creates 148,000 jobs and generates \$4.8 billion in wages and salaries and \$1 billion in state and local tax revenue; and

WHEREAS, Nevada has an abundance of federal public lands suitable for outdoor recreation that are managed by the Bureau of Land Management of the United States Department of the Interior; and

WHEREAS, Operators of outdoor recreation-related businesses are required to apply to the Bureau of Land Management for special recreation permits for commercial and competitive uses of those public lands; and

WHEREAS, ~~Federal public lands in Nevada should be managed in a manner that preserves the environment; and~~

~~WHEREAS,~~ The Bureau of Land Management has adopted regulations, 43 C.F.R. Part 2930, Subpart 2932, which set forth the procedure for applying for a special recreation permit; and

WHEREAS, The processing of special recreation permits by the Bureau of Land Management is often slow; and

WHEREAS, The slow processing of special recreation permits by the Bureau of Land Management deters outdoor recreation-related businesses from operating effectively and profitably; and

WHEREAS, Expedited processing of special recreation permits by the Bureau of Land Management would serve to create additional jobs for Nevadans and generate additional state and local tax revenue; now, therefore, be it

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That the Nevada Legislature hereby urges:

1. The Director of the Bureau of Land Management to expedite the process of approving special recreation permits for commercial and competitive uses of federal public lands in Nevada for nonmotorized events;

2. The Director of the Bureau of Land Management to amend the provisions of 43 C.F.R. Part 2930, Subpart 2932, to further expedite the process of approving those special recreation permits; and

3. The Nevada Congressional Delegation to use its best efforts to encourage the Director of the Bureau of Land Management to expedite the process of approving those special recreation permits and to make any

necessary amendments to the provisions of 43 C.F.R. Part 2930, Subpart 2932; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to the Secretary of the Interior, the Director of the Bureau of Land Management and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Assemblyman Daly moved that the Assembly adopt the report of the Conference Committee concerning Senate Joint Resolution No. 9.

Remarks by Assemblyman Daly.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 181, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 651 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 1, which is attached to and hereby made a part of this report.

DAVID BOBZIEN

JAMES HEALEY

TOM GRADY

*Assembly Conference Committee*

KELVIN ATKINSON

JUSTIN JONES

MARK HUTCHISON

*Senate Conference Committee*

Conference Amendment No. CA1.

AN ACT relating to employment; **prohibiting employers from conditioning employment on a consumer credit report or other credit information; providing certain exceptions;** prohibiting employers from conditioning employment on access to an employee's social media account; ~~prohibiting a person from requesting or considering a consumer report for purposes relating to employment except under certain circumstances; revising provisions relating to the release of a consumer report that is subject to a security freeze;~~ **providing civil remedies ~~and~~ and administrative penalties;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes various unlawful employment practices. (Chapter 613 of NRS) ~~[This]~~

**Section 1.6 of this bill prohibits an employer from conditioning the employment of an employee or prospective employee on his or her consumer credit report or other credit information. Section 1.6 also prohibits an employer from taking certain employment actions based on the refusal of an employee or prospective employee to submit a credit report or other credit information or on the results of such a report or information. Section 1.6 further prohibits an employer from taking certain employment actions where an employee or prospective employee**

files a complaint, testifies in any legal proceeding or exercises his or her rights with respect to any violation committed by the employer. Section 1.7 of this bill provides certain exceptions to the preceding prohibitions, including, without limitation, an exception for circumstances in which the information contained in the consumer credit report or other credit information is reasonably related to the position of employment. Section 1.8 of this bill establishes the civil remedies available to a person affected by a violation committed by an employer, including employment of a prospective employee, reinstatement or promotion of an employee, payment of lost wages and benefits and the award of reasonable costs and attorney's fees. Section 1.9 of this bill authorizes the Labor Commissioner to impose an administrative penalty against an employer for each violation and to bring a civil action against the employer.

Section 2 of this bill prohibits an employer from conditioning the employment of an employee or prospective employee on his or her disclosure of the user name, password or any other information that provides access to the employee's or prospective employee's personal social media account. ~~[This bill]~~ Section 2 also prohibits an employer from taking certain employment actions based on the refusal of an employee or prospective employee to disclose such information. ~~[This bill]~~ Section 2 further provides, however, that it is not unlawful for an employer to require an employee to disclose his or her user name, password or any other information to an account or a service, other than a personal social media account, for the purpose of accessing the employer's own internal computer or information system.

~~[ Under existing law, a person who complies with the requirements of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq., and chapter 598C of NRS is allowed to obtain a consumer report for purposes relating to the employment of the consumer. Sections 3 and 4 of this bill prohibit a person from requesting or considering a consumer report for purposes of evaluating a consumer for employment, promotion, reassignment or retention as an employee unless: (1) the use of the report is required or authorized by state or federal law; (2) the person reasonably believes that the consumer has engaged in specific activity which may constitute a violation of state or federal law and is likely to be reflected in the report; or (3) the information in the report is reasonably related to the position for which the consumer is being evaluated.~~

~~Existing law provides that if a consumer places a security freeze on his or her file maintained by a credit reporting agency, the agency is not allowed to release the consumer report without the consumer's consent except for certain purposes, which include certain purposes relating to employment of~~

~~the consumer. (NRS 598C.350, 598C.380) Section 5 of this bill revises the scope of that exception to conform with section 4.]~~

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

**Section 1.** Chapter 613 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 2 and 3, inclusive, of this act.

**Sec. 1.1.** As used in sections 1.1 to 1.9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.2 to 1.5, inclusive, of this act have the meanings ascribed to them in those sections.

**Sec. 1.2.** “Consumer credit report” means any written, oral or other communication of information by a consumer reporting agency bearing on the credit worthiness, credit standing or credit capacity of a person.

**Sec. 1.3.** “Consumer reporting agency” has the meaning ascribed to it in NRS 686A.640.

**Sec. 1.4.** “Credit information” means any information that is related to credit and derived from a consumer credit report or found on a consumer credit report. The term does not include information that is not related to credit, regardless of whether it is contained in a consumer credit report.

**Sec. 1.5.** “Employer” has the meaning ascribed to it in subsection 1 of NRS 613.440.

**Sec. 1.6.** Except as otherwise provided in section 1.7 of this act, it is unlawful for any employer in this State to:

1. Directly or indirectly, require, request, suggest or cause any employee or prospective employee to submit a consumer credit report or other credit information as a condition of employment;

2. Use, accept, refer to or inquire concerning a consumer credit report or other credit information;

3. Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee:

(a) Who refuses, declines or fails to submit a consumer credit report or other credit information; or

(b) On the basis of the results of a consumer credit report or other credit information; or

4. Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against, any employee or prospective employee who has:

(a) Filed any complaint or instituted or caused to be instituted any legal proceeding pursuant to sections 1.1 to 1.9, inclusive, of this act;

(b) Testified or may testify in any legal proceeding instituted pursuant to sections 1.1 to 1.9, inclusive, of this act; or

(c) Exercised his or her rights, or has exercised on behalf of another person the rights afforded to him or her pursuant to sections 1.1 to 1.9, inclusive, of this act.

Sec. 1.7. An employer may request or consider a consumer credit report or other credit information for the purpose of evaluating an employee or prospective employee for employment, promotion, reassignment or retention as an employee if:

1. The employer is required or authorized, pursuant to state or federal law, to use a consumer credit report or other credit information for that purpose;

2. The employer reasonably believes that the employee or prospective employee has engaged in specific activity which may constitute a violation of state or federal law; or

3. The information contained in the consumer credit report or other credit information is reasonably related to the position for which the employee or prospective employee is being evaluated for employment, promotion, reassignment or retention as an employee. The information in the consumer credit report or other credit information shall be deemed reasonably related to such an evaluation if the duties of the position involve:

(a) The care, custody and handling of, or responsibility for, money, financial accounts, corporate credit or debit cards, or other assets;

(b) Access to trade secrets or other proprietary or confidential information;

(c) Managerial or supervisory responsibility;

(d) The direct exercise of law enforcement authority as an employee of a state or local law enforcement agency;

(e) The care, custody and handling of, or responsibility for, the personal information of another person;

(f) Access to the personal financial information of another person;

(g) Employment with a financial institution that is chartered under state or federal law, including a subsidiary or affiliate of such a financial institution; or

(h) Employment with a licensed gaming establishment, as defined in NRS 463.0169.

Sec. 1.8. 1. An employer who violates the provisions of sections 1.1 to 1.9, inclusive, of this act is liable to the employee or prospective employee affected by the violation. The employer is liable for any legal or equitable relief as may be appropriate, including employment of a prospective



employee, reinstatement or promotion of an employee and the payment of lost wages and benefits.

2. An action to recover the liability pursuant to subsection 1 may be maintained against the employer by an employee or prospective employee:

(a) For or on behalf of the employee or prospective employee; and

(b) On behalf of other employees or prospective employees similarly situated.

↪ An action must not be commenced pursuant to this section more than 3 years after the date of the alleged violation.

3. In any action brought pursuant to this section, the court, in its discretion, may allow the prevailing party reasonable costs, including attorney's fees.

Sec. 1.9. 1. If any person violates sections 1.1 to 1.9, inclusive, of this act, the Labor Commissioner may impose against the person an administrative penalty of not more than \$9,000 for each such violation.

2. In determining the amount of any administrative penalty to be imposed against the person, the Labor Commissioner shall consider the previous record of the person in terms of compliance with sections 1.1 to 1.9, inclusive, of this act and the severity of the violation. Any administrative penalty imposed against the person is in addition to any other remedy or penalty provided pursuant to this act.

3. The Labor Commissioner may bring a civil action pursuant to this section to restrain violations of sections 1.1 to 1.9, inclusive, of this act. A court of competent jurisdiction may issue, without bond, a temporary or permanent restraining order or injunction to require compliance with sections 1.1 to 1.9, inclusive, of this act, including any legal or equitable relief incident thereto as may be appropriate, such as employment of a prospective employee, reinstatement or promotion of an employee, and the payment of lost wages and benefits.

Sec. 2. 1. It is unlawful for any employer in this State to:

(a) Directly or indirectly, require, request, suggest or cause any employee or prospective employee to disclose the user name, password or any other information that provides access to his or her personal social media account.

(b) Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee who refuses, declines or fails to disclose the user name, password or any other information that provides access to his or her personal social media account.

2. It is not unlawful for an employer in this State to require an employee to disclose the user name, password or any other information to an account or a service, other than a personal social media account, for the

purpose of accessing the employer's own internal computer or information system.

3. Nothing in this section shall be construed to prevent an employer from complying with any state or federal law or regulation or with any rule of a self-regulatory organization, as defined in NRS 90.300.

4. As used in this section, "social media account" means any electronic service or account or electronic content, including, without limitation, videos, photographs, blogs, video blogs, podcasts, instant and text messages, electronic mail programs or services, online services or Internet website profiles.

Sec. 3. ~~{1. Except as otherwise provided in section 4 of this act, a person shall not request or consider a consumer report for the purpose of evaluating any other person for employment, promotion, reassignment or retention as an employee.~~

~~2. As used in this section, "consumer report" has the meaning ascribed to it in NRS 598C.060.} (Deleted by amendment.)~~

Sec. 4. ~~{Chapter 598C of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~A person may request or consider a consumer report for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee if:~~

~~1. The person is required or authorized, pursuant to state or federal law, to use a consumer report for that purpose;~~

~~2. The person reasonably believes that the consumer has engaged in specific activity which may constitute a violation of state or federal law; or~~

~~3. The information contained in the consumer report is reasonably related to the position for which the consumer is being evaluated for employment, promotion, reassignment or retention as an employee. The information in the consumer report shall be deemed to be reasonably related to such an evaluation if the duties of the position involve:~~

~~(a) The care, custody and handling of or responsibility for money, financial accounts, corporate credit or debit cards, or other assets;~~

~~(b) Access to trade secrets or other proprietary or confidential information;~~

~~(c) Managerial or supervisory responsibility;~~

~~(d) The direct exercise of law enforcement authority as an employee of a state or local law enforcement agency;~~

~~(e) The care, custody and handling of or responsibility for the personal information, as defined in NRS 603A.040, of another person;~~

~~(f) Access to the personal financial information of another person;~~

~~(g) Employment with a financial institution that is chartered under federal or state law; or~~

~~(h) Employment with a licensed gaming establishment, as defined in NRS 463.0169.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 598C.380 is hereby amended to read as follows:~~

~~598C.380 Notwithstanding that a security freeze has been placed in the file of a consumer, a reporting agency may release the consumer report of the consumer to:~~

~~1. A person with whom the consumer has an existing business relationship, or the subsidiary, affiliate or agent of that person, for any purpose relating to that business relationship.~~

~~2. A licensed collection agency to which an account of the consumer has been assigned for the purposes of collection.~~

~~3. A person with whom the consumer has an account or contract or to whom the consumer has issued a negotiable instrument, or the subsidiary, affiliate, agent, assignee or prospective assignee of that person, for purposes relating to that account, contract or negotiable instrument.~~

~~4. A person seeking to use information in the file of the consumer for the purposes of prescreening pursuant to the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.~~

~~5. A subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom access has been granted pursuant to NRS 598C.350 for the purposes of facilitating the extension of credit.~~

~~6. A person seeking to provide the consumer with a copy of the consumer report or the credit score of the consumer upon the request of the consumer.~~

~~7. A person administering a credit file monitoring subscription service to which the consumer has subscribed.~~

~~8. A person requesting the consumer report pursuant to a court order, warrant or subpoena.~~

~~9. A federal, state or local governmental entity, agency or instrumentality that is acting within the scope of its authority, including, without limitation, an agency which is seeking to collect child support payments pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq.~~

~~10. A person holding a license issued by the Nevada Gaming Commission pursuant to title 41 of NRS, or the subsidiary, affiliate, agent, assignee or prospective assignee of that person, for purposes relating to any activities conducted pursuant to the license.~~

~~11. [An] If authorized pursuant to section 4 of this act, an employer, or the subsidiary, affiliate, agent, assignee or prospective assignee of that employer, for purposes of:~~

~~(a) Preemployment screenings relating to the consumer; or~~

~~(b) Decisions or investigations relating to the consumer's current or former employment with the employer.] (Deleted by amendment.)~~

Assemblyman Bobzien moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 181.

Remarks by Assemblyman Bobzien.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Senate Bill No. 176, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 665 of the Assembly be concurred in.

ELLEN SPIEGEL

TYRONE THOMPSON

JOHN HAMBRICK

*Assembly Conference Committee*

JUSTIN JONES

DEBBIE SMITH

BEN KIECKHEFER

*Senate Conference Committee*

Assemblywoman Dondero Loop moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 176.

Remarks by Assemblywoman Dondero Loop.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Senate Bill No. 410, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 775 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.

TERESA BENITEZ-THOMPSON

ANDREW MARTIN

WESLEY DUNCAN

*Assembly Conference Committee*

DAVID PARKS

TICK SEGERBLOM

JOSEPH HARDY

*Senate Conference Committee*

Conference Amendment No. CA8.

AN ACT relating to hypodermic devices; authorizing certain entities to establish a program for the safe distribution and disposal of hypodermic devices and certain other material; requiring the ~~county board of health or district board of health for the county in which a sterile hypodermic device program operates~~ **State Board of Health** to establish guidelines governing such a program; providing that the possession of a trace amount of a controlled substance is not a criminal offense in certain circumstances; removing hypodermic devices from the list of paraphernalia that is prohibited for delivery, sale, possession, manufacture or use in this State; providing that hypodermic devices may be sold or furnished without a prescription if not prohibited by federal law in certain circumstances; repealing a provision which makes it a crime to misuse a hypodermic device; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 4** of this bill authorizes a governmental entity, a tax-exempt nonprofit corporation, a public health program, a licensed medical facility or a person who has a tax-exempt nonprofit corporation as a fiscal sponsor, to establish a program for the safe distribution and disposal of hypodermic devices. **Section 4.5** of this bill requires the ~~county board of health or district board of health for the county in which a sterile hypodermic device program operates~~ **State Board of Health** to establish guidelines governing such a program. **Sections 5-7** of this bill enact provisions governing the operation of a sterile hypodermic device program, including, without limitation, the training of the staff and volunteers of the program and the devices, material and information that a program may provide. **Section 8** of this bill provides that the State, any of its political subdivisions and a sterile hypodermic device program and its staff and volunteers are exempt from civil liability relating to the operation of a sterile hypodermic device program. **Section 9** of this bill: (1) provides for the confidentiality of any record which is obtained or created in the operation of a sterile hypodermic device program; (2) provides that such records are not discoverable or admissible in criminal proceedings; (3) prohibits the use of records obtained from a sterile hypodermic device program as a basis for initiating a criminal charge, or to substantiate a criminal charge, against a person who participates in the program; and (4) provides that the staff and volunteers of a sterile hypodermic device program cannot be compelled to provide evidence in criminal proceedings concerning information known to the staff member or volunteer through the program.

Existing law prohibits the possession of a controlled substance. (NRS 453.336) **Section 11** of this bill provides that a person does not violate this provision if he or she has a trace amount of a controlled substance that is in or on a hypodermic device that was obtained from a sterile hypodermic device program.

Existing law prohibits the delivery, sale, possession or manufacture of certain drug paraphernalia when the person engaging in the act reasonably should know that it will be used for an illegal purpose. (NRS 453.560) Existing law further makes it a felony for a person to deliver drug paraphernalia to a minor who is at least 3 years younger than the person. (NRS 453.562) **Section 12** of this bill removes hypodermic devices from the list of items that may be found to constitute drug paraphernalia.

Existing law authorizes the sale of hypodermic devices which are not restricted by federal law to being sold by prescription to be sold without a prescription for certain limited purposes. (NRS 454.480) **Section 15** of this bill removes the restrictions so that hypodermic devices may be sold or

furnished without a prescription for any purpose so long as the sale of such devices is not restricted by federal law.

**Section 16** of this bill repeals a provision which makes it a misdemeanor to use or allow the use of a hypodermic device for a purpose other than that for which it was purchased, because the specific uses were removed in **section 15**.

WHEREAS, The human immunodeficiency virus, hepatitis and other infectious diseases that may be transmitted through the use of unsterile hypodermic devices such as syringes and needles pose a major health threat in the United States, causing thousands of deaths and millions of dollars in preventable health care costs each year; and

WHEREAS, The lack of availability of sterile hypodermic devices is a major cause of this serious health threat; and

WHEREAS, Hundreds of studies have demonstrated that making sterile hypodermic devices available to persons who inject drugs reduces the spread of infectious disease and does not encourage drug use; and

WHEREAS, The trend among states has been to deregulate the possession, sale and use of hypodermic devices and to make such devices more accessible; and

WHEREAS, Increasing access to sterile hypodermic devices is necessary to control the spread of life-threatening infectious diseases; now, therefore,

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

**Section 1.** Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

**Sec. 2.** *The Legislature hereby declares that the purpose of sections 2 to 10, inclusive, of this act is to enable the use of sterile hypodermic devices and other related material for use among people who inject drugs for the purpose of reducing the intravenous transmission of diseases. The provisions of sections 2 to 10, inclusive, of this act are intended to:*

*1. Ensure the availability and accessibility of sterile hypodermic devices by encouraging distribution of such devices by various means.*

*2. Provide for the effective operation of sterile hypodermic device programs that protect the human rights of people who use such programs.*

*3. Guarantee that sterile hypodermic devices and other sterile injection supplies are not deemed illegal.*

*4. Ensure that sterile hypodermic device programs operate in harmony with law enforcement activities.*

**Sec. 3.** *As used in sections 2 to 10, inclusive, of this act, “sterile hypodermic device program” or “program” means a program established*

pursuant to section 4 of this act for the safe distribution and disposal of hypodermic devices.

Sec. 4. 1. A governmental entity, a nonprofit corporation that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), a public health program, a medical facility or a person who has a fiscal sponsor that is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), may establish a sterile hypodermic device program in this State.

2. As used in this section:

(a) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

(b) "Public health program" has the meaning ascribed to it in NRS 454.00973.

Sec. 4.5. ~~The county board of health or district board of health for the county in which a sterile hypodermic device program operates.~~ State Board of Health shall establish guidelines governing the operation of the program which provide for, without limitation:

1. The recording of the quantities of hypodermic devices distributed and collected by the program; and

2. The procedures for the safe collection and disposal of used hypodermic devices.

Sec. 5. A sterile hypodermic device program shall:

1. Establish and follow procedures for the safe collection and disposal of used hypodermic devices and other related material pursuant to guidelines established by the ~~county board of health or district board of health for the county in which the program operates.~~ State Board of Health.

2. Provide community outreach and educational programs concerning:

(a) The safer use of hypodermic devices to avoid disease and infection; and

(b) The safe disposal of hypodermic devices.

3. Report the quantities of hypodermic devices distributed and collected by the program to the State Board of Health at least semiannually.

Sec. 6. All staff and volunteers of a sterile hypodermic device program shall complete training which includes, without limitation, the following information:

1. The policies and procedures of the program and relevant regulations, including, without limitation, emergency and safety policies and procedures;

2. Legal and law enforcement issues and policies regarding hypodermic devices;

3. Overdose prevention, recognition and response;

4. *The risk of blood-borne diseases that may result from the use of hypodermic devices;*

5. *Methods for preventing the transmission or contraction of blood-borne diseases;*

6. *The dangers of injecting drugs and the manner in which to access treatment;*

7. *Information concerning the human immunodeficiency virus and hepatitis virus and the prevention of the spread of these viruses;*

8. *The safe disposal of hypodermic devices, including, without limitation, procedures concerning accidental needle sticks; and*

9. *Cultural competency, including, without limitation, sensitivity to the needs of children, lesbian, gay, bisexual and transgendered individuals, racial and ethnic minorities, women, sex workers and any other participant population.*

Sec. 7. *A sterile hypodermic device program may provide:*

1. *Sterile hypodermic devices and other related material for safer injection drug use; and*

2. *Information concerning:*

(a) *The risks associated with the use of controlled substances;*

(b) *Drug dependence treatment services and other health services;*

(c) *Support services for people with drug dependence and their families;*

(d) *Methods for preventing the transmission or contraction of blood-borne diseases;*

(e) *Employment and vocational training services and centers; and*

(f) *Legal aid services.*

Sec. 8. *The State, any political subdivision thereof, a sterile hypodermic device program and the staff and volunteers thereof are not subject to civil liability in relation to any act or failure to act in connection with the operation of a sterile hypodermic device program, if the act or failure to act was in good faith for the purpose of executing the provisions of sections 2 to 10, inclusive, of this act, and was not a reckless act or failure to act.*

Sec. 9. 1. *Any record of a person which is created or obtained for use by a sterile hypodermic device program must be kept confidential and:*

(a) *Is not open for public inspection or disclosure;*

(b) *Must not be shared with any other person or entity without the consent of the person to whom the record relates; and*

(c) *Must not be discoverable or admissible during any legal proceeding.*

2. *A record described in subsection 1 must not be used:*

(a) *To initiate or substantiate any criminal charge against a person who participates in the sterile hypodermic device program; or*



*(b) As grounds for conducting any investigation of a person who participates in the sterile hypodermic device program.*

*3. The staff and volunteers of a sterile hypodermic device program shall not be compelled to provide evidence in any criminal proceeding conducted pursuant to the laws of this State concerning any information that was entrusted to them or became known to them through the program.*

*4. The use of any personal information of any person who participates in a sterile hypodermic device program or of the staff or volunteers of the sterile hypodermic device program in research and evaluation must be done in such a manner as to guarantee the anonymity of the person.*

*5. Aggregate data from a sterile hypodermic device program, including, without limitation, demographic information, the number of clients contacted and the types of referrals may be made available to the public.*

*Sec. 10. No person shall be subject to any discrimination in the operation of a sterile hypodermic device program on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, political affiliation, disability, national origin, residence, frequency of injection or controlled substance used.*

**Sec. 11.** NRS 453.336 is hereby amended to read as follows:

453.336 1. ~~{A}~~ **Except as otherwise provided in subsection 5, a** person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a prescription or order of a physician, physician assistant licensed pursuant to chapter 630 or 633 of NRS, dentist, podiatric physician, optometrist, advanced practitioner of nursing or veterinarian while acting in the course of his or her professional practice, or except as otherwise authorized by the provisions of NRS 453.005 to 453.552, inclusive.

2. Except as otherwise provided in subsections 3 and 4 and in NRS 453.3363, and unless a greater penalty is provided in NRS 212.160, 453.3385, 453.339 or 453.3395, a person who violates this section shall be punished:

(a) For the first or second offense, if the controlled substance is listed in schedule I, II, III or IV, for a category E felony as provided in NRS 193.130.

(b) For a third or subsequent offense, if the controlled substance is listed in schedule I, II, III or IV, or if the offender has previously been convicted two or more times in the aggregate of any violation of the law of the United States or of any state, territory or district relating to a controlled substance, for a category D felony as provided in NRS 193.130, and may be further punished by a fine of not more than \$20,000.

(c) For the first offense, if the controlled substance is listed in schedule V, for a category E felony as provided in NRS 193.130.

(d) For a second or subsequent offense, if the controlled substance is listed in schedule V, for a category D felony as provided in NRS 193.130.

3. Unless a greater penalty is provided in NRS 212.160, 453.337 or 453.3385, a person who is convicted of the possession of flunitrazepam or gamma-hydroxybutyrate, or any substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to NRS 212.160, a person who is convicted of the possession of 1 ounce or less of marijuana:

(a) For the first offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$600; or

(2) Examined by an approved facility for the treatment of abuse of drugs to determine whether the person is a drug addict and is likely to be rehabilitated through treatment and, if the examination reveals that the person is a drug addict and is likely to be rehabilitated through treatment, assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(b) For the second offense, is guilty of a misdemeanor and shall be:

(1) Punished by a fine of not more than \$1,000; or

(2) Assigned to a program of treatment and rehabilitation pursuant to NRS 453.580.

(c) For the third offense, is guilty of a gross misdemeanor and shall be punished as provided in NRS 193.140.

(d) For a fourth or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. ***It is not a violation of this section if a person possesses a trace amount of a controlled substance and that trace amount is in or on a hypodermic device obtained from a sterile hypodermic device program pursuant to sections 2 to 10, inclusive, of this act.***

6. As used in this section ~~["controlled"]~~:

(a) ***"Controlled substance"*** includes flunitrazepam, gamma-hydroxybutyrate and each substance for which flunitrazepam or gamma-hydroxybutyrate is an immediate precursor.

(b) ***"Sterile hypodermic device program" has the meaning ascribed to it in section 3 of this act.***

**Sec. 12.** NRS 453.554 is hereby amended to read as follows:

453.554 ~~As~~

1. ***Except as otherwise provided in subsection 2, as*** used in NRS 453.554 to 453.566, inclusive, unless the context otherwise requires, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting,

propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ~~injecting,~~ ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of this chapter. The term includes, but is not limited to:

~~1-1~~ **(a)** Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

~~2-1~~ **(b)** Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing or preparing controlled substances;

~~3-1~~ **(c)** Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

~~4-1~~ **(d)** Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

~~5-1~~ **(e)** Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

~~6-1~~ **(f)** Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

~~7-1~~ **(g)** Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

~~8-1~~ **(h)** Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

~~9-1~~ **(i)** Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

~~10-1~~ **(j)** Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances; and

~~11-1~~ **(k)** Objects used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

~~(a)~~ **(1)** Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

~~(b)~~ **(2)** Water pipes;

~~(c)~~ **(3)** Smoking masks;

~~[(d)]~~ (4) Roach clips, which are objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

~~[(e)]~~ (5) Cocaine spoons and cocaine vials;

~~[(f)]~~ (6) Carburetor pipes and carburetion tubes and devices;

~~[(g)]~~ (7) Chamber pipes;

~~[(h)]~~ (8) Electric pipes;

~~[(i)]~~ (9) Air-driven pipes;

~~[(j)]~~ (10) Chillums;

~~[(k)]~~ (11) Bongs; and

~~[(l)]~~ (12) Ice pipes or chillers.

**2. The term does not include any type of hypodermic syringe, needle, instrument, device or implement intended or capable of being adapted for the purpose of administering drugs by subcutaneous, intramuscular or intravenous injection.**

**Sec. 13.** NRS 453.560 is hereby amended to read as follows:

453.560 Unless a greater penalty is provided in NRS 212.160, a person who delivers or sells, possesses with the intent to deliver or sell, or manufactures with the intent to deliver or sell any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, ~~inject,~~ ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a category E felony and shall be punished as provided in NRS 193.130.

**Sec. 14.** NRS 453.566 is hereby amended to read as follows:

453.566 Any person who uses, or possesses with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, pack, repack, store, contain, conceal, ~~inject,~~ ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter is guilty of a misdemeanor.

**Sec. 15.** NRS 454.480 is hereby amended to read as follows:

454.480 1. Hypodermic devices which are not restricted by federal law to sale by or on the order of a physician may be sold by a pharmacist, or by a person in a pharmacy under the direction of a pharmacist, on the prescription of a physician, dentist or veterinarian, or of an advanced practitioner of nursing who is a practitioner. Those prescriptions must be filed as required by NRS 639.236, and may be refilled as authorized by the prescriber. Records of refilling must be maintained as required by NRS 639.2393 to 639.2397, inclusive.

2. Hypodermic devices which are not restricted by federal law to sale by or on the order of a physician may be sold **or furnished** without a prescription . ~~for the following purposes:~~

- ~~—(a) For use in the treatment of persons having asthma or diabetes.~~
- ~~—(b) For use in injecting intramuscular or subcutaneous medications prescribed by a practitioner for the treatment of human beings.~~
- ~~—(c) For use in an ambulance or by a fire fighting agency for which a permit is held pursuant to NRS 450B.200 or 450B.210.~~
- ~~—(d) For the injection of drugs in animals or poultry.~~
- ~~—(e) For commercial or industrial use or use by jewelers or other merchants having need for those devices in the conduct of their business, or by hobbyists if the seller is satisfied that the device will be used for legitimate purposes.~~
- ~~—(f) For use by funeral directors and embalmers, licensed medical technicians or technologists, or research laboratories.]~~

**Sec. 16.** NRS 454.520 is hereby repealed.

**Sec. 17.** This act becomes effective on July 1, 2013.

#### TEXT OF REPEALED SECTION

**454.520 Misuse of hypodermic device; penalty.** Any person who has lawfully obtained a hypodermic device, as provided by NRS 454.480 to 454.530, inclusive, and uses, permits or causes, directly or indirectly, such a device to be used for any purpose other than that for which it was purchased is guilty of a misdemeanor.

Assemblywoman Dondero Loop moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 410.

Remarks by Assemblywoman Dondero Loop.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Senate Bill No. 450, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 776 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 17, which is attached to and hereby made a part of this report.

ANDY EISEN  
ANDREW MARTIN  
JAMES OSCARSON

*Assembly Conference Committee*

JUSTIN JONES  
TICK SEGERBLOM  
JOSEPH HARDY

*Senate Conference Committee*

Conference Amendment No. CA17.

AN ACT relating to public health; revising the qualifications for certain district health officers; **revising provisions relating to medical records;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for the appointment of a State Health Officer by the Director of the Department of Health and Human Services and establishes the qualifications for that position. (NRS 439.090, 439.100) Existing law further creates a health district in a county whose population is 700,000 or more. Such a health district has a health department consisting of a district health officer and a district board of health. (NRS 439.362) Existing law requires the district board of health in such a county to appoint a district health officer for the health district and establishes the qualifications for the district health officer. (NRS 439.368) ~~{This}~~ **Section 1 of this bill revises the qualifications of the district health officer. Section 2 of this bill allows a person who is serving as the district health officer of a county whose population is 700,000 or more (currently Clark County) on July 1, 2013, to continue to serve in that capacity until his or her successor is appointed.**

**Existing law requires a provider of health care, including a facility that maintains the health care records of patients, to make the health care records of a patient available for inspection in certain circumstances. (NRS 629.021, 629.061) Section 1.2 of this bill extends the period of time within which a provider of health care must make health care records available for inspection in certain circumstances. Section 1.8 of this bill repeals a provision making it a misdemeanor for a physician licensed pursuant to chapter 630 of NRS to willfully fail or refuse to comply with this requirement.**

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

**Section 1.** NRS 439.368 is hereby amended to read as follows:

439.368 1. The district board of health shall appoint a district health officer for the health district who shall have full authority as a county health officer in the health district.

2. The district health officer must:

(a) Be licensed to practice medicine or osteopathic medicine in this State ~~{; and}~~ ***or be eligible for such a license and obtain such a license within 12 months after being appointed as district health officer;***

(b) Have at least ~~{the following additional education and experience:~~

~~— (1) A master's degree in public health, health care administration, public administration, business administration or a related field; and~~

~~— (2) Ten} 5 years of management experience {in an administrative position} in a local, state or national public health department, program, organization or agency ; and~~

(c) ***Have:***

*(1) At least a master's degree in public health, health care administration, public administration, business administration or a related field;*

*(2) Work experience which is deemed to be equivalent to a degree described in subparagraph (1), which may include, without limitation, relevant work experience with a national organization which conducts research on issues concerning public health; or*

*(3) Obtained certification from or be eligible to be certified by the American Board of Preventive Medicine, the American Osteopathic Board of Preventive Medicine, a successor organization or, if there is no successor organization, by a similar organization designated by the district board of health.*

3. The district health officer is entitled to receive a salary fixed by the district board of health and serves at the pleasure of the board.

4. Any clinical program of a district board of health which requires medical assessment must be carried out under the direction of a physician.

**Sec. 1.2. NRS 629.061 is hereby amended to read as follows:**

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

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

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

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

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

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

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

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

~~1-1~~ **2.** The records described in subsection 1 must be made available at a place within the depository convenient for physical inspection. ~~1-1~~ **Except as otherwise provided in subsection 3, if** the records are located ~~within~~ :

**(a) Within** this State, the provider shall make any records requested pursuant to this section available for inspection within ~~15~~ **10** working days after the request. ~~If the records are located outside~~

(b) Outside this State, the provider shall make any records requested pursuant to this section available in this State for inspection within ~~10~~ **20** working days after the request.

~~12.1~~ **3.** If the records described in subsection 1 are requested pursuant to paragraph (e), (f) or (g) of subsection 1 and the investigator, grand jury or authorized representative, as applicable, declares that exigent circumstances exist which require the immediate production of the records, the provider shall make any records which are located:

(a) Within this State available for inspection within 5 working days after the request.

(b) Outside this State available for inspection within 10 working days after the request.

**4.** Except as otherwise provided in subsection ~~12.1~~ **5**, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

~~12.1~~ **5.** The provider of health care shall also furnish a copy of any records that are necessary to support a claim or appeal under any provision of the Social Security Act, 42 U.S.C. §§ 301 et seq., or under any federal or state financial needs-based benefit program, without charge, to a patient, or a representative with written authorization from the patient, who requests it, if the request is accompanied by documentation of the claim or appeal. A copying fee, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes, may be charged by the provider of health care for furnishing a second copy of the records to support the same claim or appeal. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy. The provider of health care shall furnish the copy of the records requested pursuant to this subsection within 30 days after the date of receipt of the request, and the provider of health care shall not deny the furnishing of a copy of the records pursuant to this subsection solely because the patient is unable to pay the fees established in this subsection.

~~14.1~~ **6.** Each person who owns or operates an ambulance in this State shall make the records regarding a sick or injured patient available for physical inspection by:

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

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



(c) Any trustee of a living trust created by a deceased patient;  
(d) The parent or guardian of a deceased patient who died before reaching the age of majority; or

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

➡ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable length of time. The person who owns or operates an ambulance shall also furnish a copy of the records to each person described in this subsection who requests it and pays the actual cost of postage, if any, and the costs of making the copy, not to exceed 60 cents per page for photocopies. No administrative fee or additional service fee of any kind may be charged for furnishing a copy of the records.

~~15.1~~ 7. Records made available to a representative or investigator must not be used at any public hearing unless:

(a) The patient named in the records has consented in writing to their use; or

(b) Appropriate procedures are utilized to protect the identity of the patient from public disclosure.

~~16.1~~ 8. Subsection ~~15.1~~ 7 does not prohibit:

(a) A state licensing board from providing to a provider of health care or owner or operator of an ambulance against whom a complaint or written allegation has been filed, or to his or her attorney, information on the identity of a patient whose records may be used in a public hearing relating to the complaint or allegation, but the provider of health care or owner or operator of an ambulance and the attorney shall keep the information confidential.

(b) The Attorney General from using health care records in the course of a civil or criminal action against the patient or provider of health care.

~~17.1~~ 9. A provider of health care or owner or operator of an ambulance and his or her agents and employees are immune from any civil action for any disclosures made in accordance with the provisions of this section or any consequential damages.

~~18.1~~ 10. For the purposes of this section:

(a) “Guardian” means a person who has qualified as the guardian of a minor pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.

(b) “Living trust” means an inter vivos trust created by a natural person:

(1) Which was revocable by the person during the lifetime of the person; and

(2) Who was one of the beneficiaries of the trust during the lifetime of the person.

(c) “Parent” means a natural or adoptive parent whose parental rights have not been terminated.

(d) “Personal representative” has the meaning ascribed to it in NRS 132.265.

**Sec. 1.8. NRS 630.405 is hereby repealed.**

**Sec. 2.** Notwithstanding the amendatory provisions of section 1 of this act, any person who, on July 1, 2013, is serving as the district health officer in a county whose population is 700,000 or more and who is otherwise qualified to serve as the district health officer on that date may continue to serve in that capacity until his or her successor is appointed by the district board of health.

**Sec. 3.** This act becomes effective on July 1, 2013.

**TEXT OF REPEALED SECTION**

**630.405 Penalty for failure to make records concerning health care available for inspection or copying. A physician licensed pursuant to this chapter who willfully fails or refuses to make the health care records of a patient available for physical inspection or copying as provided in NRS 629.061 is guilty of a misdemeanor.**

Assemblywoman Dondero Loop moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 450.

Remarks by Assemblywoman Dondero Loop.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 202, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 673, 829, 867 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 9, which is attached to and hereby made a part of this report.

JAMES OHRENSCHALL

OLIVIA DIAZ

IRA HANSEN

*Assembly Conference Committee*

TICK SEGERBLOM

AARON FORD

GREG BROWER

*Senate Conference Committee*

Conference Amendment No. CA9.

AN ACT relating to juvenile justice; revising the list of offenses that are excluded from the original jurisdiction of the juvenile court; reducing the age at which a child **charged with murder or attempted murder** may be certified as an adult for criminal proceedings; authorizing a child who is certified for adult criminal proceedings to petition the court for placement in a state juvenile detention facility during the pendency of the proceeding; requiring the Legislative Committee on Child Welfare and Juvenile Justice to

appoint a task force to study certain issues relating to juveniles; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that the juvenile court has exclusive jurisdiction over a child who is alleged to have committed an act designated as a criminal offense unless: (1) the criminal offense is excluded from the jurisdiction of the juvenile court; or (2) the child is alleged to have committed an offense for which the juvenile court may certify the child for criminal proceedings as an adult and the juvenile court certifies the child for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation. (NRS 62B.330, 62B.390)

Under existing law, the offenses excluded from the jurisdiction of the juvenile court include, without limitation, murder and attempted murder. (NRS 62B.330) **Section 1** of this bill provides that murder and attempted murder are excluded from the jurisdiction of the juvenile court only if the offense was committed by a child who was 16 years of age or older when he or she committed the offense. Under **section 11** of this bill, this provision becomes effective on October 1, 2014.

Under existing law, a child may be certified for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation if the child: (1) is charged with an offense that would have been a felony if committed by an adult; and (2) was 14 years of age or older at the time the child allegedly committed the offense. **Section 1.3** of this bill reduces the minimum age of such certification from 14 years of age to 13 years of age. ~~It~~ **if the child is charged with murder or attempted murder.** Under **section 11**, this provision becomes effective on October 1, 2014.

Under existing law, during the pendency of the proceeding, a child who is charged with a crime which is excluded from the original jurisdiction of the juvenile court may petition the juvenile court for temporary placement in a facility for the detention of children. (NRS 62C.030) **Section 2** of this bill authorizes a child who is certified for criminal proceedings as an adult to petition the juvenile court for temporary placement in a facility for the detention of children during the pendency of the proceeding. Under **section 11**, this provision becomes effective on October 1, 2013.

**Section 10** of this bill requires the Legislative Committee on Child Welfare and Juvenile Justice to create a task force to study certain issues relating to juvenile justice.

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

**Section 1.** NRS 62B.330 is hereby amended to read as follows:

62B.330 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

2. For the purposes of this section, a child commits a delinquent act if the child:

- (a) Violates a county or municipal ordinance;
- (b) Violates any rule or regulation having the force of law; or
- (c) Commits an act designated a criminal offense pursuant to the laws of the State of Nevada.

3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act:

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense ~~11~~, ***if the person was 16 years of age or older when the murder or attempted murder was committed.***

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(d) A felony resulting in death or substantial bodily harm to the victim and any other related offense arising out of the same facts as the felony, regardless of the nature of the related offense, if:

(1) The felony was committed on the property of a public or private school when pupils or employees of the school were present or may have

been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties; and

(2) The person intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person.

(e) A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:

(1) The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or

(2) The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.

(f) Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

**Sec. 1.3.** NRS 62B.390 is hereby amended to read as follows:

62B.390 1. Except as otherwise provided in subsection 2 and NRS 62B.400, upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) ~~Is~~ **Except as otherwise provided in paragraph (b), is** charged with an offense that would have been a felony if committed by an adult ~~is~~ and ~~is~~

~~—(b) Was~~ **was 14** ~~13~~ years of age or older at the time the child allegedly committed the offense ~~is~~; or

**(b) Is charged with murder or attempted murder and was 13 years of age or older when the murder or attempted murder was committed.**

2. Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Is charged with:

(1) A sexual assault involving the use or threatened use of force or violence against the victim; or

(2) An offense or attempted offense involving the use or threatened use of a firearm; and

(b) Was 16 years of age or older at the time the child allegedly committed the offense.

3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:

(a) The child is developmentally or mentally incompetent to understand the situation and the proceedings of the court or to aid the child's attorney in those proceedings; or

(b) The child has substance abuse or emotional or behavioral problems and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.

4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.

5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:

(a) The court to which the case has been transferred has original jurisdiction over the child;

(b) The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and

(c) If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.

**Sec. 1.7. ~~NRS 62B.400 is hereby amended to read as follows:~~**

~~62B.400 1. A child shall be deemed to be a prisoner who has escaped or attempted to escape from lawful custody in violation of NRS 212.090, and proceedings may be brought against the child pursuant to the provisions of this section, if the child:~~

~~(a) Is committed to or otherwise is placed in a public or private facility for the detention or correctional care of children, including, but not limited to, all state, regional and local facilities for the detention of children; and~~

~~(b) Escapes or attempts to escape from such a facility.~~

~~2. Upon a motion by the district attorney and after a full investigation, the juvenile court may certify the child for criminal proceedings as an adult pursuant to subsection 1 of NRS 62B.390 if the child was [14] 13 years of age or older at the time of the escape or attempted escape and:~~

~~(a) The child was committed to or placed in the facility from which the child escaped or attempted to escape because the child had been charged with or had been adjudicated delinquent for an unlawful act that would have been a felony if committed by an adult; or~~

~~(b) The child or another person aiding the child used a dangerous weapon to facilitate the escape or attempted escape.~~

~~3. If the child is certified for criminal proceedings as an adult pursuant to subsection 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the escape or attempted escape, regardless of the nature of the related offense.~~

~~4. If the child is not certified for criminal proceedings as an adult pursuant to subsection 2 or otherwise is not subject to the provisions of subsection 2, the escape or attempted escape shall be deemed to be a delinquent act, and proceedings may be brought against the child pursuant to the provisions of this title.~~ **(Deleted by amendment.)**

**Sec. 2.** NRS 62C.030 is hereby amended to read as follows:

62C.030 1. If a child is not alleged to be delinquent or in need of supervision, the child must not, at any time, be confined or detained in:

(a) A facility for the secure detention of children; or

(b) Any police station, lockup, jail, prison or other facility in which adults are detained or confined.

2. If a child is alleged to be delinquent or in need of supervision, the child must not, before disposition of the case, be detained in a facility for the secure detention of children unless there is probable cause to believe that:

(a) If the child is not detained, the child is likely to commit an offense dangerous to the child or to the community, or likely to commit damage to property;

(b) The child will run away or be taken away so as to be unavailable for proceedings of the juvenile court or to its officers;

(c) The child was taken into custody and brought before a probation officer pursuant to a court order or warrant; or

(d) The child is a fugitive from another jurisdiction.

3. If a child is less than 18 years of age, the child must not, at any time, be confined or detained in any police station, lockup, jail, prison or other facility where the child has regular contact with any adult who is confined or detained in the facility and who has been convicted of a criminal offense or charged with a criminal offense, unless:

(a) The child is alleged to be delinquent;

(b) An alternative facility is not available; and

(c) The child is separated by sight and sound from any adults who are confined or detained in the facility.

4. During the pendency of a proceeding involving ~~the~~ :

**(a)** A criminal offense excluded from the original jurisdiction of the juvenile court pursuant to NRS 62B.330 ~~the~~ ; or

***(b) A child who is certified for criminal proceedings as an adult pursuant to NRS 62B.390,***

↪ a child may petition the juvenile court for temporary placement in a facility for the detention of children.

**Sec. 3.** (Deleted by amendment.)

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

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

**Sec. 6.** (Deleted by amendment.)

**Sec. 7.** (Deleted by amendment.)

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

**Sec. 9.** (Deleted by amendment.)

**Sec. 10.** 1. The Legislative Committee on Child Welfare and Juvenile Justice created by NRS 218E.705 shall create a task force to study certain issues relating to juvenile justice in accordance with the provisions of this section.

2. The Chair of the Legislative Committee on Child Welfare and Juvenile Justice shall appoint to the task force the following 10 voting members:

(a) One member of the Senate or Assembly, who shall serve as Chair of the task force.

(b) One member who is a district attorney.

(c) One member who is a public defender.

(d) One member from the Office of the Attorney General.

(e) One member from the Division of Child and Family Services of the Department of Health and Human Services.

(f) One member who is a judge of the juvenile court.

(g) One member who is a director of juvenile services, as defined in NRS 62A.080.

(h) One member who is a mental health professional.

(i) One member who is a representative from an organization that advocates on behalf of juveniles.

(j) The Director of the Department of Corrections.

3. The task force shall study the following issues and make its findings and any recommendations for proposed legislation:

(a) The laws in this State and other states, including an examination of best practices, pertaining to certification of juveniles as adults and offenses excluded from the jurisdiction of the juvenile court.

(b) The advantages and disadvantages of blended sentencing.

(c) The ability of adult correctional facilities and institutions to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and incarcerated in adult facilities and institutions.



(d) The ability of juvenile detention facilities to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and detained in juvenile detention facilities.

(e) The costs and benefits of housing juvenile offenders who are convicted of crimes as adults in adult correctional facilities and institutions and in juvenile detention facilities.

(f) Proposed legislation that is necessary to implement any necessary or desirable changes in Nevada law relating to the issues set forth in this subsection.

4. The members of the task force, other than the Chair of the task force, serve without compensation, except that each such member is entitled, while engaged in the business of the task force and within the limits of available money, to the per diem allowance and travel expenses provided for state officers and employees generally.

5. Not later than 30 days after appointment, each member of the task force, other than the Chair of the task force, shall nominate one person to serve as his or her alternate member and submit the name of the person nominated to the Chair of the task force for appointment. An alternate member shall serve as a voting member of the task force when the appointed member who nominated the alternate member is disqualified or unable to serve.

6. The members of the task force shall hold not more than four meetings at the call of the Chair of the task force.

7. To the extent that money is available, including, without limitation, money from gifts, grants and donations, the Committee may fund the costs of the task force.

8. The Committee shall submit a report of the findings of the task force and its recommendations for legislation to the 78th Session of the Nevada Legislature.

**Sec. 11.** 1. This section and section 10 of this act become effective on July 1, 2013.

2. Sections 2 to 9, inclusive, of this act become effective on October 1, 2013.

3. Sections 1, 1.3 and 1.7 of this act become effective on October 1, 2014.

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 202.

Remarks by Assemblyman Frierson.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 223, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 764 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 21, which is attached to and hereby made a part of this report.

TERESA BENITEZ-THOMPSON

JAMES HEALEY

LYNN STEWART

*Assembly Conference Committee*

DAVID PARKS

PAT SPEARMAN

SCOTT HAMMOND

*Senate Conference Committee*

Conference Amendment No. CA21.

AN ACT relating to constables; revising provisions governing certain notice of a foreclosure sale required to be provided to a tenant; requiring a constable in certain townships to become certified as a category I or category II peace officer within a certain period after commencing his or her term of office; prohibiting a constable or deputy constable in certain smaller townships from making arrests in the course of his or her duties ~~to~~ **unless he or she is certified as a category I or category II peace officer;** revising provisions governing the appointment of deputy constables and the clerical and operational staff of a constable; clarifying that a constable may issue a citation for a violation of certain laws governing the registration of motor vehicles only if the motor vehicle is located in his or her township; revising various other provisions governing constables; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides for a summary eviction procedure when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent due by the month or a shorter period defaults in the payment of the rent. (NRS 40.253) **Section 1** of this bill provides that the affidavit of complaint for eviction of a tenant that a landlord or landlord's agent is authorized to file in justice court or district court applies to tenants of recreational vehicles.

Existing law provides that if a sale of property is a residential foreclosure, the posting of certain required notices on the property must be completed by a licensed process server or any constable or sheriff. (NRS 107.087) **Section 3** of this bill: (1) specifies that the constable or sheriff who posts such a notice must be a constable or sheriff of the county in which the property is located; and (2) revises the date by which certain required notices must be provided.

Existing law provides that a constable is a peace officer in his or her township. (NRS 258.070) **Section 8.6** of this bill requires a constable of a township whose ~~boundaries include a city whose~~ population is ~~150,000~~ **15,000** or more ~~(currently Henderson, Las Vegas, North Las Vegas and~~

~~Reno~~) or that has within its boundaries a city whose population is 15,000 or more to become certified as a category I or category II peace officer by the Peace Officers' Standards and Training Commission within 1 year after the date on which the constable commences his or her term of office or appointment unless the Commission, for good cause shown, extends the time. **Section 16.5** of this bill provides that this requirement does not apply to a constable who is in office on July 1, 2013, unless he or she is elected or appointed to a term of office on or after July 1, 2013.

**Sections 7.5, 12 and 12.5** of this bill provide that a constable or deputy constable in a township ~~{that has within its boundaries a city}~~ whose population is less than ~~{150,000 (currently all cities other than Henderson, Las Vegas, North Las Vegas and Reno)}~~ 15,000 or that has within its boundaries a city whose population is less than 15,000 may not make an arrest in the course of performing his or her duties as a constable. ~~He~~ unless he or she is certified as a category I or category II peace officer.

Existing law authorizes a constable to appoint deputies and provides that a deputy constable must be certified as a category II peace officer by the Peace Officers' Standards and Training Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, extends the time. (NRS 258.060, 289.470, 289.550) **Section 10** of this bill provides that a person appointed as a deputy constable for a township whose ~~boundaries include a city whose~~ population is ~~{150,000}~~ 15,000 or more ~~{(currently Henderson, Las Vegas, North Las Vegas and Reno)}~~ or that has within its boundaries a city whose population is 15,000 or more must be certified as a category I or category II peace officer by the Commission before he or she commences employment as a deputy constable.

Existing law authorizes the board of county commissioners to appoint clerks for the constable of a township and to provide compensation for those clerks. (NRS 258.065) **Section 11** of this bill authorizes the constable to appoint clerical and operational staff for the office of the constable, subject to the approval of the board of county commissioners, and requires the board of county commissioners to fix the compensation of the clerical and operational staff of the constable's office. **Section 11** further provides that the clerical and operational staff of a constable's office do not have the powers of a peace officer and may not possess a weapon or carry a concealed firearm while performing the duties of the constable's office.

Existing law provides that a constable is a peace officer in his or her township and may issue a citation to the owner or driver of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. (NRS 258.070, 482.385) **Sections 12, 15**

**and 16** of this bill clarify that the constable may issue such a citation only if the vehicle is located in his or her township at the time the citation is issued.

**Section 8.8** of this bill authorizes the board of county commissioners to establish, by resolution or ordinance, penalties to be imposed on a constable who fails to file a report, oath or other document required by statute to be filed with the county or the Peace Officers' Standards and Training Commission. **Section 9** of this bill requires the oath of a constable to be filed and recorded in the office of the recorder of the county.

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

**Section 1.** NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

↪ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of

NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

- (a) Identify the court that has jurisdiction over the matter; and
- (b) Advise the tenant:

(1) Of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent;

(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order; and

(3) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises or willfully interrupts or causes or permits the interruption of an essential service required by the rental agreement or chapter 118A of NRS.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home , **recreational vehicle** or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home , **recreational vehicle** or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

- (1) The date the tenancy commenced.
- (2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of

the tenant or the abandonment of the premises by the tenant, or within 20 days after:

- (a) The tenant has vacated or been removed from the premises; and
  - (b) A copy of those charges has been requested by or provided to the tenant,
- ➡ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

- (a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 and any accumulating daily costs; and
- (b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** NRS 107.087 is hereby amended to read as follows:

107.087 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell and the notice of sale must:

- (a) Be posted in a conspicuous place on the property not later than:
  - (1) For a notice of default and election to sell, 100 days before the date of sale; or
  - (2) For a notice of sale, 15 days before the date of sale; and
- (b) Include, without limitation:
  - (1) The physical address of the property; and
  - (2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or the grantor's successor in interest, in actual occupation of the premises not later than ~~13 business days after the notice of the sale is given pursuant to subsection 4 of NRS 107.080.~~ **15 days before the date of sale.** The separate notice must be in substantially the following form:

#### NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

- (1) Delivering a copy to you personally in the presence of a witness;
- (2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at



either place and mailing a copy to you at your place of residence or business; or

(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

(1) You will be given at least 10 days to answer a summons and complaint;

(2) If you do not file an answer, an order evicting you by default may be obtained against you;

(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The posting of a notice required by this section must be completed by a process server licensed pursuant to chapter 648 of NRS or any constable or ~~the~~ sheriff ~~of the county in which the property is located.~~

5. As used in this section, “residential foreclosure” has the meaning ascribed to it in NRS 107.080.

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

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

**Sec. 6.** (Deleted by amendment.)

**Sec. 7.** (Deleted by amendment.)

**Sec. 7.5.** NRS 171.124 is hereby amended to read as follows:

171.124 1. Except as otherwise provided in subsection 3 and NRS 33.070 , ~~and~~ 33.320 ~~and~~ **258.070**, a peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may make an arrest in obedience to a warrant delivered to him or her, or may, without a warrant, arrest a person:

(a) For a public offense committed or attempted in the officer’s presence.

(b) When a person arrested has committed a felony or gross misdemeanor, although not in the officer’s presence.

(c) When a felony or gross misdemeanor has in fact been committed, and the officer has reasonable cause for believing the person arrested to have committed it.

(d) On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor by the person arrested.

(e) When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense, and the officer has reasonable cause to believe that the person arrested is the person so named or described.

2. A peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may also, at night, without a warrant, arrest any person whom the officer has reasonable cause for believing to have committed a felony or gross misdemeanor, and is justified in making the arrest, though it afterward appears that a felony or gross misdemeanor has not been committed.

3. An officer of the Drug Enforcement Administration may only make an arrest pursuant to subsections 1 and 2 for a violation of chapter 453 of NRS.

**Sec. 8.** Chapter 258 of NRS is hereby amended by adding thereto the provisions set forth as sections 8.1 to 8.8, inclusive, of this act.

**Sec. 8.1.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 8.2, 8.3 and 8.4 of this act have the meanings ascribed to them in those sections.*

**Sec. 8.2.** *“Category I peace officer” has the meaning ascribed to it in NRS 289.460.*

**Sec. 8.3.** *“Category II peace officer” has the meaning ascribed to it in NRS 289.470.*

**Sec. 8.4.** *“Peace officer” has the meaning ascribed to it in NRS 289.010.*

**Sec. 8.6.** *1. Each constable of a township ~~that has within its boundaries a city~~ whose population is ~~150,000~~ 15,000 or more or a township that has within its boundaries a city whose population is 15,000 or more shall become certified by the Peace Officers’ Standards and Training Commission as a category I or category II peace officer within 1 year after the date on which the constable commences his or her term of office or appointment unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months.*

*2. If a constable does not comply with the provisions of subsection 1, the constable forfeits his or her office and a vacancy is created which must be filled in accordance with NRS 258.030.*

**Sec. 8.8.** *In addition to any fine imposed pursuant to NRS 258.200, a board of county commissioners may establish, by resolution or ordinance, penalties for the failure of the constable of a township in the county to file*

**any report, oath or other document required by statute to be filed with the county or the Peace Officers' Standards and Training Commission.**

**Sec. 9.** NRS 258.020 is hereby amended to read as follows:

258.020 Each constable elected or appointed in this state shall, before entering upon the duties of office:

1. Take the oath prescribed by law. ***The oath must be filed and recorded in a book provided for that purpose in the office of the recorder of the county within which the constable legally holds and exercises his or her office.***

2. Execute a bond to the State of Nevada, to be approved by the board of county commissioners, in the penal sum of not less than \$1,000 nor more than \$3,000, as may be designated by the board of county commissioners. ~~It~~ ***The*** bond ~~shall~~ ***must*** be conditioned for the faithful performance of the duties of his or her office ~~it~~ and ~~shall~~ ***must*** be filed in the county clerk's office.

**Sec. 10.** NRS 258.060 is hereby amended to read as follows:

258.060 1. All constables may appoint deputies, who are authorized to transact all official business pertaining to the office to the same extent as their principals. A person must not be appointed as a deputy constable unless the person has been a resident of the State of Nevada for at least 6 months before the date of the appointment. ***A person who is appointed as a deputy constable in a township ~~that has within its boundaries a city~~ whose population is ~~150,000~~ 15,000 or more or a township that has within its boundaries a city whose population is 15,000 or more may not commence employment as a deputy constable until the person is certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer.*** The appointment of a deputy constable must not be construed to confer upon that deputy policymaking authority for the office of the county constable or the county by which the deputy constable is employed.

2. Constables are responsible for the compensation of their deputies and are responsible on their official bonds for all official malfeasance or nonfeasance of the same. Bonds for the faithful performance of their official duties may be required of the deputies by the constables.

3. All appointments of deputies under the provisions of this section must be in writing and must, together with the oath of office of the deputies, be filed and recorded ***within 30 days after the appointment*** in a book provided for that purpose in the office of the recorder of the county within which the constable legally holds and exercises his or her office. Revocations of such appointments must also be filed and recorded as provided in this section ~~it~~ ***within 30 days after the revocation of the appointment.*** From the time of the

filing of the appointments or revocations therein, persons shall be deemed to have notice of the same.

**Sec. 11.** NRS 258.065 is hereby amended to read as follows:

258.065 1. The ~~board of county commissioners may appoint for the~~ constable of a township ~~to a reasonable number of clerks~~ **may, subject to the approval of the board of county commissioners, appoint such clerical and operational staff** as the work of the constable requires . ~~It and provide compensation therefor.~~ **The compensation of any person so appointed must be fixed by the board of county commissioners.**

2. **A person who is employed as clerical or operational staff of a constable:**

(a) **Does not have the powers of a peace officer; and**

(b) **May not possess a weapon or carry a concealed firearm, regardless of whether the person possesses a permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive, while performing the duties of the office of the constable.**

3. A constable's clerk shall take the constitutional oath of office and give bond in the sum of \$2,000 for the faithful discharge of the duties of the office, and in the same manner as is or may be required of other officers of that township and county.

~~3.~~ 4. A constable's clerk shall do all clerical work in connection with keeping the records and files of the office, and shall perform such other duties in connection with the office as the constable shall prescribe.

**Sec. 12.** NRS 258.070 is hereby amended to read as follows:

258.070 1. ~~Each~~ **Subject to the provisions of subsection 2, each** constable shall:

(a) Be a peace officer in his or her township.

(b) Serve all mesne and final process issued by a court of competent jurisdiction.

(c) Execute the process, writs or warrants that the constable is authorized to receive pursuant to NRS 248.100.

(d) Discharge such other duties as are or may be prescribed by law.

2. **A constable or deputy constable elected or appointed in a township ~~that has within its boundaries a city~~ whose population is less than ~~150,000~~ 15,000 or a township that has within its boundaries a city whose population is less than 15,000 may not arrest any person while carrying out the duties of the office of constable ~~it~~ unless he or she is certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer.**

3. Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484A to 484E, inclusive, of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle ~~that~~ **which is**

**located in his or her township at the time the citation is issued and which** is required to be registered in this State if the constable determines that the vehicle is not properly registered. The constable shall, upon the issuance of such citation, charge and collect a fee of \$100 from the person to whom the citation is issued, which may be retained by the constable as compensation.

~~§ 4.~~ **4.** If a sheriff or the sheriff's deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or the sheriff's deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. The sheriff or the sheriff's deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

**Sec. 12.5.** NRS 258.110 is hereby amended to read as follows:

258.110 ~~¶¶~~ **Unless, pursuant to subsection 2 of NRS 258.070, a constable is prohibited from making an arrest,** any constable ~~shall~~ **who willfully refuse** refuses to receive or arrest any person charged with a criminal offense ~~if such constable~~ is guilty of a gross misdemeanor and shall be removed from office.

**Sec. 13.** NRS 258.190 is hereby amended to read as follows:

258.190 1. ~~On~~ **In each calendar year, on** the first Monday of January, April, July and October, the constables who receive fees under the provisions of this chapter shall make out and file with the boards of county commissioners of their several counties a full and correct statement under oath of all fees or compensation, of whatever nature or kind, received in their several official capacities during the preceding 3 months. In the statement they shall set forth the cause in which, and the services for which, such fees or compensation were received.

2. Nothing in this section shall be so construed as to require personal attendance in filing statements, which may be transmitted by mail or otherwise directed to the clerk of the board of county commissioners.

**Sec. 14.** NRS 289.550 is hereby amended to read as follows:

289.550 1. Except as otherwise provided in subsection 2 and NRS 3.310, ~~and~~ **4.353** ~~¶~~ **and 258.060, and section 8.6 of this act,** a person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, must be certified by the Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6

months, by which the person must become certified. A person who fails to become certified within the required time shall not exercise any of the powers of a peace officer after the time for becoming certified has expired.

2. The following persons are not required to be certified by the Commission:

- (a) The Chief Parole and Probation Officer;
- (b) The Director of the Department of Corrections;
- (c) The Director of the Department of Public Safety, the deputy directors of the Department, the chiefs of the divisions of the Department other than the Investigation Division and the Nevada Highway Patrol, and the members of the State Disaster Identification Team of the Division of Emergency Management of the Department;
- (d) The Commissioner of Insurance and the chief deputy of the Commissioner of Insurance;
- (e) Railroad police officers; and
- (f) California correctional officers.

**Sec. 14.5.** NRS 482.231 is hereby amended to read as follows:

482.231 1. Except as otherwise provided in subsection 3, the Department shall not register a motor vehicle if a local authority has filed with the Department a notice stating that the owner of the motor vehicle:

- (a) Was cited by a constable pursuant to subsection ~~2~~ 3 of NRS 258.070 for failure to comply with the provisions of NRS 482.385; and
- (b) Has failed to pay the fee charged by the constable pursuant to subsection ~~2~~ 3 of NRS 258.070.

2. The Department shall, upon request, furnish to the owner of the motor vehicle a copy of the notice of nonpayment described in subsection 1.

3. The Department may register a motor vehicle for which the Department has received a notice of nonpayment described in subsection 1 if:

- (a) The Department receives:
  - (1) A receipt from the owner of the motor vehicle which indicates that the owner has paid the fee charged by the constable; or
  - (2) Notification from the applicable local authority that the owner of the motor vehicle has paid the fee charged by the constable; and
- (b) The owner of the motor vehicle otherwise complies with the requirements of this chapter for the registration of the motor vehicle.

**Sec. 15.** NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, trailer or semitrailer, the owner shall carry the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, including a constable ~~[-]~~ **of the township in which the motor vehicle is located** or a justice of the peace or **a** deputy of the Department.

3. No person charged with violating this section may be convicted if the person produces in court a certificate of registration which was previously issued to him or her and was valid at the time of the demand.

**Sec. 16.** NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in subsections 5 and 7 and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State:

(a) For a period of not more than 30 days in the aggregate in any 1 calendar year; and

(b) Notwithstanding the provisions of paragraph (a), during any period in which the owner is:

(1) On active duty in the military service of the United States;

(2) An out-of-state student;

(3) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or

(4) A migrant or seasonal farm worker.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. Except as otherwise provided in subsection 5, when a person, formerly a nonresident, becomes a resident of this State, the person shall:

(a) Within 30 days after becoming a resident; or

(b) At the time he or she obtains a driver's license,

↪ whichever occurs earlier, apply for the registration of each vehicle the person owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection.

4. A citation may be issued pursuant to subsection 1, 3 or 5 only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. The Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of subsection 3 and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

5. Except as otherwise provided in this subsection, a resident or nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter who engages in a trade, profession or occupation or accepts gainful employment in this State or who enrolls his or her children in a public school in this State shall, within 30 days after the commencement of such employment or enrollment, apply for the registration of each vehicle the person owns which is operated in this State. The provisions of this subsection do not apply to a nonresident who is:

- (a) On active duty in the military service of the United States;
- (b) An out-of-state student;
- (c) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or
- (d) A migrant or seasonal farm worker.

6. A person who violates the provisions of subsection 1, 3 or 5 is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of \$1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection 4. The fine imposed pursuant to this subsection may be reduced to not less than \$200 if the person presents evidence at the time of the hearing that the person has registered the vehicle pursuant to this chapter.

7. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his or her continuous use within this State, shall cause that vehicle to be registered within 30 days after beginning its operation within this State.

8. A person registering a vehicle pursuant to the provisions of subsection 1, 3, 5, 7 or 9 or pursuant to NRS 482.390:



(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

(b) Must not be allowed credit on those taxes and fees for the unused months of the previous registration.

9. If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

10. An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

11. A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State;

(b) The vehicle is used in this State for a gainful purpose;

(c) Except as otherwise provided in paragraph (b) of subsection 1, the owner of the vehicle is a nonresident and has operated the vehicle in this State for more than 30 days in the aggregate in any 1 calendar year; or

(d) The owner of the vehicle is a nonresident required to register the vehicle pursuant to subsection 5.

**12. A constable may issue a citation for a violation of this section only if the vehicle is located in his or her township at the time the citation is issued.**

**13.** As used in this ~~subsection,~~ **section**, “peace officer” includes a constable.

**Sec. 16.5.** The provisions of section 8.6 of this act do not apply to a constable who is in office on July 1, 2013, unless the constable is elected or appointed to a term of office on or after July 1, 2013.

**Sec. 17.** This act becomes effective on July 1, 2013.

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 223.

Remarks by Assemblyman Frierson.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 262, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 639 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 12, which is attached to and hereby made a part of this report.

LESLEY COHEN  
JAMES OHRENSCHALL  
MICHELE FIORE

*Assembly Conference Committee*

AARON FORD  
JUSTIN JONES  
MARK HUTCHISON  
*Senate Conference Committee*

Conference Amendment No. CA12.

SUMMARY—Revises provisions governing ~~child custody and visitation,~~ **the award of attorney's fees in certain domestic relations actions.** (BDR 11-951)

AN ACT relating to ~~child custody,~~ **domestic relations; revising the provisions governing the award of attorney's fees in actions for divorce;** authorizing a court to award costs and the reasonable fees of attorneys and experts to a party in certain actions concerning child custody or visitation; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Existing law provides that in an action for divorce, the court may award a reasonable attorney's fee to either party, if those fees are in issue under the pleadings. (NRS 125.150) Section 1 of this bill provides that in an action for divorce, the court may award a reasonable attorney's fee without the requirement that attorney's fees be in issue under the pleadings.**

Existing law provides that in an action to determine the parentage of a child, the court may order that the reasonable fees of counsel, experts and the child's guardian ad litem, and other costs of the action, be paid in such proportions as determined by the court. (NRS ~~126.171, 126.231~~) ~~Existing law further provides that in an action for divorce, the court may award a reasonable attorney's fee to either party, if those fees are in issue under the pleadings. (NRS 125.150) This,~~ **126.171** **Section 2 of this** bill provides that in an action to determine custody or visitation with respect to a child, the court may order that the reasonable fees of counsel and experts, and other costs of the action, be paid in proportions and at times determined by the court.

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

**Section 1. NRS 125.150 is hereby amended to read as follows:**

125.150 Except as otherwise provided in NRS 125.155 and unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS:

1. In granting a divorce, the court:

(a) May award such alimony to the wife or to the husband, in a specified principal sum or as specified periodic payments, as appears just and equitable; and

(b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the reimbursement of that party for his or her contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

- (a) The intention of the parties in placing the property in joint tenancy;
- (b) The length of the marriage; and
- (c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.

➡ As used in this subsection, “contribution” includes, without limitation, a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

3. Except as otherwise provided in NRS 125.141, whether or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney’s fee to either party to an action for divorce. ~~if those fees are in issue under the pleadings.~~

4. In granting a divorce, the court may also set apart such portion of the husband’s separate property for the wife’s support, the wife’s separate property for the husband’s support or the separate property of either spouse for the support of their children as is deemed just and equitable.

5. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.

6. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony the spouse has been ordered to pay.

8. In addition to any other factors the court considers relevant in determining whether to award alimony and the amount of such an award, the court shall consider:

- (a) The financial condition of each spouse;
- (b) The nature and value of the respective property of each spouse;
- (c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;
- (d) The duration of the marriage;
- (e) The income, earning capacity, age and health of each spouse;
- (f) The standard of living during the marriage;
- (g) The career before the marriage of the spouse who would receive the alimony;
- (h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;
- (i) The contribution of either spouse as homemaker;
- (j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and
- (k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.

9. In granting a divorce, the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the

court considers relevant in determining whether such alimony should be granted, the court shall consider:

(a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and

(b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

10. If the court determines that alimony should be awarded pursuant to the provisions of subsection 9:

(a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.

(b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.

(c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:

(1) Testing of the recipient's skills relating to a job, career or profession;

(2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;

(3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;

(4) Subsidization of an employer's costs incurred in training the recipient;

(5) Assisting the recipient to search for a job; or

(6) Payment of the costs of tuition, books and fees for:

(I) The equivalent of a high school diploma;

(II) College courses which are directly applicable to the recipient's goals for his or her career; or

(III) Courses of training in skills desirable for employment.

11. For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" has the meaning ascribed to it in NRS 125B.070.

~~{Section 1}~~ **Sec. 2.** Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

***Except as otherwise provided in NRS 125C.180, in an action to determine legal custody, physical custody or visitation with respect to a child, the court may order reasonable fees of counsel and experts and other costs of the proceeding to be paid in proportions and at times determined by the court.***

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 262.

Remarks by Assemblyman Frierson.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 378, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 754 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 19, which is attached to and hereby made a part of this report.

MARILYN DONDERO LOOP  
IRENE BUSTAMANTE ADAMS  
WESLEY DUNCAN

TICK SEGERBLOM  
RUBEN KIHUEN

*Assembly Conference Committee*

*Senate Conference Committee*

Conference Amendment No. CA19.

AN ACT relating to spendthrift trusts; revising provisions governing self-settled spendthrift trusts; revising provisions governing the transfer of property to a spendthrift trust; revising provisions governing persons who act as a distribution trustee or distribution adviser of a spendthrift trust; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes a person to create a spendthrift trust, which is a trust the terms of which provide that the interest of a beneficiary may not be transferred voluntarily or involuntarily to another person. (NRS 166.020, 166.040) Under existing law, a beneficiary of a spendthrift trust may not transfer his or her interest in the trust and a creditor of the beneficiary may not satisfy the creditor's claim from the beneficiary's interest in the trust. (NRS 166.120) Existing law further authorizes the creation of self-settled spendthrift trusts, which are spendthrift trusts in which the settlor is a beneficiary. Under existing law, a self-settled spendthrift trust may be created only if the trust is irrevocable, does not require any part of the income or principal to be distributed to the settlor and is not be intended to hinder, delay or defraud known creditors. (NRS 166.040)

**Section 1.2** of this bill provides that , under certain circumstances, a transfer of property to a self-settled spendthrift trust is presumed to be made with actual intent to defraud an obligee named in a family support order and is void if: (1) the transfer is made after the commencement of a domestic relations proceeding; (2) the transfer is made less than 2 years before the commencement of such a proceeding; (3) the transfer is made while the settlor is subject to certain family support orders; or (4) a court order expressly requires the settlor to transfer the property to his or her child, spouse or former spouse, or a domestic partner or former domestic partner, or

for the benefit of such a person. **Section 1.2** further provides that under certain circumstances, a trustee of a self-settled spendthrift trust is required to provide written notice of certain distributions from the trust to an obligee named in a family support order. **Section 3** of this bill provides that the provisions of **section 1.2** apply only to: (1) family support orders issued on or after October 1, 2013; (2) transfers of property to a self-settled spendthrift trust made on or after October 1, 2013; and (3) distributions from a self-settled spendthrift trust made on or after October 1, 2013.

**Section 1.5 of this bill enacts provisions governing: (1) the transfer of property owned jointly by spouses or domestic partners to a self-settled spendthrift trust, which apply to a transfer of property occurring on or after October 1, 2013; and (2) the division of a self-settled spendthrift trust established jointly by spouses or domestic partners into two separate spendthrift trusts upon a divorce, an annulment, a legal separation or the termination of a domestic partnership.**

**Section 1.9** of this bill prohibits the settlor, certain relatives and employees of the settlor, and business entities in which the settlor or certain relatives or employees of the settlor hold certain voting power, from acting as a distribution trustee or a distribution adviser of a self-settled spendthrift trust while the settlor is subject to a family support order.

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

**Section 1.** Chapter 166 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 ~~and 1.2~~ **to 1.5, inclusive,** of this act.

**Sec. 1.1.** *As used in this chapter, unless the context otherwise requires, the ~~term “domestic”~~ words and terms defined in sections 1.11 to 1.16, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 1.11.** *“Distribution adviser” means a person other than a trustee in whose discretion a distribution to the settlor must be approved for that distribution to be in compliance with paragraph (q) of subsection 2 of NRS 166.040, regardless of the title of such person and whether such person is acting in a fiduciary or nonfiduciary capacity.*

**Sec. 1.12.** *“Distribution trustee” means a trustee in whose discretion a distribution to the settlor must be approved for that distribution to be in compliance with paragraph (q) of subsection 2 of NRS 166.040.*

**Sec. 1.13.** *“Domestic partner” means a person who is in a domestic partnership ~~that~~ which is registered pursuant to chapter 122A of NRS and ~~that~~ which has not been terminated pursuant to that chapter.*

**Sec. 1.14.** *“Jointly owned property” means property transferred to a self-settled spendthrift trust that was owned jointly by spouses or domestic partners at the time of the transfer, regardless of whether such property*

was held in joint tenancy, as tenants by the entireties, as tenants in common or as community property, including all investments and reinvestments thereof.

Sec. 1.15. "Order" means an order issued by a court of competent jurisdiction of this State or an order granted by a court of competent jurisdiction outside of this State that is properly domesticated.

Sec. 1.16. "Self-settled spendthrift trust" means a spendthrift trust of which a settlor is a beneficiary.

Sec. 1.2. 1. Notwithstanding any other provision of law ~~but~~ and except as otherwise provided in subsection 2, a transfer of property to a self-settled spendthrift trust is presumed to be made with actual intent to defraud each obligee of a domestic relations order, and the transfer is presumed void as to each such obligee, if:

(a) The transfer is made after the commencement of a domestic relations proceeding;

(b) The transfer is made within the 2 years immediately preceding the commencement of a domestic relations proceeding;

(c) The transfer is made while the settlor is subject to a family support order; or

(d) An order, judgment or decree of a court of competent jurisdiction expressly requires the settlor to transfer the property to his or her child, spouse or former spouse, or domestic partner or former domestic partner, or to a trust for the benefit of such a person.

2. The presumption set forth in subsection 1 does not apply to a self-settled spendthrift trust that is established jointly by spouses or domestic partners and to which the provisions of section 1.5 of this act apply.

3. Regardless of whether a court order restrains a transfer of the property, the presumption set forth in subsection 1 applies to all property of either spouse or domestic partner, unless a court order expressly excludes the application of the presumption to the property.

4. In an action to determine whether a transfer of property is void pursuant to paragraph (a) or (b) of subsection 1, the 2-year limitation period set forth in NRS 166.170 does not commence until a court enters a domestic relations order.

5. An action to determine whether a transfer of property is void pursuant to paragraph (c) of subsection 1 may be brought within the period described in paragraph (a) of subsection 1 of NRS 166.170 or, if the transfer was made while the settlor was delinquent in making payments required under a family support order, within 4 years after the transfer.

6. An action to determine whether a transfer of property is void pursuant to paragraph (d) of subsection 1 may be brought within the period described in paragraph (a) of subsection 1 of NRS 166.170 or, if the



transfer was made in violation of a property transfer order, within 4 years after the transfer.

7. If a transfer described in subsection 1 is determined to be void as to an obligee, the court having jurisdiction to enforce the domestic relations order may enforce the domestic relations order against the transferred property, and any investments or reinvestments thereof, as if such property were owned by the transferring settlor to the extent the court finds that the settlor has no other property or income from which the court may compel satisfaction of the domestic relations order.

8. Regardless of whether the self-settled spendthrift trust or the trustee of the self-settled spendthrift trust is a party to an action resulting in a family support order, the trustee shall, not later than 30 days before making a distribution of the income or principal of the self-settled spendthrift trust to a beneficiary who is a settlor, provide written notice of the distribution to each obligee named in the family support order, if the family support order expressly requires such notice. A written notice required by this subsection must:

(a) State:

- (1) The date on which the distribution will be made;
- (2) The amount of the distribution; and
- (3) The manner in which payment of the distribution will be made.

(b) Unless a written agreement entered into by the obligee who is required to be provided the written notice provides otherwise, be sent by personal delivery, by certified mail, return receipt requested, or by any other delivery service for which a receipt for delivery is obtained to the address provided to the trustee by the obligee required to be provided the written notice.

~~§ 9.~~ 9. If, after an obligee named in a family support order provides a copy of the family support order to the trustee and an address to which the written notice required by subsection ~~§ 21~~ 8 is to be sent, the trustee makes a distribution of the income or principal of the self-settled spendthrift trust to a beneficiary who is a settlor and who is an obligor named in the family support order without sending the written notice required by subsection ~~§ 21~~ 8, the trustee is personally liable to the obligee for the lesser of:

- (a) The amount of such distribution; and
  - (b) The amount due the obligee pursuant to the family support order,
- ↪ unless the trustee establishes to the satisfaction of the court having jurisdiction to enforce the family support order that the information required to be provided in the written notice would not have facilitated enforcement of the family support order.

~~4-1~~ 10. *This section does not make any property which was the subject of a transfer determined to be void subject to the enforcement of any debt other than a debt owed under a domestic relations order.*

11. As used in this section:

(a) “Child” means a person to whom a settlor of a self-settled spendthrift trust owes a parental duty of support pursuant to:

- (1) The laws of this State;
- (2) A written agreement to which the settlor is a party; or
- (3) The order of a court of competent jurisdiction.

(b) “Distribution” includes, without limitation, a distribution from a self-settled spendthrift trust to a person other than a beneficiary who is a settlor for the benefit of a beneficiary who is a settlor. The term does not include an authorization given by the trustee of a self-settled spendthrift trust for a beneficiary who is a settlor to use an asset of the self-settled spendthrift trust, the title to which remains in the trust, including, without limitation, a residence or vehicle.

(c) “Domestic relations order” means a family support order or a property transfer order.

(d) “Domestic relations proceeding” means a legal proceeding that may result in the issuance of a domestic relations order, including, without limitation, an action for divorce, annulment or separate maintenance pursuant to chapter 125 of NRS or any proceeding related to the termination of a domestic partnership that is registered pursuant to chapter 122A of NRS.

(e) “Family support order” means a judgment, decree or order of a court for the support or maintenance of a child, spouse or former spouse, or domestic partner or former domestic partner.

(f) “Obligee” means:

(1) With respect to a family support order, a child, spouse or former spouse, or domestic partner or former domestic partner to whom, or for whose benefit, a court has ordered the payment of support or maintenance.

(2) With respect to a property transfer order, a child, spouse or former spouse, or domestic partner or former domestic partner to whom, or for whose benefit, a court has ordered one or more property transfers.

(g) “Property transfer order” means an order, judgment or decree of a court which requires the transfer of property to a child, spouse or former spouse, or domestic partner or former domestic partner, or to a trust for the benefit of such a person.

~~[(h) “Self-settled spendthrift trust” means a spendthrift trust of which a settlor is a beneficiary.]~~

Sec. 1.3. (Deleted by amendment.)

Sec. 1.5. 1. A transfer of jointly owned property to a spendthrift trust which is made on or after October 1, 2013, is presumed void, unless both spouses or domestic partners, whichever is applicable, jointly transfer the property.

2. Any transfer of jointly owned property to a self-settled spendthrift trust which is made on or after October 1, 2013, is presumed void unless both spouses or domestic partners, whichever is applicable, have signed a written agreement, declaration or transfer document in which each spouse or domestic partner, as applicable, expressly acknowledges that any transfer of such property to a self-settled spendthrift trust waives all property rights in the property being transferred to the self-settled spendthrift trust that are inconsistent with the rights of the spouse or domestic partner as a beneficiary under the terms of the trust agreement. An agreement, declaration or transfer document required by this subsection must meet the standards that govern the actions of persons occupying relations of confidence and trust toward each other and is subject to the following:

(a) Notwithstanding any provision of chapter 162A of NRS to the contrary, a spouse or domestic partner has no authority as an agent of his or her spouse or domestic partner, as applicable, under a power of attorney, to sign a document effectuating a transfer of jointly owned property or a written agreement, declaration or transfer document required by this subsection.

(b) If a guardian has been appointed for a spouse or domestic partner, the guardian may not sign on behalf of the ward a document effectuating a transfer of jointly owned property or a written agreement, declaration or transfer document required by this subsection unless an order of the court having jurisdiction over the guardianship proceeding expressly authorizes the guardian to sign such a document on behalf of the ward.

3. The only property interest of a beneficiary of a valid spendthrift trust is a beneficial interest in the spendthrift trust in accordance with the terms of the trust agreement and subject to the applicable laws of this State governing trusts. A self-settled spendthrift trust is not subject to termination in a domestic relations proceeding except in accordance with the terms of the trust agreement, but it may be divided into two separate trusts to the extent permitted under NRS 163.556.

4. Except as expressly provided otherwise in a trust agreement governing a self-settled spendthrift trust established jointly by spouses or domestic partners, when the settlors are divorced or legally separated, or terminate a domestic partnership, the trustee must divide the joint self-settled spendthrift trust into two separate spendthrift trusts with each

spouse or domestic partner, as applicable, as the settlor of a new spendthrift trust, subject to the following:

(a) Any jointly owned property in which the spouses or domestic partners had equal ownership must be divided equally between the two spendthrift trusts, on a pro rata or non-pro rata basis based on the current fair market value thereof.

(b) Any jointly owned property in which the spouses or domestic partners had unequal ownership must be divided between the two spendthrift trusts in proportion to the contribution of each spouse or domestic partner, on a pro rata or non-pro rata basis based on the current fair market value.

(c) Any trust property that was contributed to the self-settled spendthrift trust as a settlor's separate property, together with all investments and reinvestments thereof, must be allocated to the separate spendthrift trust for that settlor.

(d) The court having jurisdiction over the division of the property of the settlors in the action for divorce, annulment, separate maintenance or termination of domestic partnership has jurisdiction over the division of property between the two spendthrift trusts, but to avoid unintended consequences under federal tax laws, the division of property between the separate spendthrift trusts must be done independently from, and without regard to, the division of nontrust property.

(e) For the purposes of NRS 166.170, each new spendthrift trust must be deemed a continuation of the original trust, and each transfer of property to a new spendthrift trust relates back to the date the property was transferred to the original trust.

(f) The provisions of the new spendthrift trusts must be the same as the terms of the trust agreement of the self-settled spendthrift trust which is being separated, except as otherwise authorized by NRS 163.556. With respect to each new spendthrift trust, unless the former spouse or domestic partner who is not the beneficiary of the new spendthrift trust consents in writing:

(1) The former spouse or former domestic partner who is not the beneficiary of the new spendthrift trust does not have any right, power or benefit with respect to that trust as a beneficiary, trustee, trust protector, agent, adviser or any other right, power or benefit, except to the extent the terms of the trust agreement specifically indicate that any such rights, powers or benefits exist even if the party is no longer the spouse or domestic partner of the settlor; and

(2) The settlor may exercise unilaterally all of the powers reserved or rights given in the original trust agreement to either settlor or to the settlors acting jointly.

**Sec. 1.6.** (Deleted by amendment.)

**Sec. 1.9.** NRS 166.015 is hereby amended to read as follows:

166.015 1. Unless the writing declares to the contrary, expressly, this chapter governs the construction, operation and enforcement, in this State, of all spendthrift trusts created in or outside this State if:

- (a) All or part of the land, rents, issues or profits affected are in this State;
- (b) All or part of the personal property, interest of money, dividends upon stock and other produce thereof, affected, are in this State;
- (c) The declared domicile of the creator of a spendthrift trust affecting personal property is in this State; or
- (d) At least one trustee qualified under subsection 2 has powers that include maintaining records and preparing income tax returns for the trust, and all or part of the administration of the trust is performed in this State.

2. If the settlor is a beneficiary of the trust ~~[-at-]~~:

**(a)** At least one trustee of a spendthrift trust must be:

~~[(a)]~~ **(1)** A natural person who resides and has his or her domicile in this State;

~~[(b)]~~ **(2)** A trust company that:

~~[(1)]~~ **(I)** Is organized under federal law or under the laws of this State or another state; and

~~[(2)]~~ **(II)** Maintains an office in this State for the transaction of business; or

~~[(c)]~~ **(3)** A bank that:

~~[(1)]~~ **(I)** Is organized under federal law or under the laws of this State or another state;

~~[(2)]~~ **(II)** Maintains an office in this State for the transaction of business; and

~~[(3)]~~ **(III)** Possesses and exercises trust powers.

**(b)** ~~At any time [a settlor is subject to a family support order as defined in]~~ the trustee is required to give notice of a distribution to a settlor pursuant to subsection 8 of section 1.2 of this act:

**(1)** *The following persons must not act as a distribution trustee or a distribution adviser:*

**(I)** *The settlor;*

**(II)** *The spouse or domestic partner of the settlor;*

**(III)** *Any person related to the settlor by blood, adoption or marriage within the second degree of consanguinity or affinity;*

**(IV)** *An employee of the settlor;*

**(V)** *A subordinate employee of the settlor or of a business entity in which the settlor is an executive; or*

**(VI) A business entity in which the settlor, or any person listed in sub-subparagraphs (II) to (V), inclusive, holds at least 30 percent of the total voting power of all interests entitled to vote.**

**(2) Notwithstanding any provision of the trust agreement, a distribution as defined in section 1.2 of this act must not be made to the settlor unless the distribution is subject to the discretion of a distribution trustee or a distribution adviser who is not prohibited from acting as a distribution trustee or distribution adviser pursuant to subparagraph (1).**

**(3) The trust is not made void by:**

**(I) The lack of a distribution trustee or a distribution adviser; or**

**(II) The appointment or existence of a distribution trustee or a distribution adviser who is unable to act as a distribution trustee or a distribution adviser pursuant to subparagraph (1).**

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** The provisions of section 1.2 of this act apply only to:

1. A family support order, as defined in section 1.2 of this act, issued on or after October 1, 2013.

2. A transfer of property to a self-settled spendthrift trust, as defined in section ~~1.2~~ **1.16** of this act, made on or after October 1, 2013.

3. A distribution, as defined in section 1.2 of this act, from a self-settled spendthrift trust made on or after October 1, 2013.

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 378.

Remarks by Assemblyman Frierson.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 415, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 706 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 13, which is attached to and hereby made a part of this report.

JASON FRIERSON

OLIVIA DIAZ

MICHELE FIORE

*Assembly Conference Committee*

AARON FORD

JUSTIN JONES

*Senate Conference Committee*

Conference Amendment No. CA13.

AN ACT relating to criminal justice; revising provisions governing the crime of burglary; revising provisions governing the crime of vagrancy; authorizing the Advisory Commission on the Administration of Justice to apply for and accept certain money; requiring the Commission to study and report on certain issues; authorizing each county to establish a community court pilot project to provide an alternative to sentencing a person who is

charged with ~~felony or misdemeanor;~~ certain misdemeanors; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that a person who enters certain structures with the intent to commit grand or petit larceny, assault or battery, any felony or to obtain money by false pretenses is guilty of the crime of burglary. (NRS 205.060) Existing law also provides that a person commits the crime of petit larceny if the person intentionally steals, takes and carries, leads or drives away certain goods or property. (NRS 205.240) **Section 1** of this bill removes the crime of petit larceny from the underlying offenses which constitute burglary if the petit larceny was intended to be committed in a commercial establishment during business hours and the person has not: (1) twice previously been convicted of petit larceny within the previous 7 years; or (2) previously been convicted of a felony.

Existing law prohibits a person from lodging in any building, structure or place without certain permission. (NRS 207.030) **Section 1.5** of this bill further prohibits a person from lodging in such a place if the property is the subject of a notice of default and election to sell or is placed on a registry of vacant, abandoned or foreclosed property, unless the person is the owner, tenant or otherwise entitled to possession of the property.

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) **Section 3** of this bill authorizes the Chair of the Commission to apply for grants and accept grants, bequests, devises, donations and gifts. **Section 8** of this bill requires the Commission to include certain items relating to criminal justice on an agenda for discussion and to issue a report.

Existing law provides that a misdemeanor is punishable by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 6 months, or by both a fine and imprisonment. (NRS 193.150) **Section 10** of this bill authorizes each county to establish a community court pilot project within any of its justice courts located in the county to provide an alternative to sentencing a person who is charged with ~~felony or misdemeanor;~~ certain misdemeanors. **Section 11** of this bill requires the community court to evaluate each defendant to determine whether services or treatment is likely to assist the defendant to modify behavior or obtain skills that may prevent the defendant from engaging in further criminal activity. The services or treatment that the community court may order the defendant to receive may include, without limitation, treatment for alcohol or substance abuse, health education, treatment for mental health, family counseling, literacy assistance, job training, housing assistance or any other services or treatment that the community court deems appropriate. **Section 11** provides that if the

defendant successfully completes all conditions imposed by the community court, the sentence to which the defendant agreed upon with the justice court must not be executed or recorded. If the defendant does not successfully complete the conditions imposed, the case will be transferred back to the justice court, and the sentence must be carried out.

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

**Section 1.** NRS 205.060 is hereby amended to read as follows:

205.060 1. ~~{A}~~ ***Except as otherwise provided in subsection 5, a*** person who, by day or night, enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse or other building, tent, vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, is guilty of burglary.

2. Except as otherwise provided in this section, a person convicted of burglary is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of burglary and who has previously been convicted of burglary or another crime involving the forcible entry or invasion of a dwelling must not be released on probation or granted a suspension of sentence.

3. Whenever a burglary is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car traveled during the time the burglary was committed.

4. A person convicted of burglary who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

5. ***The crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny unless the person has previously been convicted:***



*(a) Two or more times for committing petit larceny within the immediately preceding 7 years; or*

*(b) Of a felony.*

**Sec. 1.5.** NRS 207.030 is hereby amended to read as follows:

207.030 1. It is unlawful to:

(a) Offer or agree to engage in or engage in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view;

(b) Offer or agree to engage in, engage in or aid and abet any act of prostitution;

(c) Be a pimp, panderer or procurer or live in or about houses of prostitution;

(d) Seek admission to a house upon frivolous pretexts for no other apparent motive than to see who may be therein, or to gain an insight of the premises;

(e) Keep a place where lost or stolen property is concealed;

(f) Loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act; **or**

(g) Lodge in any building, structure or place, whether public or private ~~to~~ **without** :

**(1) Where a notice of default and election to sell has been recorded, unless the person is the owner, tenant or entitled to the possession or control thereof;**

**(2) Which has been placed on a registry of vacant, abandoned or foreclosed property by a local government, unless the person is the owner, tenant or entitled to the possession or control thereof; or**

**(3) Without** the permission of the owner or person entitled to the possession or in control thereof.

2. A person who violates a provision of subsection 1 shall be punished:

(a) For the first violation of paragraph (a), (b) or (c) of subsection 1 and for each subsequent violation of the same paragraph occurring more than 3 years after the first violation, for a misdemeanor.

(b) For the second violation of paragraph (a), (b) or (c) of subsection 1 within 3 years after the first violation of the same paragraph, by imprisonment in the county jail for not less than 30 days nor more than 6 months and by a fine of not less than \$250 nor more than \$1,000.

(c) For the third or subsequent violation of paragraph (a), (b) or (c) of subsection 1 within 3 years after the first violation of the same paragraph, by imprisonment in the county jail for 6 months and by a fine of not less than \$250 nor more than \$1,000.

(d) For a violation of any provision of paragraphs (d) to (g), inclusive, of subsection 1, for a misdemeanor.

3. The terms of imprisonment prescribed by subsection 2 must be imposed to run consecutively.

4. A local government may enact an ordinance which regulates the time, place or manner in which a person or group of persons may beg or solicit alms in a public place or place open to the public.

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. *The Chair of the Commission may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of this section and NRS 176.0121 to 176.0129, inclusive.***

**2. *Any money received pursuant to this section must be deposited in the Special Account for the Support of the Advisory Commission on the Administration of Justice, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the Account. Money in the Account may only be used for the support of the Commission and its activities pursuant to this section and NRS 176.0121 to 176.0129, inclusive.***

**Sec. 4.** NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, ***and section 3 of this act***, “Commission” means the Advisory Commission on the Administration of Justice.

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

**Sec. 6.** (Deleted by amendment.)

**Sec. 7.** (Deleted by amendment.)

**Sec. 8.** 1. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123, shall, at a meeting held by the Commission, include as an item on the agenda a discussion of the following issues:

(a) A review of sentencing for all criminal offenses for which a term of imprisonment of more than 1 year may be imposed.

(b) An evaluation of the current system of parole, including a review of whether the current system should be maintained, amended or abolished.

(c) An evaluation of potential legislation relating to offenders for whom traditional imprisonment is not considered appropriate. In evaluating such potential legislation, the Commission shall consider current practices governing sentencing and release from imprisonment and correctional resources, including, without limitation, the capacities of local and state correctional facilities and institutions.

2. Upon review of the issues pursuant to subsection 1, the Commission shall prepare a comprehensive report including the Commission’s

recommended changes, the Commission's findings and any recommendations for proposed legislation. The report must be submitted to the Chair of the Senate Standing Committee on Judiciary and the Chair of the Assembly Standing Committee on Judiciary not later than June 1, 2014.

**Sec. 9.** As used in sections 10 and 11 of this act, "community court" means the community court that is established as part of a pilot project pursuant to section 10 of this act.

**Sec. 10.** 1. Each county may establish a community court pilot project within any of the justice courts located in the county to provide an alternative to sentencing a person who is charged with a misdemeanor ~~or~~, **other than a misdemeanor constituting an act of domestic violence pursuant to NRS 33.018 or a violation of NRS 484C.110 or 484C.120.**

2. Notwithstanding any other provision of law, a defendant charged with a misdemeanor **, other than a misdemeanor constituting an act of domestic violence pursuant to NRS 33.018 or a violation of NRS 484C.110 or 484C.120,** may be transferred to the community court by the justice court if the defendant:

- (a) Pleads guilty to the offense;
- (b) Has not previously been referred to the community court;
- (c) Agrees to comply with the conditions imposed by the community court; and
- (d) Agrees to a sentence, including, without limitation, a period of imprisonment in the county jail, which must be carried out if the defendant does not successfully complete the conditions imposed by the community court.

3. When a defendant is transferred to the community court, sentencing must be postponed and, if the defendant successfully completes all conditions imposed by the community court, the sentence of the defendant must not be executed or appear on the record of the defendant. If the defendant does not successfully complete all conditions imposed by the community court, the sentence must be carried out.

4. A defendant who is transferred to the community court remains under the supervision of the community court and must comply with the conditions established by the community court.

5. Each county may collaborate with state and local governmental entities as well as private persons and entities to coordinate and determine the services and treatment that may be offered to defendants who are transferred to the community court.

6. A defendant does not have a right to be referred to the community court pursuant to this section. It is not intended that the establishment or operation of the community court creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of

Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees. The decision by the justice court of whether to refer a defendant to the community court is not subject to appeal.

**Sec. 11.** 1. The community court shall provide for the evaluation of each defendant transferred to the community court to determine whether services or treatment is likely to assist the defendant to modify his or her behavior or obtain skills which may prevent the defendant from engaging in further criminal activity. Such services or treatment may include, without limitation, treatment for alcohol or substance abuse, health education, treatment for mental health, family counseling, literacy assistance, job training, housing assistance or such other services or treatment as the community court deems appropriate.

2. The community court shall provide or refer a defendant to a provider of such services or treatment. The community court may enter into contracts with persons or private entities that are qualified to evaluate defendants and provide services or treatment to defendants.

3. A defendant who is ordered by the community court to receive services or treatment shall pay for the services or treatment to the extent of his or her financial resources.

4. The justice court shall not refuse to refer a defendant to the community court based on the inability of the defendant to pay any or all of the related costs.

5. The community court shall order a defendant to perform a specified amount of community service in addition to any services or treatment to which the defendant is ordered to receive. Such community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

6. Notwithstanding any other provision of law, if a defendant successfully completes the conditions imposed by the community court, the community court shall so certify to the justice court, and the sentence imposed pursuant to section 10 of this act must not be executed or recorded. If the defendant does not successfully complete the conditions imposed by the community court, the case must be transferred back to the justice court, and the sentence must be carried out.

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 415.

Remarks by Assemblyman Frierson.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Senate Bill No. 280, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 777 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 15, which is attached to and hereby made a part of this report.

JASON FRIERSON  
MAGGIE CARLTON  
WESLEY DUNCAN

*Assembly Conference Committee*

RUBEN KIHUEN  
SCOTT HAMMOND  
JUSTIN JONES

*Senate Conference Committee*

Conference Amendment No. CA15.

AN ACT relating to common-interest communities; ~~revising provisions governing an association's lien on a unit;~~ **authorizing the establishment of an impound account for the payment of assessments under certain circumstances;** revising provisions governing the ~~payment~~ **collection of past due** financial obligations **owed** to an association; revising provisions governing the foreclosure of an association's lien by sale; requiring an association to provide a statement concerning certain amounts due to the association under certain circumstances; authorizing an association to charge a fee for such a statement; and providing other matters properly relating thereto.

#### **Legislative Counsel's Digest:**

Under existing law, a homeowners' association has a lien on a unit for certain amounts due to the association. ~~Generally, the association's lien is not prior to a first security interest on the unit recorded before the date on which the amount sought to be enforced became delinquent. However, the association's lien is prior to the first security interest on the unit to the extent of certain maintenance and abatement charges and a certain amount of assessments for common expenses. The portion of the association's lien that is prior to the first security interest on the unit is commonly referred to as the "super priority lien."~~ (NRS 116.3116) Existing law authorizes the association to foreclose its lien by sale and prescribes the procedures for such a foreclosure. (NRS 116.31162-116.31168)

~~[This bill revises provisions governing the association's lien on a unit and the foreclosure of the association's lien. Section 10 of this bill provides that the association does not have a priority lien over the first security interest when the association forecloses its lien and, thus, the foreclosure of the association's lien does not extinguish the first security interest on the unit. However, under section 7 of this bill, if the holder of the first security interest forecloses on a unit, the association has a lien on the unit which is prior to the first security interest. This priority lien consists of the amounts included in the "super priority lien" under existing law and the costs of collecting the assessments included in the "super priority lien," unless the federal~~

~~regulations adopted by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Department of Veterans Affairs require a shorter period of priority or prohibit the inclusion of collection costs in the "super-priority lien." Section 7 also limits the amount of the costs of collecting included in the lien upon the foreclosure of the first security interest.]~~

Section 7 of this bill authorizes the establishment of an impound account for advance contributions for the payment of assessments. Under section 8 of this bill, ~~the association may not foreclose its lien by sale based on unpaid collection costs. Section 9 of this bill requires that certain notice of the foreclosure of the association's lien be provided by certified or registered mail, return receipt requested, rather than by first class mail.~~

~~Section 3 of this bill: (1) sets forth the order in which an association must apply a payment made by a unit's owner who is delinquent in the payment of assessments, unless a contract between the association and the unit's owner provides otherwise; and (2) prohibits the association or its agent from refusing to accept a partial payment from a unit's owner or any holder of a first security interest encumbering the interest of the unit's owner because the amount tendered is less than the amount owed.]~~ not earlier than 60 days after a unit's owner becomes delinquent on a payment owed to the association and before the association mails a notice of delinquent assessment or takes any other action to collect a past due obligation, the association must mail a notice to the unit's owner setting forth the fees that may be charged if the unit's owner fails to pay the past due obligation, a proposed repayment plan and certain information concerning the procedure for requesting a hearing before the executive board.

Section 11 of this bill authorizes a unit's owner, ~~for~~ the authorized agent of a unit's owner or the holder of a security interest on the unit to request from the association a statement concerning certain amounts owed to the association. Under section 11, the association may charge certain fees for such a statement. Section 11 also revises provisions governing the resale package provided to a prospective purchaser of a unit and authorizes the association to charge a fee for providing in electronic format certain documents related to the resale package.

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

Section 1. [Chapter 116 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. ~~{As used in this section and NRS 116.3116 to 116.31168, inclusive, and section 3 of this act, unless the context otherwise requires, "first security interest" means a first security interest described in paragraph (b) of subsection 2 of NRS 116.3116.}~~ (Deleted by amendment.)

Sec. 3. ~~{1. Unless the parties agree otherwise, the association shall apply any sums paid by a unit's owner who is delinquent in paying assessments in the following order:~~

- ~~—(a) Unpaid assessments;~~
- ~~—(b) Charges for late payment of assessments;~~
- ~~—(c) Costs of collecting past due assessments charged to the unit's owner pursuant to NRS 116.310313; and~~
- ~~—(d) All other unpaid fees, charges, fines, penalties, costs of collecting charged to a unit's owner pursuant to NRS 116.310313, interest and late charges.~~

~~2. The association or its agent shall not refuse to accept a partial payment from a unit's owner or any holder of a first security interest encumbering the interest of the unit's owner because the amount tendered is less than the amount owed.}~~ (Deleted by amendment.)

Sec. 4. ~~{NRS 116.1203 is hereby amended to read as follows:~~

~~—116.1203 1. Except as otherwise provided in subsections 2 and 3, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable;~~

~~—2. The provisions of NRS 116.12065 and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that the definitions are necessary to construe any of those provisions, apply to a residential planned community containing more than 6 units.~~

~~—3. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, and sections 2 and 3 of this act and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than 6 units.}~~ (Deleted by amendment.)

Sec. 5. ~~{NRS 116.12075 is hereby amended to read as follows:~~

~~—116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:~~

- ~~—(a) This entire chapter applies to the condominium;~~
- ~~—(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 to 116.31168, inclusive, and sections 2 and 3 of this act apply to the condominium; or~~

~~— (c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, and sections 2 and 3 of this act apply to the condominium.~~

~~— 2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:~~

~~— (a) Notwithstanding NRS 116.3105, any management, maintenance operations or employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant continues in force after the declarant turns over control of the association; and~~

~~— (b) Notwithstanding NRS 116.1104 and subsection 3 of NRS 116.311, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.] (Deleted by amendment.)~~

**Sec. 6.** ~~NRS 116.31068 is hereby amended to read as follows:~~

~~116.31068 1. Except as otherwise provided in subsection 3, an association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit's owner designates. Except as otherwise provided in subsection 3, if a unit's owner has not designated a mailing or electronic mail address to which a notice must be delivered, the association may deliver notices by:~~

~~— (a) Hand delivery to each unit's owner;~~

~~— (b) Hand delivery, United States mail, postage paid, or commercially reasonable delivery service to the mailing address of each unit;~~

~~— (c) Electronic means, if the unit's owner has given the association an electronic mail address; or~~

~~— (d) Any other method reasonably calculated to provide notice to the unit's owner.~~

~~— 2. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.~~

~~— 3. The provisions of this section do not apply:~~

~~— (a) To a notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive [;], and sections 2 and 3 of this act; or~~

~~— (b) If any other provision of this chapter specifies the manner in which a notice must be given by an association.] (Deleted by amendment.)~~

**Sec. 7.** NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are



enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

~~3.1~~ ~~f~~

~~3.1~~ The ~~association has a~~ lien ~~which~~ is also prior to all security interests described in paragraph (b) ~~(the first security interest)~~ to the extent of any ~~f~~

~~(a) Any~~ charges incurred by the association on a unit pursuant to NRS 116.310312 ~~f~~ and to the extent of ~~f~~

~~(b) Except as otherwise provided in this paragraph,~~ the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. ~~fa trustee's sale or foreclosure sale of the unit to enforce the first security interest and the costs of collecting those assessments which are charged to a unit's owner pursuant to NRS 116.310312.~~ If federal regulations adopted by the Federal Home Loan Mortgage Corporation ~~f~~ or the Federal National Mortgage Association ~~for the Department of Veterans Affairs~~ require a shorter period of priority for the lien ~~for prohibit the inclusion of costs of collecting in the lien,~~ the period during which ~~amount of~~ the lien ~~which~~ is prior to all security interests described in paragraph (b) ~~(the first security interest pursuant to this paragraph)~~ must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does ~~fa trustee's sale or foreclosure sale of the unit to enforce the first security interest. The amount of the costs of collecting~~

~~included in the lien pursuant to this paragraph must not exceed the amounts set forth in the regulations adopted by the Commission pursuant to NRS 116.310313, except that the amount included in the lien to recover the actual costs charged to the association or a person acting on behalf of the association to collect a past due obligation by a person who is not an officer, director, agent or affiliate of the community manager of the association or of an agent of the association, including, without limitation, the cost of a trustee's sale guarantee and other title costs, recording costs, posting and publishing costs, sale costs, mailing costs, express delivery costs and skip trace fees, must not exceed \$500.~~

~~4. The provisions of subsections 2 and 3 do~~ not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. ~~{5.}~~ ~~The holder of the {first}~~ security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of ~~the first~~ that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.

~~{6.}~~ 4. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~{4.}~~ ~~{7.}~~ 5. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~{5.}~~ ~~{8.}~~ 6. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

~~{6.}~~ ~~{9.}~~ 7. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

~~{7.}~~ ~~{10.}~~ 8. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~{8.}~~ ~~{11.}~~ 9. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to

116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

~~19.1~~ ~~112.1~~ 10. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~110.1~~ ~~113.1~~ 11. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

**Sec. 8.** NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection ~~14.1~~ 5. in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale

has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

- (1) Describe the deficiency in payment.
- (2) State the name and address of the person authorized by the association to enforce the lien by sale.
- (3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

- (a) The date on which the notice of default is recorded; or
- (b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

↪ whichever date occurs later.

4. An association may not mail to a unit's owner or his or her successor in interest a letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless, not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner:

(a) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

(b) A proposed repayment plan; and

(c) A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing.

5. The association may not foreclose a lien by sale based on a ~~the~~

~~(a) The costs of collecting charged to a unit's owner pursuant to NRS 116.310313.~~

~~(b) A~~ fine or penalty for a violation of the governing documents of the association unless:

(a) ~~((1))~~ The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) ~~((2))~~ The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

**Sec. 9.** NRS 116.311635 is hereby amended to read as follows:

116.311635 1. The association or other person conducting the sale shall also, after the expiration of the 90 days and before selling the unit:

(a) Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that in lieu of following the procedure for service on a judgment debtor pursuant to NRS 21.130, service must be made on the unit's owner as follows:

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and to the address of the unit; and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

(b) Mail, on or before the date of first publication or posting, a copy of the notice by ~~first-class mail~~ **certified or registered mail, return receipt requested**, to:

(1) Each person entitled to receive a copy of the notice of default and election to sell notice under NRS 116.31163;

(2) The holder of a recorded security interest or the purchaser of the unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

(3) The Ombudsman.

2. In addition to the requirements set forth in subsection 1, a copy of the notice of sale must be served:

(a) By a person who is 18 years of age or older and who is not a party to or interested in the sale by personally delivering a copy of the notice of sale to an occupant of the unit who is of suitable age; or

(b) By posting a copy of the notice of sale in a conspicuous place on the unit.

3. Any copy of the notice of sale required to be served pursuant to this section must include:

(a) The amount necessary to satisfy the lien as of the date of the proposed sale; and

(b) The following warning in 14-point bold type:

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL (name and telephone number of the contact person for the association). IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (toll-free telephone number designated by the Division) IMMEDIATELY.

4. Proof of service of any copy of the notice of sale required to be served pursuant to this section must consist of:

(a) A certificate of mailing which evidences that the notice was mailed through the United States Postal Service; or

(b) An affidavit of service signed by the person who served the notice stating:

(1) The time of service, manner of service and location of service; and

(2) The name of the person served or, if the notice was not served on a person, a description of the location where the notice was posted on the unit.

**Sec. 10.** ~~NRS 116.31164 is hereby amended to read as follows:~~

~~116.31164 1. The sale must be conducted in the county in which the common interest community or part of it is situated, and may be conducted by the association, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State, except that the sale may be made at the office of the association if the notice of the sale so provided, whether the unit is located within the same county as the office of the association or not. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale.~~

~~2. On the day of sale originally advertised or to which the sale is postponed, at the time and place specified in the notice or postponement, the person conducting the sale may sell the unit at public auction to the highest cash bidder. Unless otherwise provided in the declaration or by agreement, the association may purchase the unit and hold, lease, mortgage or convey it. The association may purchase by a credit bid up to the amount of the unpaid~~

~~assessments and any permitted costs, fees and expenses incident to the enforcement of its lien.~~

~~3. After the sale, the person conducting the sale shall:~~

~~(a) Make, execute and, after payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the grantee all title of the unit's owner to the unit;~~

~~(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his or her successor or assign; and~~

~~(c) Apply the proceeds of the sale for the following purposes in the following order:~~

~~(1) The reasonable expenses of sale;~~

~~(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;~~

~~(3) Satisfaction of the association's lien;~~

~~(4) Satisfaction in the order of priority of any subordinate claim of record; and~~

~~(5) Remittance of any excess to the unit's owner.~~

~~4. The foreclosure by sale of the association's lien does not extinguish the rights of the holder of the first security interest. (Deleted by amendment.)~~

**Sec. 11.** NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his or her authorized agent shall, at the expense of the unit's owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095.

(b) A statement from the association setting forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner. ~~for the period specified in the statement, which must not be less than 15 working days from the date of delivery by the association to the unit's owner or his or her agent. If the association becomes aware of an error in the statement during the period in which the statement is effective but before the consummation of the resale, the association must deliver a replacement~~

~~statement to the unit's owner or his or her agent and obtain an acknowledgment in writing by the unit's owner or his or her agent before that consummation. Unless the unit's owner or his or her agent receives a replacement statement, the unit's owner or his or her agent may rely upon the accuracy of the information set forth in a statement provided by the association for the resale.}~~

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152.

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit.

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit's owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his or her authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his or her authorized agent, the association shall furnish all of the following to the unit's owner or his or her authorized agent for inclusion in the resale package:



(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b), (d), (e) and (f) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The other documents furnished pursuant to subsection 3 must be provided in electronic format ~~at no charge~~ to the unit's owner. ~~for, if~~ ***The association may charge the unit's owner a fee, not to exceed \$20, to provide such documents in electronic format. If*** the association is unable to provide such documents in electronic format, the association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter, to cover the cost of copying.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the purchaser is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his or her authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

7. A unit's owner, ~~for~~ the authorized agent of the unit's owner or the holder of a security interest on the unit may request a statement of demand from the association. Not later than 10 days after receipt of a written request from ~~for~~ the unit's owner, ~~for~~ the authorized agent of the unit's owner or the holder of a security interest on the unit for a statement of demand, the association shall furnish a statement of demand to the ~~unit's owner or the authorized agent,~~ person who requested the statement. The association may charge a fee of not more than \$150 to prepare and furnish a statement of demand pursuant to this subsection and an additional fee of not more than \$100 to furnish a statement of demand within 3 days after receipt of a written request for a statement of demand. The statement of demand:

(a) Must set forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit's owner; and

(b) Remains effective for the period specified in the statement of demand, which must not be less than 15 business days after the date of delivery by the association to the unit's owner ~~for~~, the authorized agent of the unit's owner ~~for~~ or the holder of a security interest on the unit, whichever is applicable.

8. If the association becomes aware of an error in a statement of demand furnished pursuant to subsection 7 during the period in which the statement of demand is effective but before the consummation of a resale for which a resale package was furnished pursuant to subsection 1, the association must deliver a replacement statement of demand to the ~~unit's owner or the authorized agent of the unit's owner,~~ person who requested the statement of demand. Unless the ~~unit's owner or the authorized agent of the unit's owner,~~ person who requested the statement of demand receives a replacement statement of demand, the ~~unit's owner or authorized agent,~~ person may rely upon the accuracy of the information set forth in the statement of demand provided by the association for the resale. Payment of the amount set forth in the statement of demand constitutes full payment of the amount due from the selling unit's owner.

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 280.

Remarks by Assemblyman Frierson.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Senate Bill No. 389, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 749 of the Assembly be concurred in.

IRENE BUSTAMANTE ADAMS

SKIP DALY

IRA HANSEN

*Assembly Conference Committee*

TICK SEGERBLOM

RUBEN KIHUEN

SCOTT HAMMOND

*Senate Conference Committee*

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 389.

Remarks by Assemblyman Frierson.

Motion carried by a constitutional majority.

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 283, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 866 of the Senate 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.

SKIP DALY

TERESA BENITEZ-THOMPSON

IRA HANSEN

*Assembly Conference Committee*

PAT SPEARMAN

DAVID PARKS

PETE GOICOECHEA

*Senate Conference Committee*

Conference Amendment No. CA3.

AN ACT relating to public works; extending the authority for the Department of Transportation to contract with a construction manager at risk for the construction, reconstruction, improvement and maintenance of highways through June 30, 2017; amending certain requirements governing contractors involved in public works; amending certain requirements governing bidding for public works when a public body decides to contract with a construction manager at risk; prospectively repealing provisions relating to construction managers at risk; and providing other matters properly relating thereto.

#### **Legislative Counsel's Digest:**

Existing law requires certain prime contractors who submit bids for a public work to include with the bid a list that discloses the first tier subcontractors who will perform a certain portion of the work on the public work. (NRS 338.141) **Section 6** of this bill amends the provisions prescribing which subcontractors must be named on the list. **Section 6** also requires the prime contractor to include on the list: (1) a description of the labor or portion of the work that the prime contractor will perform; or (2) a statement that the prime contractor will perform all work other than that being performed by a subcontractor named on the list.

Existing law allows a public body to contract with a construction manager at risk, which is a construction manager who is required to construct a public work within a guaranteed maximum price, a fixed price or a fixed price plus reimbursement for certain costs. (NRS 338.169, 338.1696) **Section 7.5** of this bill limits to two per year the number of public works for which each public body in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) may enter into contracts with a construction manager at risk.

**Section 8** of this bill requires a request for proposals for a construction manager at risk to include a list of the selection criteria and the relative weight thereof that will be used to rank applicants for a construction manager at risk.

Existing law requires a proposal for a construction manager at risk to include an explanation of the experience that the applicant has with projects of similar size and scope. **Section 8** specifies that the explanation may include an explanation of experience by any delivery method, regardless of whether that method was the use of a construction manager at risk, and including design-build, design-assist, negotiated work or value-engineered work. **Section 8** also requires the public body or its authorized representative to make available to the public the name of each applicant who submits a proposal for a public work to be performed by a construction manager at risk.

**Section 10** of this bill requires a construction manager at risk who has entered into a contract with a public body for services related to construction that are provided before actual construction begins to provide to the public body, before entering into a contract for construction of the public work, a list of the labor or portions of the work which are estimated by the construction manager at risk to exceed a certain percentage of the estimated cost of the public work.

Existing law requires a public body to appoint a panel of at least three persons, with at least two having experience in the construction industry, to rank proposals and interview the top applicants for a public work. (NRS 338.1693) **Section 9** of this bill limits such a panel to seven members and requires that a majority of the panel have experience in the construction industry. **Section 9** also authorizes the public body to appoint another panel, similarly comprised, to interview the top applicants.

**Section 11** of this bill provides that if a public work involves predominantly horizontal construction, a construction manager at risk who enters into a contract for the construction of the public work shall perform construction work equal in value to at least 25 percent of the estimated cost of construction himself or herself, or using his or her own employees. **Section 2** of this bill defines the term “horizontal construction.”

**Sections 12 and 13** of this bill modify requirements governing the procedure that a construction manager at risk is required to use when selecting and contracting with subcontractors.

Under existing law, the Department of Transportation may award a contract for the construction, reconstruction, improvement and maintenance of a highway to a construction manager at risk on or before June 30, 2013. **Sections 5 and 5.3** of this bill authorize the Department to contract with a construction manager at risk for the construction, reconstruction, improvement and maintenance of highways through June 30, 2017. **Section 5** also specifies the circumstances under which the provisions of chapter 338 of NRS apply to such contracts.

**Section 14.3** of this bill requires the Department to conduct a study on the benefits to this State of entering into contracts with construction managers at risk for the construction, reconstruction, improvement or maintenance of highways and to submit that report on or before January 31, 2017, for transmittal to the 79th Session of the Legislature. **Section 14.5** of this bill requires each public body to submit annually, to the Legislature or the Legislative Commission, a report on each public work for which the public body enters into a contract with a construction manager at risk. The report must include a description of the public work, the name of the construction manager at risk and a report on the progress of the public work or, if the public work has been completed, an explanation of whether the public body is satisfied with the public work and with the contractual arrangement with the construction manager at risk.

**Section 14.7** of this bill repeals all of the provisions relating to construction managers at risk effective July 1, 2017.

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

**Section 1.** Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

*The Legislature hereby declares that the provisions of this section and NRS 338.169 to 338.16995, inclusive, relating to contracts involving construction managers at risk, are intended:*

- 1. To promote public confidence and trust in the contracting and bidding procedures for public works established therein;*
- 2. For the benefit of the public, to promote the philosophy of obtaining the best possible value as compared to low-bid contracting; and*
- 3. To better equip public bodies to address public works that present unique and complex construction challenges.*

**Sec. 2.** 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.

(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.

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.

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.

12. ***“Horizontal construction” means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.***

13. “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.

~~13.4~~ 14. “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.

~~14.1~~ **15.** “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.

~~15.1~~ **16.** “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.

~~16.1~~ **17.** “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.

~~17.1~~ **18.** “Specialty contractor” means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~18.1~~ **19.** “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.

~~{19-}~~ 20. “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.

~~{20-}~~ 21. “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.

~~{21-}~~ 22. “Supplier” means a person who provides materials, equipment or supplies for a construction project.

23. ***“Vertical construction” means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any improvement appurtenant thereto.***

~~{22-}~~ 24. “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.

~~{23-}~~ 25. “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. 2.3.** 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.

(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.

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.

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.

12. ~~“Horizontal construction” means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.~~

~~—13.1~~ “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.

~~14.1~~ 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.

~~15.1~~ 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.

~~{16.}~~ **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.

~~{17.}~~ **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.

~~{18.}~~ **17.** “Specialty contractor” means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~{19.}~~ **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.

~~{20.}~~ **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.

~~{21.}~~ 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.

~~{22.}~~ 21. “Supplier” means a person who provides materials, equipment or supplies for a construction project.

~~{23.} “Vertical construction” means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any improvement appurtenant thereto.~~

~~24.}~~ 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.

~~{25.}~~ 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. 2.5.** NRS 338.0117 is hereby amended to read as follows:

338.0117 1. To qualify to receive a preference in bidding pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS 338.147, ~~subsection 3 of NRS 338.1693,~~ subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, a contractor, an applicant or a design-build team, respectively, must submit to the public body sponsoring or financing a public work a signed affidavit which certifies that, for the duration of the project:

(a) At least 50 percent of all workers employed on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will hold a valid driver’s license or identification card issued by the Department of Motor Vehicles;

(b) All vehicles used primarily for the public work will be:

(1) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Registered in this State;

(c) At least 50 percent of the design professionals working on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles;

(d) At least 25 percent of the suppliers of the materials used for the public work will be located in this State unless the public body requires the acquisition of materials or equipment that cannot be obtained from a supplier located in this State; and

(e) The contractor, applicant or design-build team and any subcontractor engaged on the public work will maintain and make available for inspection within this State his or her records concerning payroll relating to the public work.

2. Any contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 must:

(a) Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 1; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 1 is a material breach of the contract and entitles the public body to liquidated damages only as provided in subsections 5 and 6.

3. A person or entity who believes that a contractor, applicant or design-build team has obtained a preference in bidding as described in subsection 1 but has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 may file a written objection with the public body for which the contractor, applicant or design-build team is performing the public work. A written objection authorized pursuant to this subsection must set forth proof or substantiating evidence to support the belief of the person or entity that the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1.

4. If a public body receives a written objection pursuant to subsection 3, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to 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. If the public body determines that the objection is accompanied by the required proof or substantiating evidence or if the public body determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 exists, the public body shall determine whether the contractor, applicant or design-

build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 and the public body or its authorized representative may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.

5. A public body may recover, by civil action against the party responsible for a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1, liquidated damages as described in subsection 6 for a breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. If a public body recovers liquidated damages pursuant to this subsection for a breach of a contract for a public work, the public body shall report to the State Contractors' Board the date of the breach, the name of each entity which breached the contract and the cost of the contract. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

6. If a contractor, applicant or design-build team submits the affidavit described in subsection 1, receives a preference in bidding described in subsection 1 and is awarded the contract, the contract between the contractor, applicant or design-build team and the public body, each contract between the contractor, applicant or design-build team and a subcontractor or supplier and each contract between a subcontractor and a subcontractor or supplier must provide that:

(a) If a party to the contract causes a material breach of the contract between the contractor, applicant or design-build team and the public body as a result of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1, the party is liable to the public body for liquidated damages in the amount of 1 percent of the cost of the largest contract to which he or she is a party;

(b) The right to recover the amount determined pursuant to paragraph (a) by the public body pursuant to subsection 5 may be enforced by the public body directly against the party that causes the material breach; and

(c) No other party to the contract is liable to the public body for liquidated damages.

7. A public body that awards a contract for a public work to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 shall, on or before July 31 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. The report must include information on each contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a

preference in bidding described in subsection 1, including, without limitation, the name of the contractor, applicant or design-build team who was awarded the contract, the cost of the contract, a brief description of the public work and a description of the degree to which the contractor, applicant or design-build team and each subcontractor complied with the requirements of paragraphs (a) to (e), inclusive, of subsection 1.

**Sec. 3.** NRS 338.018 is hereby amended to read as follows:

338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~16~~ 17 of NRS 338.010.

**Sec. 3.5.** NRS 338.018 is hereby amended to read as follows:

338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~17~~ 16 of NRS 338.010.

**Sec. 4.** NRS 338.075 is hereby amended to read as follows:

338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~16~~ 17 of NRS 338.010.

**Sec. 4.5.** NRS 338.075 is hereby amended to read as follows:

338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~17~~ 16 of NRS 338.010.

**Sec. 5.** NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of NRS 338.1415 and:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.16995, inclusive ~~1~~, and **section 1 of this act**; or
- (d) NRS 338.1711 to 338.173, inclusive.

2. ***Except as otherwise provided in this subsection, subsection 3 and chapter 408 of NRS, the provisions of this chapter 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 408.201 and 408.313 to 408.433, inclusive.** The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 ~~338.169 to 338.16995, 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 408.201 and 408.313 to 408.433, inclusive.

**3. To the extent that a provision of this chapter precludes the granting of federal assistance or reduces the amount of such assistance with respect to a contract for the construction, reconstruction, improvement or maintenance of highways that is awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive, that provision of this chapter does not apply to the Department of Transportation or the contract.**

**Sec. 5.3.** 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 NRS 338.1415 and:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive; **or**
- (c) ~~NRS 338.169 to 338.16995, inclusive, and section 1 of this act; or~~
- ~~—(d)—~~ NRS 338.1711 to 338.173, inclusive.

2. Except as otherwise provided in this subsection, subsection 3 and chapter 408 of NRS, the provisions of this chapter 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 408.201 and 408.313 to 408.433, inclusive. 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 408.201 and 408.313 to 408.433, inclusive.

3. To the extent that a provision of this chapter precludes the granting of federal assistance or reduces the amount of such assistance with respect to a contract for the construction, reconstruction, improvement or maintenance of highways that is awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive, that provision of this chapter does not apply to the Department of Transportation or the contract.

**Sec. 5.5.** 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 ~~for 338.16991~~ or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as

applicable, files a written request for a hearing with the 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. 5.7.** NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, 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 having a general circulation within 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 lowest responsive and responsible bidder.

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; **or**

(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 . ~~for~~

~~—(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 338.16995, inclusive.~~

**Sec. 6.** 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 , ~~for~~ paragraph (a) of subsection 1 of NRS 338.143 **or NRS 408.327** 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~~ :

**(1) 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 \$250,000.

**(2) If any one of the contractors who submitted one of the three lowest bids will employ a 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 not be paid an amount exceeding \$250,000, 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 1 percent of the prime contractor's total bid or \$50,000, whichever is greater . ~~It and~~**

**(3) For each first tier subcontractor whose name is listed pursuant to subparagraph (1) or (2),** 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,~~ **If the prime contractor will perform any ~~of the~~ work ~~required to be~~ which is more than 1 percent of the prime contractor's total bid and which is not being performed by a subcontractor listed pursuant to paragraph (a) or (b) of subsection 1 ~~It~~, the prime contractor shall also include on the list:**

**(a) A description of the labor or portion of the work that the prime contractor will perform; or**

**(b) A statement that the prime contractor will perform all work other than that being performed by a subcontractor 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 Division 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 Division 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 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, ~~[indicated pursuant to subsection 3 that he or she would perform a portion of work on the public work and,]~~ after the submission of the bid, substitutes a subcontractor to perform ~~[such work,]~~ **the work indicated pursuant to subsection 3 that the prime contractor would perform**, the prime contractor shall 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. 6.5.** NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, 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 within 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 within 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 or 338.1446.

(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 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; **or**

(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. ~~For~~

~~—(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 338.16995, inclusive.~~

**Sec. 7.** (Deleted by amendment.)

**Sec. 7.5.** NRS 338.169 is hereby amended to read as follows:

338.169 ~~1A~~

**1. Subject to the provisions of subsection 2, a** public body may construct a public work by:

~~1.1~~ **(a)** Selecting a construction manager at risk pursuant to the provisions of NRS 338.1691 to 338.1696, inclusive; and

~~1.2~~ **(b)** Entering into separate contracts with a construction manager at risk:

~~1(a)~~ **(1)** For preconstruction services, including, without limitation:

~~1(1)~~ **(I)** Assisting the public body in determining whether scheduling or constructability problems exist that would delay the construction of the public work;

~~1(2)~~ **(II)** Estimating the cost of the labor and material for the public work; and

~~1(3)~~ **(III)** Assisting the public body in determining whether the public work can be constructed within the public body's budget; and

~~1(b)~~ **(2)** To construct the public work.

**2. A public body in a county whose population is less than 100,000 may enter into contracts with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive, for the construction of not more than two public works in a calendar year that are discrete projects.**

**Sec. 8.** NRS 338.1692 is hereby amended to read as follows:

338.1692 1. A public body or its authorized representative shall advertise for 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 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 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 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;
- (h) A list of the selection criteria and relative weight of the selection criteria that will be used to ~~evaluate~~ **rank** proposals ~~that~~ **pursuant to subsection 2 of NRS 338.1693;**
- (i) A list of the selection criteria and relative weight of the selection criteria that will be used to rank applicants pursuant to subsection 7 of NRS 338.1693; and**

~~(j)~~ **(j)** 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 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 ~~that~~ **by any delivery method, whether or not that method was the use of a construction manager at risk, and** including, without limitation, ~~an explanation of the~~

~~experience that the applicant has in assisting in the design of such projects]~~  
**design-build, design-assist, negotiated work or value-engineered work**, 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) Evidence of the ability of the applicant to obtain the necessary bonding  
 for the work to be required by the public body;

(d) Evidence that the applicant has obtained or has the ability to obtain  
 such insurance as may be required by law;

(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 which includes, if the public work involves predominantly  
 horizontal construction, a statement that the applicant will perform  
 construction work equal in value to at least 25 percent of the estimated cost  
 of construction; 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.

**4. The public body or its authorized representative shall make available  
 to the public the name of each applicant who submits a proposal pursuant  
 to this section.**

**Sec. 9.** 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 **but not more than seven**  
 members, ~~at least two~~ **a majority** of whom must have experience in the

construction industry, to rank the proposals submitted to the public body by evaluating the proposals as required pursuant to subsections 2 and 3.

2. The panel ***appointed pursuant to subsection 1*** shall rank the proposals by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) 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 proposals, the panel ***appointed pursuant to subsection 1*** shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. 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 ***appointed pursuant to subsection 1*** ranks the proposals, the public body or its authorized representative shall, except as otherwise provided in subsection ~~5~~, **8**, select at least the two but not more than the five applicants whose proposals received the highest scores for interviews.

5. ***The public body or its authorized representative may appoint a separate panel to interview and rank the applicants selected pursuant to subsection 4. If a separate panel is appointed pursuant to this subsection, the panel must consist of at least three but not more than seven members, a majority of whom must have experience in the construction industry.***

6. During the interview process, the ~~public body or its authorized representative~~ ***panel conducting the interview*** 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. ***All presentations made at any interview conducted pursuant to this subsection or subsection 5 may be made only by key personnel employed by the applicant, as determined by the applicant, and the employees of the applicant who will be directly responsible for managing the preconstruction and construction of the public work.***

7. After conducting such interviews, the panel ***that conducted the interviews*** shall rank the applicants by using a ranking process that is separate from the process used to rank ~~proposals~~ ***the applicants*** 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.}~~ ***When ranking the applicants, the panel that conducted the interviews shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. 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.***

8. If the public body did not receive at least two proposals, the public body may not contract with a construction manager at risk.

~~{6.}~~ 9. Upon receipt of the final rankings of the applicants from the panel ~~{1.}~~ ***that conducted the interviews***, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to ~~{subsections 2, 3 and 4}~~ ***the provisions of this section*** 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.}~~ 10. The public body or its authorized representative shall make available to all applicants and the public the final rankings of the applicants, ***as determined by the panel that conducted the interviews***, and shall provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

**Sec. 10.** 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 338.1693, 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 shall terminate negotiations with that applicant and:

- (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.

**3. *Before entering into a contract with the public body to construct a public work or a portion thereof pursuant to subsection 1, the construction manager at risk shall:***

***(a) Provide the public body with a list of the labor or portions of the work which are estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work; and***

***(b) Select each subcontractor who is to provide labor or a portion of the work which is estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work in accordance with NRS 338.16991 and 338.16995 and provide the names of each selected subcontractor to the public body.***

**4. *Except as otherwise provided in subsection 13 of NRS 338.16995, a public body shall not interfere with the right of the construction manager at risk to select the subcontractor whom the construction manager at risk determines to have submitted the best proposal pursuant to NRS 338.16995.***

**Sec. 11.** NRS 338.16985 is hereby amended to read as follows:

338.16985 A construction manager at risk who enters into a contract for the construction of a public work pursuant to NRS 338.1696:

1. Is responsible for contracting for the services of any necessary subcontractor, supplier or independent contractor necessary for the construction of the public work and for the performance of and payment to any such subcontractors, suppliers or independent contractors.

2. If the public work involves ~~the~~ **predominantly horizontal** construction , ~~of a fixed work that is described in subsection 2 of NRS 624.215,~~ shall perform ~~not less than 25~~ **construction work equal in value to at least 25** percent of the **estimated cost of** construction ~~of the fixed work~~ himself or herself , or using his or her own employees.

3. If the public work involves ~~the~~ **predominantly vertical** construction , ~~of a building or structure that is described in subsection 3 of NRS 624.215,~~ may perform himself or herself or using his or her own employees as much of the construction of the building or structure that the construction manager at risk is able to demonstrate that the construction manager at risk or his or her own employees have performed on similar projects.

**Sec. 12.** NRS 338.16991 is hereby amended to read as follows:

338.16991 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. **Not earlier than 30 days after a construction manager at risk has been selected pursuant to NRS 338.1693** ~~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~~ **10 working** days before the date by which ~~such~~ an application must be submitted, the construction manager at risk shall advertise for ~~such~~ applications **from subcontractors** 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. ***The construction manager at risk may accept an application from a subcontractor before advertising for applications pursuant to this subsection.***

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. 13.** NRS 338.16995 is hereby amended to read as follows:

338.16995 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 ~~or~~ **or \$50,000, whichever is greater.**

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 NRS 338.16991 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~~ **If a preproposal meeting regarding the scope of the work to be performed by the subcontractor is to be held, the** date, time and place at which ~~at~~ **the** 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~~ **If a preproposal meeting regarding the scope of the work to be performed by the subcontractor is held, 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 public body may require** the architect or engineer responsible for the design of the public work ~~but~~ **to attend the opening of the proposals. The opening of the proposals** 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~~ **more** than 10 working days after opening the proposals ~~to~~ **and before the construction manager at risk submits a guaranteed maximum price, a fixed price or a fixed price plus reimbursement pursuant to NRS 338.1696,** 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. **Subject to the provisions of subparagraphs (1), (2) and (3), if only one subcontractor submits a proposal, the construction manager at risk may select that subcontractor.** The subcontractor must be selected from among those:

(1) Who attended the preproposal meeting ~~to~~ **regarding the scope of the work to be performed by the subcontractor, if such a preproposal meeting was held;**

(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~~ **subsections 13 ~~14~~ and 15**, 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. ***If a construction manager at risk substitutes a subcontractor for any subcontractor selected pursuant to subsection 9 without complying with the provisions of subsection 13, the construction manager at risk shall forfeit, as a penalty to the public body, an amount equal to 1 percent of the total amount of the contract.***

15. ***If a construction manager at risk does not select a subcontractor pursuant to subsection 9 to perform a portion of work on a public work, the construction manager at risk shall notify the public body that the construction manager at risk intends to perform that portion of work. If, after providing such notification, the construction manager at risk substitutes a subcontractor to perform the work, the construction manager at risk shall forfeit, as a penalty to the public body, 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 construction manager at risk selected himself or herself to perform on the public work.***

**16.** The construction manager at risk shall make available to the public ~~including, without limitation,~~ **the name of** 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.~~ **17.** 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.

**18.** *As used in this section, “general terms” has the meaning ascribed to it in NRS 338.141.*

**Sec. 13.5.** 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 ~~338.1695,~~ **338.168**, inclusive, 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 has an estimated cost which exceeds \$5,000,000.

**Sec. 14.** 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) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

- (1) The length of time necessary to commence the project.
- (2) The number of workers estimated to be employed on the project.
- (3) The effectiveness of the project in reducing energy consumption.
- (4) The estimated cost of the project.

(5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

(6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(II) The Renewable Energy School Pilot Program created by NRS 701B.350;

(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or

(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.

(b) 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 Director of the Office of Energy 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 ~~12~~ 13 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. 14.1.** 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) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

- (1) The length of time necessary to commence the project.
- (2) The number of workers estimated to be employed on the project.
- (3) The effectiveness of the project in reducing energy consumption.
- (4) The estimated cost of the project.
- (5) Whether the project is able to be powered by or otherwise use sources of renewable energy.
- (6) Whether the project has qualified for participation in one or more of the following programs:

(I) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(II) The Renewable Energy School Pilot Program created by NRS 701B.350;

(III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or

(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.

(b) 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 Director of the Office of Energy 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. 14.3.** The Department of Transportation shall:

1. Conduct a study on the benefits to this State of entering into contracts with construction managers at risk pursuant to NRS 338.169 to 338.16995, inclusive, for the construction, reconstruction, improvement or maintenance of highways; and

2. On or before January 31, 2017, submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

**Sec. 14.5.** 1. On or before January 1 of each year, each public body that enters into a contract during the immediately preceding year with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive, for preconstruction services for or to construct a public work shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the report is submitted during an odd-numbered year.

2. The report required by subsection 1 must include, for each public work for which the public body enters into a contract with a construction manager at risk:

(a) A description of the public work;

(b) The name of the construction manager at risk;

(c) If the public work has not been completed at the time the report is submitted, a report on the progress of the public work; and

(d) If the public work has been completed at the time the report is submitted, an explanation of whether the public body is satisfied with the public work and with the contractual arrangement with the construction manager at risk.

3. As used in this section:

(a) “Public body” has the meaning ascribed to it in subsection 16 of NRS 338.010, as amended by section 2 of this act.

(b) “Public work” has the meaning ascribed to it in subsection 17 of NRS 338.010, as amended by section 2 of this act.

**Sec. 14.7.** NRS 338.169, 338.1691, 338.1692, 338.1693, 338.16935, 338.1696, 338.1697, 338.1698, 338.16985, 338.16991 and 338.16995 are hereby repealed.

**Sec. 15.** 1. This section and sections 1, 2, 3, 4, 5, 6, 7.5 to 13, inclusive, 14, 14.3 and 14.5 of this act become effective on July 1, 2013.

2. Section 1 of this act expires by limitation on June 30, 2017.
3. Sections 2.3, 2.5, 3.5, 4.5, 5.3, 5.5, 5.7, 6.5, 13.5, 14.1 and 14.7 of this act become effective on July 1, 2017.

#### LEADLINES OF REPEALED SECTIONS

**338.169 Public body authorized to construct public work by selecting and entering into contracts with construction manager at risk.**

**338.1691 Qualifications for construction manager at risk.**

**338.1692 Advertising for proposals for construction manager at risk; contents of request for proposals; requirements for proposals.**

**338.1693 Procedure for selection of most qualified applicants; minimum number of proposals required; negotiation of contract for preconstruction services; availability of certain information to applicants and public.**

**338.16935 Contract between construction manager at risk and subcontractor for certain preconstruction services.**

**338.1696 Negotiation of contract for construction of public work or portion thereof with construction manager at risk; awarding of contract if public body unable to negotiate satisfactory contract with construction manager at risk.**

**338.1697 Authorized provision in contract with construction manager at risk for construction of public work or portion thereof for guaranteed maximum price.**

**338.1698 Required and authorized provisions in contract for construction of public work or portion thereof awarded to construction manager at risk.**

**338.16985 Duties and powers of construction manager at risk who enters into contract for construction of public work or portion thereof.**

**338.16991 Contract between construction manager at risk and subcontractor to provide labor, materials or equipment on project: Eligibility; procedure for determination of qualification of subcontractor to submit proposal.**

**338.16995 Contract between construction manager at risk and subcontractor to provide labor, materials or equipment on project: Authority to enter into; procedure for awarding subcontracts of certain estimated value; substitution of subcontractor on such subcontracts; availability of certain information to applicants and public.**

Assemblywoman Benitez-Thompson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 283.

Remarks by Assemblywoman Benitez-Thompson.

Motion carried by a constitutional majority.



## MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bill No. 320 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

## GENERAL FILE AND THIRD READING

Senate Bill No. 123.

Bill read third time.

Remarks by Assemblymen Bobzien, Hansen, Duncan, Carlton, Fiore, and Madam Speaker.

## ASSEMBLYMAN BOBZIEN:

Senate Bill 123 requires certain electric utilities to file with the Public Utilities Commission of Nevada (PUCN) a comprehensive plan for emissions reductions from coal-fired electric generating plants and for the replacement of such plants with increased capacity from renewable energy facilities and other electric generating plants. The measure prescribes the minimum requirements of such plans, including the retirement or elimination of not less than 800 megawatts of coal-fired electric generating capacity on or before December 31, 2019; the construction or acquisition of, or contracting for, 350 megawatts of electric generating capacity from renewable energy facilities; and the construction or acquisition of 550 megawatts of electric capacity from other electric generating plants.

The measure provides for the recovery of certain costs incurred by an electric utility in carrying out an emissions reduction and capacity replacement plan. The bill prescribes the powers and duties of the Division of Environmental Protection of the State Department of Conservation and Natural Resources with respect to such a plan.

If the PUCN deems inadequate any portion of a utility's emissions reduction and capacity plan or an amendment to the plan, the PUCN may recommend a modification to the plan or amendment, and the utility may accept the modification or withdraw the proposed plan or amendment. The PUCN is required after a hearing to review and accept or modify such a plan. Finally, the bill requires that any order issued by the PUCN accepting an element of such a plan must authorize a utility to construct or acquire and own electric generating plants necessary to implement it.

The goal of this bill is to provide a means for replacing company-owned, retired coal-fired capacity with 550 megawatts of company-owned generating capacity. The Commission will determine when and how that happens through an emissions reduction capacity replacement plan. However, the bill does not replace the integrated resource plan (IRP) in process. The Commission will continue to supervise long-term resource planning and address other existing customer needs such as those met by existing contracts through that process. Number one, it addresses concerns raised by the PUCN and the independent power producers. The legislation should be construed to recognize that the Commission will use the IRP process to address existing capacity and energy needs such as those met by existing contracts. This means that the Commission has the authority to extend existing power purchase agreements to meet the need that they currently satisfy. When the Commission finds there is a need to replace existing coal-fired generating capacity that will be retired or that there is a need for new capacity, for instance to meet growth, then the Commission should authorize the company to acquire or construct and own the first 550 megawatts of capacity to replace company-owned generation retired by the plan.

Coal-fired power plants have long polluted our state and threatened the health of thousands of Nevadans. This session we are making the choice to move our state forward by moving away

from this form of production of energy. Nevada has a bright future with clean energy production and the finding of solutions for climate change. I urge passage.

ASSEMBLYMAN HANSEN:

Like you, I'd like to go home, too, but I think we need to really take a little bit of time and think about Senate Bill 123. I rise in opposition to it. As far as the policy of getting away from coal-powered plants, I have no problem, and I think everybody would agree that that's a good and noble thing.

I have to admit I've been highly disappointed in the whole dealings on S.B. 123, because this, if anything, should have been a very bipartisan effort. Normally, most of us are highly skeptical of big, giant corporations. Even in the free market, we recognize there is a need for regulation. In this case we are dealing with one of the biggest monopolies in the entire Western United States, yet we are moving away from regulation with this bill. In effect, the people don't have a lobbyist on this. I have to tell you that my involvement in this came about because some people came to me from the Consumer Protection Division and said, "Ira, we are desperate. We don't have anybody who is listening to us on this. We didn't get a fair hearing in the Senate." They wanted me to get involved in it, so I said, "Okay," and they had me get in touch with them and some staff members of the PUCN. From that, I drafted some amendments that we tried to introduce in Commerce and Labor, all of which were rejected.

It's been really fascinating to me to see this reaction, because what we have done is stripped the PUCN, by their own admission—their own staff people coming to our committee—of some absolutely vital things that we need to give to them to protect the consumer from this giant monopoly. So it is really strange that in this case, we are not having that kind of support. In effect, the 42 people here are the lobbyists for the people. There is nobody here defending the average ratepayer in the state. It is not happening. So when those amendments came up and I proposed them at the committee, I thought, frankly, we would get some support because we are moving in the wrong direction. We are taking away things that the PUCN staff wanted to have in the law. And why would they move away, and why were they intimidated? Well, frankly—and with your permission, Madam Speaker—I just want to comment on something that United States Senator Reid said after two PUCN staffers had testified in the neutral position in front of Commerce and Labor. This was the reaction from a United States Senator: "They raised hell here,"—talking about here in the Legislature—"because it was taking away their power. Well, I think we need to take power away from this little bureaucracy." That has a very, very chilling effect on people that we need to come here—staff people—and tell us the pros and cons of a piece of legislation like this. And I can tell you when we had our hearing on Sunday, one of those people was supposed to come and tell the technical parts of the amendment, and when I called him Sunday morning to make sure he was going to be there, he told me he'd been told not to come to the hearing. I was amazed by that. He was actually intimidated just to show up and testify on that. I don't know exactly who is running the show and telling these people they can't even show up to our hearings, but we need those people desperately to help us make these kinds of decisions.

If S.B. 123 is as good as everybody is pretending that it is, it should have been able to stand on its own merits. We should have had open, free, and fair discussions on these things. This thing has been ramrodded through the Senate, and I've been trying to hold it up and let everybody have a fair shake on this thing in our house. I've been getting pounded on it, as I suspect you have, too. But again, who has been lobbying on behalf of the consumer? We are talking about spending over \$1 billion of other people's money, and the one agency between a giant monopoly and the ratepayer are the persons that in this bill we are basically taking some key powers away from. So I just don't understand it. This, to me, should have been a bipartisan effort. Some of you won't even shop at Walmart because you recognize the kind of threat that those big corporations have, yet here we are going to turn to Warren Buffet. And by the way, how many of you got a personal call from Warren Buffet? The chairman of the Senate Commerce and Labor Committee got a personal call from Warren Buffet. That, to me, is very

peculiar. Does that have any impact on this legislation? I would have to say it is hard for me to believe that it doesn't.

I am sorry if I seem to be rambling a little bit, but I'm honestly baffled. For once, I would think the Democrats and Republicans would recognize that we need serious regulation over a giant monopoly like this that's going to be doing some billion dollar business, and instead we are actually removing their power. I would like to urge this body to vote no on S.B. 123. All of the stuff with the coal power plants can be done now through regulation by the PUCN. The process is already in place for that sort of thing. I don't understand why we have to have the Legislature do this sort of a thing this late in the session and try to ramrod it through with a minimum amount of hearings and keep staff people away from our hearings so that we can't get the facts and try to make a good decision. Now I understand there is going to be an interim committee. I support that concept, but the interim committee, simply made up of legislators who meet part time, won't have the same knowledge or impact or ability to really judge the facts like the PUCN does. So between the Consumer Advocate's Office and the Public Utilities Commission, we should be giving these people more authority, certainly not restricting it, which is what this bill does.

So with that, Madam Speaker, I want to wind it up. Thank you for allowing me to have my say tonight. Please consider the needs of the consumer tonight and side with them. If we are going to make a mistake, let's make a mistake on the side of protecting the consumer, not on the side of protecting a giant monopoly.

ASSEMBLYMAN DUNCAN:

I rise in opposition to Senate Bill 123. I do so with my constituents in mind this evening. I do so with many of the elderly that I have living on Social Security, on fixed incomes, and thinking about what might be the possible ramifications of this bill in the future. I'll tell you that I, too, had some concerns, like my colleague from Sparks, that some of the amendments were not adopted. I know that there was a more robust discussion on our side of the house. There wasn't that much of a robust discussion on the Senate side. I know that definitely there were some consumer protections that I wish would have gone into the bill. I'll tell you that the ratepayers are going to be on the hook, according to the bill, for the cost of constructing new plants, underdepreciating and decommissioning costs for closing coal plants, and the stockpiles of coal. I also look at the context of the volatility of natural gas prices. Over the last ten years, according to the Department of Energy, natural gas prices have been anywhere from \$2 per million BTUs all the way to \$14. As other states continue to go towards more green energy and those things, there is going to be a higher demand. We also don't know what the federal government will do with fracking and all of those things as well. So I think we could see a rise in natural gas prices, and I do believe while it's a great policy goal to continue to have cleaner energy, I think one of the things we need to keep in mind is to have some diversity in that portfolio to try to cushion the ratepayers from some of these exorbitant costs.

One of the other things that I think about, too, is Nevada struggling to try to be extremely business friendly. Energy is one of those things that matters a lot when businesses take into account where they are going to relocate. Colorado had a similar plan that went through. It was estimated that their costs would only go up about the same amount that we are being told by Nevada Energy. Their costs have actually skyrocketed to a rise between 11 percent and 50 percent when they were told it would be about 2 percent. Ratepayers pay between \$5 billion and \$22 billion more cumulatively over the 2011 to 2020 period. It was a study by Bestec and Winling who did economic modeling there. So I just rise and have some concerns. As a policy, I know we want to continue to move towards clean energy. I just would have liked to see a little bit more prudence than that. So with my constituents in mind, I rise in opposition and I urge this body to do so as well.

ASSEMBLYWOMAN CARLTON:

I rise in support of Senate Bill 123. I just wanted to put a couple of things on the record and would like to clarify and hope that my colleague from Assembly District 32 wasn't trying to attribute any motive to anything that happened with Senate Bill 123, because I believe that that would be totally inappropriate to put words in other legislators' mouths as to what actually transpired with Senate Bill 123. To characterize it as a ramrod I believe is inaccurate. We didn't get the bill until day 113. Here we are on day 120 discussing the bill. The whole session, this bill has been a topic of discussion in many of its iterations. Let's clarify a couple of other things. The PUCN has a balanced interest. They are here to protect the consumer and the shareholders. This is a balancing act because it is a monopoly. The Consumer Advocate has another position in this issue to protect the public, but they have limited ways of doing that because of the way we define public interest. So we have to make sure we understand that. The PUCN testified neutral; the Consumer Advocate testified against.

In 1999 and 2001, there were numerous proposals to deregulate electricity, because we realized the electrical scheme in this state needed to be modernized. At that time total deregulation would have been unsound for Nevada. Right after that, we experienced the ENRON problems. Nevada was thrown into a tizzy because our constituents did not have the energy that they needed and NV Energy at the time had to go out onto the spot market and buy very, very expensive energy. We were put in a terrible position.

Let's think about where energy is going in the future. Our nuclear plants that are around this side of the country are not going to be around forever, and many of them have gone past their decommission date. One of these days, they are not going to be generating electricity anymore. The state to the west will be gobbling up electricity, and we will have to be prepared to take care of our constituents and our seniors to make sure electricity is available when they flip on the switch and that it is at a good, reasonable, regulated price. If anyone thinks the price of coal is not going to go up, everything goes up. Coal is going to be expensive and natural gas is going to be expensive. We have to be able to move forward, and we have to be able to modernize. Now, this may sound quite ironic this evening, because here you have one of the liberal Democrats arguing for modernization and adjusting regulation and you have some of our more conservative friends arguing for regulation. So I find it kind of an irony this evening. But after 12 years of looking at energy and where it is going, we need to do something and we need to move forward. We can't stand still. We are going to grow. It takes two to three years to get something online for us. We can't wait until the day that our constituents are suffering from brownouts to be able to address this problem. We have to be proactive, and we have to give all of the regulators all of the tools that they need to be able to accomplish this. I'm not totally comfortable with Senate Bill 123, but it is a good step in the right direction and we have oversight built into Assembly Bill 428, which gives me a much greater level of comfort in this and knowing that this is going to be a two-to three-year process. And this is our company. It's been in Nevada for over a hundred years. These are Nevadans, and this is what it is all about—taking care of Nevadans. So I would hope that you would support Senate Bill 123.

ASSEMBLYWOMAN FIORE:

I rise in opposition of the bill. I thought about this long and hard and met with the people behind the bill. As I listen to my colleague from Assembly District 32 and my colleague from Assembly District 37, we are the lobbyists for our constituents. And sometimes my colleague from Assembly District 32 says things, but sometimes the truth hurts.

ASSEMBLYMAN BOBZIEN:

Thank you, Madam Speaker, for allowing me to rise for a second time. I have appreciated all the debate on this issue. It has been spirited, it has been very robust, and the conversations with the regulators, with the staff, with the interests, with the opposition about this bill have been very, very full. I think any insinuation that this debate has not been as full as it has been besmirches the work that we do here in this Legislature. We all represent our constituents. I,

myself, am concerned about the health impacts of coal, about the possible future costs of coal power that will hit us in the future under federal regulatory changes that might happen. This is planning. This is getting ready for the future. This is what's right for our environment, for the health of all Nevadans, and for our economy. I urge passage.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

I will just take a personal point here, myself. I'm probably the biggest critic, and I care the most in my district about my seniors who have to endure the energy costs, and I have for years. Do I think this is perfect legislation? No. Do I think there are some real precautionary pieces in there until 2018, which is section 11 of the bill? Absolutely. I think there are some real points with the mitigation to ensure that the rates do not go over 5 percent. Do I think this is the last time that energy is going to be discussed in this building? No way. I'm just thankful that more of you are interested in it, because when I started, there were about three of us. So I think it is great that people are willing to have the debate, have the discussion, learn the details, and understand the pluses and the minuses of it.

Do I think by having the energy oversight committee and having a statutory committee for the long term is the direction we have to go? Absolutely, because now it is one of our seven sectors that we focus on. Most of you have heard me say that we either have to get into the energy business or get out of the energy business. I don't think this is going away, and I don't think what happens tomorrow is going to change. What I will tell you is what no one has talked about here. There is a rate case that comes before the PUCN which gives oversight, which will be coming. There are also regulations that must be adopted, and my good colleague from District 32—he and I go through everything with a fine toothed comb. So I do think that between now and the time that we get back, there will be a big focus on it. We should have a focus on it because it is one of the seven sectors of our state that we picked because folks said that is the direction we must go. I don't think anyone should feel that having the discussion is terrible. I think everybody should stay on it. It's easy to say in these Chambers, but when you go home in 30 days, still stay on it, because that is when people forget. I would just say to vote your conscience and do what you think is best for the state. I thank all of you for wanting to have the discussion on an important piece of what makes our state go.

Roll call on Senate Bill No. 123:

YEAS—31.

NAYS—Duncan, Ellison, Fiore, Grady, Hansen, Hardy, Kirner, Livermore, Stewart, Wheeler—10.

EXCUSED—Pierce.

Senate Bill No. 123 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

#### REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 162, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

## MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2013

*To the Honorable the Assembly:*

It is my pleasure to inform your esteemed body that the Senate on this day passed Assembly Bills Nos. 473, 488, 491, 502, 505, 507, 509, 511.

Also, it is my pleasure to inform your esteemed body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 288, Amendments Nos. 671, 949; Assembly Bill No. 428, Amendment No. 966, and respectfully requests your honorable body to concur in said amendments.

Also, it is my pleasure to inform your esteemed body that the Senate on this day appointed Senators Parks, Spearman and Goicoechea as a Conference Committee concerning Assembly Bill No. 139.

Also, it is my pleasure to inform your esteemed body that the Senate on this day passed, as amended, Senate Bill No. 504.

Also, it is my pleasure to inform your esteemed body that the Senate on this day concurred in the Assembly Amendment No. 900 to Senate Bill No. 467.

Also, it is my pleasure to inform your esteemed body that the Senate on this day respectfully refused to concur in the Assembly Amendment No. 697 to Senate Bill No. 508.

Also, it is my pleasure to inform your esteemed body that the Senate on this day adopted the reports of the Conference Committees concerning Senate Bills Nos. 176, 280, 389, 450.

Also, it is my pleasure to inform your esteemed body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 228.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

## INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 504.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 162.

Bill read third time.

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

Amendment No. 983.

AN ACT relating to education; requiring the board of trustees of each school district to report to the Department of Education on a quarterly basis the average daily attendance of pupils and the ratio of pupils per licensed teacher for ~~those~~ certain grades in elementary school that are required to maintain prescribed pupil-teacher ratios; revising the ratios of pupils per licensed teacher for kindergarten and grades 1, 2 and 3; requiring school districts that include one or more elementary schools which exceed the prescribed pupil-teacher ratios in a quarter to request a variance from the

State Board of Education for the next quarter; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Superintendent of Public Instruction, on or before August 1, November 1, February 1 and May 1 of each year, to apportion the State Distributive School Account in the State General Fund among the 17 county school districts in amounts approximating one-fourth of their respective yearly apportionments. (NRS 387.124) **Section 1** of this bill requires the board of trustees of each school district to report to the Department of Education on those same dates: (1) the average daily attendance of pupils and the ratio of pupils per licensed teacher for ~~kindergarten and~~ grades 1, 2 and 3; or (2) if the school district has an alternative class-size reduction plan approved by the State Board of Education, the average daily attendance of pupils and the ratio of pupils per licensed teacher for those grades in elementary school that are required to comply with the alternative class-size reduction plan. **Section 1** also requires each school district to post the information reported to the Department on the school district's Internet website as well as information concerning any variances from the prescribed pupil-teacher ratios granted by the State Board for an elementary school within the school district.

Existing law provides that the ratio of pupils per licensed teacher in kindergarten and grades 1, 2 and 3 must not exceed 15 to 1. (NRS 388.700) In lieu of complying with these pupil-teacher ratios, a school district in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) may request approval from the State Board for a plan to reduce pupil-teacher ratios: (1) in grades 1, 2 and 3, not to exceed 22 to 1; and (2) in grades 4 and 5 or grades 4, 5 and 6, as applicable for the elementary school, not to exceed 25 to 1. (NRS 388.720) During previous sessions, the Legislature has, within the limits of available funding, appropriated money for class-size reduction in amounts that authorized pupil-teacher ratios which were higher than the statutorily prescribed ratios. **Section 2** of this bill statutorily increases the prescribed ratios: (1) for kindergarten and grades 1 and 2, to 16 to 1; and (2) for grade 3, to 18 to 1. In addition, **section 2** requires a school district that exceeds the ratios statutorily prescribed in any quarter of a school year to request a variance for the next quarter from the State Board. **Section 2** further requires the State Board to provide a quarterly report to the Interim Finance Committee on each variance requested by a school district during the preceding quarter and, if a variance was granted, the specific justification for the variance. Finally, **section 2** provides that for purposes of determining compliance with the pupil-teacher ratios, a school district must not include the count of any teachers who teach one or two specific subject areas to more than one classroom of pupils.

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

**Section 1.** Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. On or before August 1, November 1, February 1 and May 1 of each year, the board of trustees of each school district shall report to the Department for the preceding quarter:**

**(a) Except as otherwise provided in paragraph (b), the average daily attendance of pupils and the ratio of pupils per licensed teacher for ~~kindergarten and~~ grades 1, 2 and 3 for each elementary school in the school district.**

**(b) If the State Board has approved an alternative class-size reduction plan for the school district pursuant to NRS 388.720, the average daily attendance of pupils and the ratio of pupils per licensed teacher for those grades which are required to comply with the alternative class-size reduction plan for each elementary school in the school district.**

**2. The board of trustees of each school district shall post on the Internet website maintained by the school district:**

**(a) The information concerning average daily attendance and class size for each elementary school in the school district, as reported to the Department pursuant to subsection 1; and**

**(b) An identification of each elementary school in the school district, if any, for which a variance from the prescribed pupil-teacher ratios was granted by the State Board pursuant to subsection 4 of NRS 388.700.**

**Sec. 2.** NRS 388.700 is hereby amended to read as follows:

388.700 1. Except as otherwise provided in this section, ~~after the last day of the first month of the school year,~~ **for each school quarter of a school year,** the ratio in each school district of pupils per licensed teacher designated to teach, on a full-time basis, in classes where core curriculum is taught:

**(a) In kindergarten and grades 1 ~~1~~ and 2 , must not exceed 16 to 1, and in grade 3, must not exceed ~~15~~ 18 to 1; or**

**(b) If a plan is approved pursuant to subsection 3 of NRS 388.720, must not exceed the ratio set forth in that plan for the grade levels specified in the plan.**

↪ In determining this ratio, all licensed educational personnel who teach a grade level specified in paragraph (a) or a grade level specified in a plan that is approved pursuant to subsection 3 of NRS 388.720, as applicable for the school district, must be counted except teachers of art, music, physical education or special education, ***teachers who teach one or two specific***



*subject areas to more than one classroom of pupils, and* counselors, librarians, administrators, deans and specialists.

2. A school district may, within the limits of any plan adopted pursuant to NRS 388.720, assign a pupil whose enrollment in a grade occurs after the last day of the first month of the school year to any existing class regardless of the number of pupils in the class ~~if~~ ***if the school district requests and is approved for a variance from the State Board pursuant to subsection 4.***

3. Each school district that ~~does not meet~~ ***includes one or more elementary schools which exceed*** the ratio of pupils per class ~~if~~ ***during any quarter of a school year ~~if~~, as reported to the Department pursuant to section 1 of this act:***

(a) Set forth in subsection 1;

(b) Prescribed in conjunction with a legislative appropriation for the support of the class-size reduction program; or

(c) Defined by a legislatively approved alternative class-size reduction plan, if applicable to that school district,

↪ must request a variance ***for each such school for the next quarter of the current school year if a quarter remains in that school year or for the next quarter of the succeeding school year, as applicable,*** from the State Board by providing a written statement that includes the reasons for the request and the justification for exceeding the applicable prescribed ratio of pupils per class.

4. The State Board may grant to a school district a variance from the limitation on the number of pupils per class set forth in paragraph (a), (b) or (c) of subsection 3 for good cause, including the lack of available financial support specifically set aside for the reduction of pupil-teacher ratios.

5. ***The State Board shall, on a quarterly basis, submit a report to the Interim Finance Committee on each variance requested by a school district pursuant to subsection 4 during the preceding quarter and, if a variance was granted, an identification of each elementary school for which a variance was granted and the specific justification for the variance.***

6. The State Board shall, on or before February 1 of each odd-numbered year, ***submit a*** report to the Legislature on:

(a) Each variance ~~granted by it~~ ***requested by a school district pursuant to subsection 4*** during the preceding biennium ~~including~~ ***and, if a variance was granted, an identification of each elementary school for which variance was granted and*** the specific justification for the variance.

(b) The data reported to it by the various school districts pursuant to subsection 2 of NRS 388.710, including an explanation of that data, and the current pupil-teacher ratios per class in the grade levels specified in paragraph (a) of subsection 1 or the grade levels specified in a plan that is

approved pursuant to subsection 3 of NRS 388.720, as applicable for the school district.

~~{6-}~~ 7. The Department shall, on or before November 15 of each year, report to the Chief of the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau:

- (a) The number of teachers employed;
  - (b) The number of teachers employed in order to attain the ratio required by subsection 1;
  - (c) The number of pupils enrolled; and
  - (d) The number of teachers assigned to teach in the same classroom with another teacher or in any other arrangement other than one teacher assigned to one classroom of pupils,
- ↪ during the current school year in the grade levels specified in paragraph (a) of subsection 1 or the grade levels specified in a plan that is approved pursuant to subsection 3 of NRS 388.720, as applicable, for each school district.

~~{7-}~~ 8. The provisions of this section do not apply to a charter school or to a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

**Sec. 3.** This act becomes effective:

1. Upon passage and approval for the purpose of performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On July 1, 2013, for all other purposes.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywoman Carlton.

Amendment adopted.

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

#### UNFINISHED BUSINESS

#### CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 412.

The following Senate amendment was read:

Amendment No. 924.

AN ACT relating to the Legislature; revising provisions relating to the training required for newly elected Legislators; changing certain deadlines applicable to the submission and drafting of legislative measures; revising the number of legislative measures that certain persons and entities may request for drafting; restricting Legislators from requesting the drafting of legislative measures under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires newly elected Legislators to attend certain training before the beginning of their first legislative session. (NRS 218A.285)

**Section 1** of this bill requires such training to include discussion of major policy issues that are likely to be considered during the ensuing regular session of the Legislature. **Section 1** also requires the Director of the Legislative Counsel Bureau to communicate in writing the dates for training to candidates for election to the Assembly and the Senate for the ensuing regular session of the Legislature.

Existing law requires the Director to provide an electronic copy of a training session to any Legislator who was unable to attend the training session. (NRS 218A.285) **Section 1** authorizes the Director to provide an alternate means of recording the information provided during certain training sessions and requires a Legislator who was unable to attend a training session to complete that session in the manner prescribed by the Director.

Existing law contains provisions governing requests for the drafting of legislative measures for a regular session. (NRS 218D.100-218D.215) This bill revises the number of legislative measures that various persons and entities may request for drafting and also revises the deadlines for making such requests.

**Section 6** of this bill changes the number of legislative measures that Legislators and the chair of each standing committee may request by certain deadlines. **Section 6** also changes the deadlines for providing sufficient detail to allow complete drafting of a legislative measure. **Section 6** further: (1) prohibits a Legislator who has filed a declaration or an acceptance of candidacy for election to the House in which he or she is not currently sitting from requesting the drafting of legislative measures; and (2) provides that, if the Legislator is elected to the other House, any request that he or she submits before filing a declaration or an acceptance of candidacy for election counts against the applicable limitation for the House to which the Legislator was elected to serve. (NRS 218D.150)

Existing law allows each statutory legislative committee and interim study committee to request a certain number of legislative measures preceding a regular session. (NRS 218D.160) **Section 7** of this bill reduces the number of legislative measures that may be requested by the Chair of the Legislative Commission and moves up the deadline for statutory legislative committees and interim study committees to provide sufficient detail to allow complete drafting of their legislative measures.

**Section 8** of this bill revises the deadlines by which the Governor or the Governor's designated representative must submit requests for the drafting of legislative measures and increases the number of legislative measures that the

Lieutenant Governor, Secretary of State, State Treasurer, State Controller and Attorney General may request for drafting. (NRS 218D.175)

**Section 9** of this bill reduces the number of legislative measures that may be requested by the city council of a city whose population is 150,000 or more but less than 500,000 (currently the cities of Henderson, North Las Vegas and Reno). (NRS 218D.205)

Existing law authorizes the following entities to submit their own requests for the drafting of legislative measures for each regular session: (1) a mental health consortium established to develop strategic plans for the provision of mental health services to children with emotional disturbance and their families (NRS 218D.215, 433B.333); and (2) an interagency committee created by the Director of the Department of Health and Human Services to evaluate the child welfare system in this State. (NRS 432B.178) **Sections 11 and 12** of this bill eliminate the authority of these entities to submit their own requests, but such entities still would be authorized by existing law to ask Legislators or legislative committees to submit and sponsor requests on behalf of the entities. (NRS 218D.150, 218D.155, 218D.160)

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

**Section 1.** NRS 218A.285 is hereby amended to read as follows:

218A.285 1. A Legislator who is elected to the Assembly or the Senate and who has not previously served in either House shall attend the training required pursuant to this section unless his or her attendance is excused pursuant to subsection 6.

2. A member of the Assembly who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Speaker of the Assembly. A member of the Senate who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Majority Leader of the Senate.

3. The training required pursuant to this section must ~~be recorded electronically and~~ include:

(a) Legislative procedure and protocol;  
(b) Overviews of the state budget and the budgetary process;  
(c) ~~Briefings on~~ **Discussion of major** policy issues ~~relevant to the State;~~ **that are likely to be considered during the ensuing regular session;** and

(d) Such other matters as are deemed appropriate by the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly and the Minority Leader of the Senate for their respective Houses.

4. The Director shall provide staff support for the training required pursuant to this section.

5. The training required pursuant to this section must not exceed a total of 10 days and must be conducted between the day next after the general election and the commencement of the ensuing regular session. The dates for the training must be ~~{determined}~~ :

(a) **Determined** by the Speaker of the Assembly and the Majority Leader of the Senate ~~{and posted}~~ ;

(b) **Posted** on the public website of the Legislature on ~~{an}~~ **the** Internet ~~{website}~~ ; and

(c) **Communicated in writing by the Director to the candidates for election to the Assembly and the Senate for the ensuing regular session,**

↪ not later than 90 days before the first day on which training will be conducted.

6. The Speaker of the Assembly or the Majority Leader of the Senate may excuse a Legislator from attending a training session otherwise required pursuant to this section in case of illness, injury, emergency, employment or other good cause as determined by the Speaker or Majority Leader.

7. ~~{The}~~ **Except as otherwise provided in this subsection, the** Director shall provide an electronic copy of a training session and a form for attesting completion of the training session to any Legislator who was unable to attend the training session. **If any training session is conducted in a manner that the Director determines cannot reasonably be recorded in an electronic format, the Director may provide for an alternate means of recording the information provided during that training session.** To successfully complete the training required pursuant to this section, ~~{such}~~ a Legislator ~~{must view the}~~ **who was unable to attend a training session {electronically} shall complete that session in the manner prescribed by the Director** and submit the attestation to the Director.

8. The Director shall issue a “Certificate of Graduation from the Legislative Training Academy” to each Legislator who successfully completes the training required pursuant to this section.

**Sec. 2.** NRS 218D.050 is hereby amended to read as follows:

218D.050 1. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a regular session unless:

(a) Authorized by NRS 218D.100 to ~~{218D.215,}~~ **218D.210**, inclusive, another specific statute, a joint rule or a concurrent resolution; or

(b) Directed by the Legislature or the Legislative Commission.

2. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a special session unless:

(a) Authorized by a joint rule or concurrent resolution; or

(b) Directed by the Legislature or the Legislative Commission.

3. During a regular or special session, the Legislative Counsel and the Legal Division shall provide the Legislature with legal, technical and other appropriate services concerning any legislative measure properly before the Legislature or any committee of the Legislature for consideration.

**Sec. 3.** NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to ~~{218D.215,}~~ **218D.210**, inclusive, apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to ~~{218D.215,}~~ **218D.210**, inclusive, for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to ~~{218D.215,}~~ **218D.210**, inclusive, but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Except as otherwise provided in NRS 218D.150, 218D.155 and 218D.160, assign a number to a request for the drafting of a legislative measure to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(c) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

**Sec. 4.** NRS 218D.105 is hereby amended to read as follows:

218D.105 1. Upon a finding that exceptional circumstances so warrant, the Legislative Commission when the Legislature is not in a regular session, or a standing committee which has jurisdiction of the subject matter when the Legislature is in a regular session, may grant a waiver to an authorized nonlegislative requester to submit a request for the drafting of a legislative measure after the time limits in NRS 218D.175 to ~~{218D.215,}~~ **218D.210**, inclusive.

2. The request for the waiver must be submitted in writing to the Legislative Commission or standing committee, as appropriate, explaining the exceptional circumstances.

**Sec. 5.** NRS 218D.115 is hereby amended to read as follows:

218D.115 1. The Legislative Counsel shall assist authorized nonlegislative requesters in the drafting of the legislative measures which they are authorized to request pursuant to NRS 218D.175 to ~~{218D.215,}~~ **218D.210**, inclusive.

2. To ensure the greatest possible equity in the handling of such requests, drafting must proceed as follows:

(a) Requests from each agency or officer of the Executive Department or from a county, school district or city must, insofar as is possible, be acted upon in the order in which they are received, unless a different priority is designated by the requester.

(b) As soon as an agency or officer of the Executive Department has requested 10 legislative measures for a regular session, the Legislative Counsel may request the agency or officer to designate the priority for each succeeding request.

3. The priority designated pursuant to this section must guide the Legislative Counsel in acting upon the requests of the respective agencies and officers of the Executive Department and the counties, school districts and cities to ensure each agency and officer, and each county, school district and city, as nearly as is possible, an equal rank.

**Sec. 6.** NRS 218D.150 is hereby amended to read as follows:

218D.150 1. Except as otherwise provided in ~~subsection 2,~~ **this section,** each:

(a) Incumbent member of the Assembly may request the drafting of ~~not~~ :

**(1) Not** more than ~~16~~ **4** legislative measures submitted to the Legislative Counsel on or before ~~September~~ **August** 1 preceding a regular session ~~and not~~ ;

**(2) Not** more than 5 legislative measures submitted to the Legislative Counsel after ~~September~~ **August** 1 but on or before December 10 preceding a regular session ~~;~~ **and**

**(3) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(b) Incumbent member of the Senate may request the drafting of ~~not~~ :

**(1) Not** more than ~~12~~ **8** legislative measures submitted to the Legislative Counsel on or before ~~September~~ **August** 1 preceding a regular session ~~and not~~ ;

**(2) Not** more than 10 legislative measures submitted to the Legislative Counsel after ~~September~~ **August** 1 but on or before December 10 preceding a regular session ~~;~~ **and**

**(3) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(c) Newly elected member of the Assembly may request the drafting of ~~not~~ :

**(1) Not** more than 5 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~;~~ **and**

**(2) Not more than ~~{2}~~ 1 legislative ~~measures~~ measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(d) Newly elected member of the Senate may request the drafting of ~~{not}~~ :

**(1) Not more than 10 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~{1}~~ ; and**

**(2) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

2. A Legislator may not request the drafting of a legislative measure pursuant to subsection 1 on or after the date on which the Legislator becomes a nonreturning Legislator. For the purposes of this subsection, “nonreturning Legislator” means a Legislator who, in the year that the Legislator’s term of office expires:

(a) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly;

(b) Has failed to win nomination as a candidate for the Senate or the Assembly at the primary election; or

(c) Has withdrawn as a candidate for the Senate or the Assembly.

**3. A Legislator may not request the drafting of a legislative measure pursuant to paragraph (a) or (b) of subsection 1 on or after the date on which the Legislator files a declaration or an acceptance of candidacy for election to the House in which he or she is not currently a member. If the Legislator is elected to the other House, any request that he or she submitted pursuant to paragraph (a) or (b) of subsection 1 before filing his or her declaration or acceptance of candidacy for election counts against the applicable limitation set forth in paragraph (c) or (d) of subsection 1 for the House in which the Legislator is a newly elected member.**

**4. If a request made pursuant to subsection 1 is submitted:**

(a) On or before ~~{September}~~ **August** 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~{December}~~ **November** 1 preceding the regular session.

(b) After ~~{September}~~ **August** 1 but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~{15}~~ **1** preceding the regular session.

**~~{4-}~~ (c) After a regular session has convened but on or before the 8th day of the regular session at 5 p.m., sufficient detail to allow complete drafting**



*of the legislative measure must be submitted on or before the 15th day of the regular session.*

5. In addition to the number of requests authorized pursuant to subsection 1:

(a) The chair of each standing committee of the immediately preceding regular session, or a person designated in the place of the chair by the Speaker of the Assembly or the Majority Leader of the Senate, may request before the date of the general election preceding a regular session the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every ~~15~~ 18 legislative measures that were referred to the respective standing committee during the immediately preceding regular session.

(b) A person designated after the general election as a chair of a standing committee for the next regular session, or a person designated in the place of a chair by the person designated as the Speaker of the Assembly or the Majority Leader of the Senate for the next regular session, may request on or before December 10 preceding that regular session the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chair or designee.

~~5~~ 6. If a request made pursuant to subsection ~~4~~ 5 is submitted:

(a) Before the date of the general election preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the regular session.

(b) After the date of the general election but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~15~~ 1 preceding the regular session.

~~6~~ 7. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

**Sec. 7.** NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than ~~15~~ 10 legislative measures before the first day of a regular session, with the approval of the Legislative Commission, which relate to the affairs of the Legislature or its employees, including legislative measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the first day of a regular session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. If a request made pursuant to subsection 1 or 2 is submitted before the first day of a regular session, sufficient detail to allow complete drafting of

the legislative measure must be submitted on or before March 1 of the regular session.

4. Except as otherwise provided by a specific statute, joint rule or concurrent resolution:

(a) Any legislative committee created by a statute, other than an interim legislative committee, may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

(b) Any committee or subcommittee established by an order of the Legislative Commission pursuant to NRS 218E.200 may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee or subcommittee may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

(c) Any other committee established by the Legislature which conducts an interim legislative study or investigation may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation.

➡ The requests authorized pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding a regular session unless the Legislative Commission authorizes submitting a request after that date.

5. If a request made pursuant to subsection 4 is submitted on or before September 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~December~~ **November** 1 preceding the regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

**Sec. 8.** NRS 218D.175 is hereby amended to read as follows:

218D.175 1. For a regular session, the Governor or the Governor's designated representative may request the drafting of ~~not~~ :

(a) *Not more than ~~100~~ 50 legislative measures submitted to the Legislative Counsel on or before July 1 preceding the regular session; and*

(b) *Not more than 50 legislative measures submitted to the Legislative Counsel after July 1 but on or before September 1 preceding the regular session,*

➡ which have been approved by the Governor or the Governor's designated representative on behalf of the officers, agencies, boards, commissions, departments and other units of the Executive Department. ~~{The requests must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.}~~

2. The Department of Administration may request on or before the 19th day of a regular session, without limitation, the drafting of as many legislative measures as are necessary to implement the budget proposed by the Governor and to provide for the fiscal management of the State. In addition to the requests otherwise authorized pursuant to this section, the Governor may request the drafting of not more than 5 legislative measures on or before the 19th day of a regular session to propose the Governor's legislative agenda.

3. For a regular session, the following constitutional officers may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than the following numbers of legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session:

|                           |                                |
|---------------------------|--------------------------------|
| Lieutenant Governor ..... | <del>[1]</del> 3               |
| Secretary of State .....  | <del>[5]</del> <del>10</del> 6 |
| State Treasurer.....      | <del>[2]</del> 5               |
| State Controller .....    | <del>[2]</del> 5               |
| Attorney General .....    | <del>[15]</del> 20             |

4. **In addition to the requests authorized by subsection 3, the Secretary of State may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than 2 legislative measures, which must be submitted to the Legislative Counsel on or before December 1 preceding the regular session. Sufficient detail to allow complete drafting of the legislative measures requested pursuant to this subsection must be submitted on or before December 31 preceding the regular session.**

5. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to subsections 1 and 3 must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

**Sec. 9.** NRS 218D.205 is hereby amended to read as follows:

218D.205 1. For a regular session, each board of county commissioners, board of trustees of a school district and city council may request the drafting of not more than the numbers of legislative measures set forth in this section if the requests are:

(a) Approved by the governing body of the county, school district or city at a public hearing before their submission to the Legislative Counsel; and

(b) Submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. The Legislative Counsel shall notify the requesting county, school district or city if its request substantially duplicates a request previously submitted by another county, school district or city.

3. The board of county commissioners of a county whose population:

(a) Is 700,000 or more may request the drafting of not more than 4 legislative measures for a regular session.

(b) Is 100,000 or more but less than 700,000 may request the drafting of not more than 2 legislative measures for a regular session.

(c) Is less than 100,000 may request the drafting of not more than 1 legislative measure for a regular session.

4. The board of trustees of a school district in a county whose population:

(a) Is 700,000 or more may request the drafting of not more than 2 legislative measures for a regular session.

(b) Is less than 700,000 may request the drafting of not more than 1 legislative measure for a regular session.

5. The city council of a city whose population:

(a) Is ~~150,000~~ 500,000 or more may request the drafting of not more than 3 legislative measures for a regular session.

(b) ***Is 150,000 or more but less than 500,000 may request the drafting of not more than 2 legislative measures for a regular session.***

(c) Is less than 150,000 may request the drafting of not more than 1 legislative measure for a regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

7. As used in this section, "population" means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

**Sec. 10.** NRS 218D.575 is hereby amended to read as follows:

218D.575 1. A Legislator who will be a member of the next regular session may request the Legislative Counsel to prefile any bill or joint resolution that was requested by that Legislator for introduction in the next regular session.

2. A Legislator designated as a chair of a standing committee for the next regular session may request the Legislative Counsel to prefile on behalf of the committee any bill or joint resolution within the jurisdiction of the committee for introduction in the next regular session.

3. ~~{The}~~ **All** bills and joint resolutions **requested by authorized nonlegislative requesters and** submitted for prefiling pursuant to NRS 218D.175 to ~~{218D.215,}~~ **218D.210**, inclusive, must be ~~+~~

~~—(a) Randomly}~~ **randomly** divided in equal amounts between the Senate and the Assembly and prefiled on behalf of the appropriate standing committee.

~~{(b) Prepared}~~

**4. The Legislative Counsel shall prepare all bills and joint resolutions submitted for prefiling** in final and correct form for introduction in the Legislature as required by the Nevada Constitution and this chapter.

~~{4.}~~ **5.** The Legislative Counsel shall not prefile a bill or joint resolution requested by:

(a) A Legislator who is not a candidate for reelection until after the general election immediately preceding the regular session.

(b) A Legislator who is elected or reelected to legislative office at the general election immediately preceding the regular session until the Legislator is determined to have received the highest number of votes pursuant to the canvass of votes required by NRS 293.395.

**Sec. 11.** NRS 432B.178 is hereby amended to read as follows:

432B.178 1. The Director of the Department of Health and Human Services may create an interagency committee to evaluate the child welfare system in this State. Any such evaluation must include, without limitation, a review of state laws to ensure that the state laws comply with federal law and to ensure that the state laws reflect the current practices of each agency which provides child welfare services and others involved in the child welfare system.

2. The Director may appoint as many members to the interagency committee as the Director deems appropriate except that the members of such a committee must include, without limitation, at least one person to represent:

(a) Each agency which provides child welfare services;

(b) The Department of Education;

(c) The juvenile justice system;

(d) Law enforcement; and

(e) Providers of treatment or services for persons in the child welfare system.

3. ~~{The interagency committee created pursuant to subsection 1 may directly request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare one legislative measure for a regular legislative session if it determines that changes in legislation are necessary. Any such request must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the~~

~~Legislature. Upon completion of the proposed legislation, the Legislative Counsel shall transmit any legislative measure prepared pursuant to this subsection to the appropriate standing committee of the Assembly or Senate within the first week of the next regular legislative session for introduction.~~

~~—4.1~~ The interagency committee created pursuant to subsection 1 shall, on or before January 1 of each odd-numbered year after it is created, submit to the Director of the Legislative Counsel Bureau a written report for transmittal to the Chairs of the Assembly and Senate Standing Committees on Judiciary, the Chair of the Assembly Committee on Health and Human Services and the Chair of the Senate Committee on Health and Education.

**Sec. 12.** NRS 218D.215 is hereby repealed.

**Sec. 13.** This act becomes effective upon passage and approval.

#### TEXT OF REPEALED SECTION

##### **218D.215 Requests from mental health consortium.**

1. For a regular session, each mental health consortium established pursuant to NRS 433B.333 may request the drafting of not more than 1 legislative measure. The request must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

Assemblyman Ohrenschall moved that the Assembly do not concur in the Senate Amendment No. 924 to Assembly Bill No. 412.

Remarks by Assemblyman Ohrenschall.

Motion carried.

The following Senate amendment was read:

Amendment No. 942.

AN ACT relating to the Legislature; revising provisions relating to the training required for newly elected Legislators; changing certain deadlines applicable to the submission and drafting of legislative measures; revising the number of legislative measures that certain persons and entities may request for drafting; restricting Legislators from requesting the drafting of legislative measures under certain circumstances; and providing other matters properly relating thereto.

##### **Legislative Counsel's Digest:**

Existing law requires newly elected Legislators to attend certain training before the beginning of their first legislative session. (NRS 218A.285)

**Section 1** of this bill requires such training to include discussion of major policy issues that are likely to be considered during the ensuing regular

session of the Legislature. **Section 1** also requires the Director of the Legislative Counsel Bureau to communicate in writing the dates for training to candidates for election to the Assembly and the Senate for the ensuing regular session of the Legislature.

Existing law requires the Director to provide an electronic copy of a training session to any Legislator who was unable to attend the training session. (NRS 218A.285) **Section 1** authorizes the Director to provide an alternate means of recording the information provided during certain training sessions and requires a Legislator who was unable to attend a training session to complete that session in the manner prescribed by the Director.

Existing law contains provisions governing requests for the drafting of legislative measures for a regular session. (NRS 218D.100-218D.215) This bill revises the number of legislative measures that various persons and entities may request for drafting and also revises the deadlines for making such requests.

**Section 6** of this bill changes the number of legislative measures that Legislators and the chair of each standing committee may request by certain deadlines. **Section 6** also changes the deadlines for providing sufficient detail to allow complete drafting of a legislative measure. **Section 6** further: (1) prohibits a Legislator who has filed a declaration or an acceptance of candidacy for election to the House in which he or she is not currently sitting from requesting the drafting of legislative measures; and (2) provides that, if the Legislator is elected to the other House, any request that he or she submits before filing a declaration or an acceptance of candidacy for election counts against the applicable limitation for the House to which the Legislator was elected to serve. (NRS 218D.150)

Existing law allows each statutory legislative committee and interim study committee to request a certain number of legislative measures preceding a regular session. (NRS 218D.160) **Section 7** of this bill reduces the number of legislative measures that may be requested by the Chair of the Legislative Commission and moves up the deadline for statutory legislative committees and interim study committees to provide sufficient detail to allow complete drafting of their legislative measures.

**Section 8** of this bill revises the deadlines by which the Governor or the Governor's designated representative must submit requests for the drafting of legislative measures and increases the number of legislative measures that the **Governor**, Lieutenant Governor, Secretary of State, State Treasurer, State Controller and Attorney General may request for drafting. (NRS 218D.175)

**Section 9** of this bill reduces the number of legislative measures that may be requested by the city council of a city whose population is 150,000 or more but less than 500,000 (currently the cities of Henderson, North Las Vegas and Reno). (NRS 218D.205)

Existing law authorizes the following entities to submit their own requests for the drafting of legislative measures for each regular session: (1) a mental health consortium established to develop strategic plans for the provision of mental health services to children with emotional disturbance and their families (NRS 218D.215, 433B.333); and (2) an interagency committee created by the Director of the Department of Health and Human Services to evaluate the child welfare system in this State. (NRS 432B.178) **Sections 11 and 12** of this bill eliminate the authority of these entities to submit their own requests, but such entities still would be authorized by existing law to ask Legislators or legislative committees to submit and sponsor requests on behalf of the entities. (NRS 218D.150, 218D.155, 218D.160)

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

**Section 1.** NRS 218A.285 is hereby amended to read as follows:

218A.285 1. A Legislator who is elected to the Assembly or the Senate and who has not previously served in either House shall attend the training required pursuant to this section unless his or her attendance is excused pursuant to subsection 6.

2. A member of the Assembly who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Speaker of the Assembly. A member of the Senate who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Majority Leader of the Senate.

3. The training required pursuant to this section must ~~be recorded electronically and~~ include:

- (a) Legislative procedure and protocol;
- (b) Overviews of the state budget and the budgetary process;
- (c) ~~Briefings on~~ **Discussion of major** policy issues ~~relevant to the State;~~ **that are likely to be considered during the ensuing regular session;** and

(d) Such other matters as are deemed appropriate by the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly and the Minority Leader of the Senate for their respective Houses.

4. The Director shall provide staff support for the training required pursuant to this section.

5. The training required pursuant to this section must not exceed a total of 10 days and must be conducted between the day next after the general election and the commencement of the ensuing regular session. The dates for the training must be ~~determined~~ :

(a) **Determined** by the Speaker of the Assembly and the Majority Leader of the Senate ~~and posted~~ ;



(b) *Posted* on the public website of the Legislature on ~~an~~ *the* Internet ~~website~~; and

(c) *Communicated in writing by the Director to the candidates for election to the Assembly and the Senate for the ensuing regular session,*

↪ not later than 90 days before the first day on which training will be conducted.

6. The Speaker of the Assembly or the Majority Leader of the Senate may excuse a Legislator from attending a training session otherwise required pursuant to this section in case of illness, injury, emergency, employment or other good cause as determined by the Speaker or Majority Leader.

7. ~~The~~ *Except as otherwise provided in this subsection, the* Director shall provide an electronic copy of a training session and a form for attesting completion of the training session to any Legislator who was unable to attend the training session. *If any training session is conducted in a manner that the Director determines cannot reasonably be recorded in an electronic format, the Director may provide for an alternate means of recording the information provided during that training session.* To successfully complete the training required pursuant to this section, ~~such~~ a Legislator ~~must view the~~ *who was unable to attend a* training session ~~electronically~~ *shall complete that session in the manner prescribed by the Director* and submit the attestation to the Director.

8. The Director shall issue a “Certificate of Graduation from the Legislative Training Academy” to each Legislator who successfully completes the training required pursuant to this section.

**Sec. 2.** NRS 218D.050 is hereby amended to read as follows:

218D.050 1. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a regular session unless:

(a) Authorized by NRS 218D.100 to ~~218D.215,~~ **218D.210**, inclusive, another specific statute, a joint rule or a concurrent resolution; or

(b) Directed by the Legislature or the Legislative Commission.

2. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a special session unless:

(a) Authorized by a joint rule or concurrent resolution; or

(b) Directed by the Legislature or the Legislative Commission.

3. During a regular or special session, the Legislative Counsel and the Legal Division shall provide the Legislature with legal, technical and other appropriate services concerning any legislative measure properly before the Legislature or any committee of the Legislature for consideration.

**Sec. 3.** NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to ~~[218D.215,]~~ **218D.210**, inclusive, apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to ~~[218D.215,]~~ **218D.210**, inclusive, for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to ~~[218D.215,]~~ **218D.210**, inclusive, but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Except as otherwise provided in NRS 218D.150, 218D.155 and 218D.160, assign a number to a request for the drafting of a legislative measure to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(c) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

**Sec. 4.** NRS 218D.105 is hereby amended to read as follows:

218D.105 1. Upon a finding that exceptional circumstances so warrant, the Legislative Commission when the Legislature is not in a regular session, or a standing committee which has jurisdiction of the subject matter when the Legislature is in a regular session, may grant a waiver to an authorized nonlegislative requester to submit a request for the drafting of a legislative measure after the time limits in NRS 218D.175 to ~~[218D.215,]~~ **218D.210**, inclusive.

2. The request for the waiver must be submitted in writing to the Legislative Commission or standing committee, as appropriate, explaining the exceptional circumstances.

**Sec. 5.** NRS 218D.115 is hereby amended to read as follows:

218D.115 1. The Legislative Counsel shall assist authorized nonlegislative requesters in the drafting of the legislative measures which they are authorized to request pursuant to NRS 218D.175 to ~~[218D.215,]~~ **218D.210**, inclusive.

2. To ensure the greatest possible equity in the handling of such requests, drafting must proceed as follows:

(a) Requests from each agency or officer of the Executive Department or from a county, school district or city must, insofar as is possible, be acted

upon in the order in which they are received, unless a different priority is designated by the requester.

(b) As soon as an agency or officer of the Executive Department has requested 10 legislative measures for a regular session, the Legislative Counsel may request the agency or officer to designate the priority for each succeeding request.

3. The priority designated pursuant to this section must guide the Legislative Counsel in acting upon the requests of the respective agencies and officers of the Executive Department and the counties, school districts and cities to ensure each agency and officer, and each county, school district and city, as nearly as is possible, an equal rank.

**Sec. 6.** NRS 218D.150 is hereby amended to read as follows:

218D.150 1. Except as otherwise provided in ~~{subsection 2,}~~ **this section**, each:

(a) Incumbent member of the Assembly may request the drafting of ~~{not}~~ :

(1) **Not** more than ~~{6}~~ **4** legislative measures submitted to the Legislative Counsel on or before ~~{September}~~ **August** 1 preceding a regular session ~~{and not}~~ ;

(2) **Not** more than 5 legislative measures submitted to the Legislative Counsel after ~~{September}~~ **August** 1 but on or before December 10 preceding a regular session ~~{}~~ ; **and**

(3) **Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(b) Incumbent member of the Senate may request the drafting of ~~{not}~~ :

(1) **Not** more than ~~{12}~~ **8** legislative measures submitted to the Legislative Counsel on or before ~~{September}~~ **August** 1 preceding a regular session ~~{and not}~~ ;

(2) **Not** more than 10 legislative measures submitted to the Legislative Counsel after ~~{September}~~ **August** 1 but on or before December 10 preceding a regular session ~~{}~~ ; **and**

(3) **Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(c) Newly elected member of the Assembly may request the drafting of ~~{not}~~ :

(1) **Not** more than 5 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~{}~~ ; **and**

(2) **Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(d) Newly elected member of the Senate may request the drafting of ~~not~~ :

**(1) Not** more than 10 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~1~~ ; **and**

**(2) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

2. A Legislator may not request the drafting of a legislative measure pursuant to subsection 1 on or after the date on which the Legislator becomes a nonreturning Legislator. For the purposes of this subsection, “nonreturning Legislator” means a Legislator who, in the year that the Legislator’s term of office expires:

(a) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly;

(b) Has failed to win nomination as a candidate for the Senate or the Assembly at the primary election; or

(c) Has withdrawn as a candidate for the Senate or the Assembly.

3. **A Legislator may not request the drafting of a legislative measure pursuant to paragraph (a) or (b) of subsection 1 on or after the date on which the Legislator files a declaration or an acceptance of candidacy for election to the House in which he or she is not currently a member. If the Legislator is elected to the other House, any request that he or she submitted pursuant to paragraph (a) or (b) of subsection 1 before filing his or her declaration or acceptance of candidacy for election counts against the applicable limitation set forth in paragraph (c) or (d) of subsection 1 for the House in which the Legislator is a newly elected member.**

4. If a request made pursuant to subsection 1 is submitted:

(a) On or before ~~September~~ **August** 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~December~~ **November** 1 preceding the regular session.

(b) After ~~September~~ **August** 1 but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~15~~ **1** preceding the regular session.

~~4~~ **(c) After a regular session has convened but on or before the 8th day of the regular session at 5 p.m., sufficient detail to allow complete drafting of the legislative measure must be submitted on or before the 15th day of the regular session.**

5. In addition to the number of requests authorized pursuant to subsection 1:

(a) The chair of each standing committee of the immediately preceding regular session, or a person designated in the place of the chair by the Speaker of the Assembly or the Majority Leader of the Senate, may request before the date of the general election preceding a regular session the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every ~~15~~ 18 legislative measures that were referred to the respective standing committee during the immediately preceding regular session.

(b) A person designated after the general election as a chair of a standing committee for the next regular session, or a person designated in the place of a chair by the person designated as the Speaker of the Assembly or the Majority Leader of the Senate for the next regular session, may request on or before December 10 preceding that regular session the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chair or designee.

~~15~~ 6. If a request made pursuant to subsection ~~14~~ 5 is submitted:

(a) Before the date of the general election preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the regular session.

(b) After the date of the general election but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~15~~ 1 preceding the regular session.

~~16~~ 7. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

**Sec. 7.** NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than ~~15~~ 10 legislative measures before the first day of a regular session, with the approval of the Legislative Commission, which relate to the affairs of the Legislature or its employees, including legislative measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the first day of a regular session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. If a request made pursuant to subsection 1 or 2 is submitted before the first day of a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before March 1 of the regular session.

4. Except as otherwise provided by a specific statute, joint rule or concurrent resolution:

(a) Any legislative committee created by a statute, other than an interim legislative committee, may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

(b) Any committee or subcommittee established by an order of the Legislative Commission pursuant to NRS 218E.200 may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee or subcommittee may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

(c) Any other committee established by the Legislature which conducts an interim legislative study or investigation may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation.

↪ The requests authorized pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding a regular session unless the Legislative Commission authorizes submitting a request after that date.

5. If a request made pursuant to subsection 4 is submitted on or before September 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~{December}~~ **November** 1 preceding the regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

**Sec. 8.** NRS 218D.175 is hereby amended to read as follows:

218D.175 1. For a regular session, the Governor or the Governor's designated representative may request the drafting of not ~~for~~

~~—(a) Not~~ more than ~~{100}~~ ~~{50}~~ **110** legislative measures ~~{submitted to the Legislative Counsel on or before July 1 preceding the regular session; and~~

~~—(b) Not more than 50 legislative measures submitted to the Legislative Counsel after July 1 but on or before September 1 preceding the regular session;~~

~~↪~~ which have been approved by the Governor or the Governor's designated representative on behalf of the officers, agencies, boards, commissions, departments and other units of the Executive Department. The requests must be submitted to the Legislative Counsel on or before ~~{September}~~ **August** 1 preceding the regular session.

2. The Department of Administration may request on or before the 19th day of a regular session, without limitation, the drafting of as many legislative measures as are necessary to implement the budget proposed by the Governor and to provide for the fiscal management of the State. In

addition to the requests otherwise authorized pursuant to this section, the Governor may request the drafting of not more than 5 legislative measures on or before the 19th day of a regular session to propose the Governor's legislative agenda.

3. For a regular session, the following constitutional officers may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than the following numbers of legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session:

|                           |                    |
|---------------------------|--------------------|
| Lieutenant Governor ..... | <del>{1}</del> 3   |
| Secretary of State .....  | <del>{5}</del> 6   |
| State Treasurer.....      | <del>{2}</del> 5   |
| State Controller .....    | <del>{2}</del> 5   |
| Attorney General .....    | <del>{15}</del> 20 |

4. ***In addition to the requests authorized by subsection 3, the Secretary of State may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than 2 legislative measures, which must be submitted to the Legislative Counsel on or before December 1 preceding the regular session. Sufficient detail to allow complete drafting of the legislative measures requested pursuant to this subsection must be submitted on or before December 31 preceding the regular session.***

5. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to subsections 1 and 3 must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

**Sec. 9.** NRS 218D.205 is hereby amended to read as follows:

218D.205 1. For a regular session, each board of county commissioners, board of trustees of a school district and city council may request the drafting of not more than the numbers of legislative measures set forth in this section if the requests are:

(a) Approved by the governing body of the county, school district or city at a public hearing before their submission to the Legislative Counsel; and

(b) Submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. The Legislative Counsel shall notify the requesting county, school district or city if its request substantially duplicates a request previously submitted by another county, school district or city.

3. The board of county commissioners of a county whose population:

(a) Is 700,000 or more may request the drafting of not more than 4 legislative measures for a regular session.

(b) Is 100,000 or more but less than 700,000 may request the drafting of not more than 2 legislative measures for a regular session.

(c) Is less than 100,000 may request the drafting of not more than 1 legislative measure for a regular session.

4. The board of trustees of a school district in a county whose population:

(a) Is 700,000 or more may request the drafting of not more than 2 legislative measures for a regular session.

(b) Is less than 700,000 may request the drafting of not more than 1 legislative measure for a regular session.

5. The city council of a city whose population:

(a) Is ~~150,000~~ 500,000 or more may request the drafting of not more than 3 legislative measures for a regular session.

(b) ***Is 150,000 or more but less than 500,000 may request the drafting of not more than 2 legislative measures for a regular session.***

(c) Is less than 150,000 may request the drafting of not more than 1 legislative measure for a regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

7. As used in this section, "population" means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

**Sec. 10.** NRS 218D.575 is hereby amended to read as follows:

218D.575 1. A Legislator who will be a member of the next regular session may request the Legislative Counsel to prefile any bill or joint resolution that was requested by that Legislator for introduction in the next regular session.

2. A Legislator designated as a chair of a standing committee for the next regular session may request the Legislative Counsel to prefile on behalf of the committee any bill or joint resolution within the jurisdiction of the committee for introduction in the next regular session.

3. ~~The~~ ***All*** bills and joint resolutions ***requested by authorized nonlegislative requesters and*** submitted for prefiling pursuant to NRS 218D.175 to ~~218D.215,~~ ***218D.210***, inclusive, must be ~~f-~~



~~—(a) Randomly~~ **randomly** divided in equal amounts between the Senate and the Assembly and prefiled on behalf of the appropriate standing committee.

~~[(b) Prepared]~~

**4. The Legislative Counsel shall prepare all bills and joint resolutions submitted for prefiling** in final and correct form for introduction in the Legislature as required by the Nevada Constitution and this chapter.

~~[(4)]~~ **5.** The Legislative Counsel shall not prefile a bill or joint resolution requested by:

(a) A Legislator who is not a candidate for reelection until after the general election immediately preceding the regular session.

(b) A Legislator who is elected or reelected to legislative office at the general election immediately preceding the regular session until the Legislator is determined to have received the highest number of votes pursuant to the canvass of votes required by NRS 293.395.

**Sec. 11.** NRS 432B.178 is hereby amended to read as follows:

432B.178 1. The Director of the Department of Health and Human Services may create an interagency committee to evaluate the child welfare system in this State. Any such evaluation must include, without limitation, a review of state laws to ensure that the state laws comply with federal law and to ensure that the state laws reflect the current practices of each agency which provides child welfare services and others involved in the child welfare system.

2. The Director may appoint as many members to the interagency committee as the Director deems appropriate except that the members of such a committee must include, without limitation, at least one person to represent:

- (a) Each agency which provides child welfare services;
- (b) The Department of Education;
- (c) The juvenile justice system;
- (d) Law enforcement; and
- (e) Providers of treatment or services for persons in the child welfare system.

3. ~~[(The interagency committee created pursuant to subsection 1 may directly request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare one legislative measure for a regular legislative session if it determines that changes in legislation are necessary. Any such request must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature. Upon completion of the proposed legislation, the Legislative Counsel shall transmit any legislative measure prepared pursuant to this~~

~~subsection to the appropriate standing committee of the Assembly or Senate within the first week of the next regular legislative session for introduction.~~

~~—4—~~ The interagency committee created pursuant to subsection 1 shall, on or before January 1 of each odd-numbered year after it is created, submit to the Director of the Legislative Counsel Bureau a written report for transmittal to the Chairs of the Assembly and Senate Standing Committees on Judiciary, the Chair of the Assembly Committee on Health and Human Services and the Chair of the Senate Committee on Health and Education.

**Sec. 12.** NRS 218D.215 is hereby repealed.

**Sec. 13.** This act becomes effective upon passage and approval.

#### TEXT OF REPEALED SECTION

##### **218D.215 Requests from mental health consortium.**

1. For a regular session, each mental health consortium established pursuant to NRS 433B.333 may request the drafting of not more than 1 legislative measure. The request must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

Assemblyman Ohrenschall moved that the Assembly do not concur in the Senate Amendment No. 942 to Assembly Bill No. 412.

Remarks by Assemblyman Ohrenschall.

Motion carried.

Bill ordered transmitted to the Senate.

#### REPORTS OF CONFERENCE COMMITTEES

*Madam Speaker:*

The Conference Committee concerning Senate Bill No. 228, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 780 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 7, which is attached to and hereby made a part of this report.

JAMES OHRENSCHALL

SKIP DALY

JAMES OSCARSON

*Assembly Conference Committee*

DAVID PARKS

PAT SPEARMAN

JOSEPH HARDY

*Senate Conference Committee*

Conference Amendment No. CA7.

AN ACT relating to public servants; revising provisions relating to public officers and employees; revising provisions relating to ethics in government

and the enforcement of such provisions; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

This bill makes various changes to provisions relating to public officers and employees and the administration of the Nevada Ethics in Government Law by the Commission on Ethics. (Chapter 281A of NRS)

**Sections 18-24, ~~1, 30 and 31~~ and 30-32.5** of this bill enact and revise various definitions in the Ethics Law. **Section 19** revises and makes applicable throughout the Ethics Law the existing definition of “commitment in a private capacity to the interests of others” in NRS 281A.420.

**Section 23** defines “pecuniary interest” for the Ethics Law, and **sections 40.3, ~~and~~ 41 and 42.5** of this bill require proof of a significant personal or pecuniary interest in defining various types of ethical conflicts, so that a de minimis or insignificant personal or pecuniary interest does not create a conflict of interest, require disqualification or abstention, or provide just or sufficient cause for an ethics investigation or violation. (NRS 281A.400, 281A.420, ~~41~~, 281A.430)

**Sections 24.5 and 32.3 of this bill establish that a president of a state university, college or community college, a superintendent of a county school district, and a county manager or city manager are designated as public officers for the purposes of the Ethics Law. (NRS 281A.160)**

**Section 25** of this bill enacts provisions for computing periods of time prescribed or allowed under the Ethics Law. **Section 27** of this bill authorizes the Commission to apply for and accept grants, contributions, services and money for the purposes of carrying out the Ethics Law.

**Section 27.3** of this bill requires the Commission, when disposing of a request for an opinion by stipulation, agreed settlement or consent order, to treat comparable situations in a comparable manner and ensure that the disposition of a request for an opinion bears a reasonable relationship to the severity of the violation or alleged violation of the Ethics Law. **Section 27.5** of this bill requires the Commission to consider various aggravating and mitigating factors when determining **whether a violation of the Ethics Law is a willful violation and, if so,** the amount of any civil penalty **to be imposed for such a willful violation of the Ethics Law.** **Section 27.5 also requires the Commission, when applying these factors, to treat comparable situations in a comparable manner and to ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation.**

**Sections 33-37** of this bill make various changes concerning the operation of the Commission and the duties of the Executive Director of the Commission and the Commission Counsel. Those changes include: (1) adjusting the eligibility requirements for certain members of the

Commission; (2) requiring the Chair of the Commission to designate a qualified person to perform the duties of the Executive Director if the Executive Director is disqualified or unable to act on a particular matter; ~~and~~ (3) revising the administration of the assessments paid by cities and counties in semiannual installments to the Commission ~~;~~ **and (4) authorizing the Commission to adopt procedural regulations that are necessary and proper to carry out the Ethics Law.** (NRS 281A.200, 281A.240, 281A.260, 281A.270, 281A.290)

**Section 38** of this bill directs public officers and employees who request the issuance of a subpoena on their behalf in ethics proceedings to serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure and to pay the costs of such service. (NRS 281A.300)

**Sections 40.3-44** of this bill make various changes to provisions in the Ethics Law, including provisions relating to conflicts of interests for public officers and employees, disclosures and abstentions, the rendering of opinions and conduct of investigations by the Commission and the duties of specialized and local ethics committees. (NRS 281A.400, 281A.410, 281A.420, **281A.430**, 281A.440, 281A.470)

**Section 40.5 prohibits a member of a local legislative body from representing or counseling a private person for compensation before another local agency whose territorial jurisdiction includes any part of the same county in which the member serves. However, section 40.5 allows the Commission to provide the member with relief from strict application of the prohibition if certain conditions are met.** (NRS 281A.410)

**With certain exceptions, the Ethics Law prohibits a public officer or employee from bidding on or entering into a contract between a governmental agency and any business entity in which the public officer or employee has a significant pecuniary interest. Section 42.5 allows the Commission to provide a public officer or employee with relief from strict application of the prohibition if certain conditions are met.** (NRS 281A.430)

**Sections 42.5 and 62 of this bill move, revise and remove certain provisions of the Ethics Law that regulate when a member of a local legislative body may sell goods or services to his or her local agency as the sole source of supply within the area served by the local agency.** (NRS 281A.430, 281A.530) **Section 42.5 prohibits such a member from selling goods or services to his or her local agency unless certain conditions are met, but section 42.5 also allows the Commission to provide the member with relief from strict application of the prohibition. Section 62 repeals an existing provision of the Ethics Law**

regulating such “sole source” transactions because under this bill, “sole source” transactions are regulated by section 42.5.

Sections 16.3, 16.5 and 57-61 of this bill make conforming changes to other provisions of existing law that restrict various public officers and employees from being personally interested in or benefiting from a contract with a governmental agency. (NRS 245.075, 268.384, 269.071, 269.072, 281.221, 281.230, 332.800)

Section 45 of this bill revises the “safe harbor” provision of the Ethics Law to provide that a public officer or employee does not commit a willful violation if : (1) the public officer or employee ~~is~~ ~~(1)~~ relied in good faith upon the advice of the legal counsel retained by his or her public body, agency or employer; and (2) his or her ~~action~~ act or failure to act was not contrary to a prior published opinion issued by the Commission. (NRS 281A.480)

Section 46 of this bill provides new requirements relating to informing, educating and instructing public officers and employees concerning the statutory ethical standards and the duties of public officers and employees under the Ethics Law. (NRS 281A.500)

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 16.3. NRS 281.221 is hereby amended to read as follows:

281.221 1. Except as otherwise provided in this section ~~it~~ and  
NRS 281A.430, it is unlawful for ~~any~~ a state officer , who is not a member  
of the Legislature subject to the restrictions set forth in NRS 218A.970, to:

(a) Become a contractor under any contract or order for supplies or other kind of contract authorized by or for the State or any of its departments, or the Legislature or either of its houses, or to be interested, directly or indirectly, as principal, in any kind of contract so authorized.

(b) Be interested in any contract made by the officer or to be a purchaser or interested in any purchase under a sale made by the officer in the discharge of the officer's official duties.

2. ~~Any~~ A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by the board, commission or body may supply or contract to supply, in the ordinary course of ~~the member's~~ his or her business, goods, materials or services to any state or local agency, except the board, ~~or~~ commission or body of which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member in the Nevada System of Higher Education may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A state officer, other than an officer described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the officer has not taken part in developing the contract plans or specifications and the officer will not be personally involved in opening, considering or accepting offers.

5. Any contract made in violation of this section may be declared void at the instance of the State or of any other person interested in the contract except an officer prohibited from making or being interested in the contract.

6. ~~Any~~ A person ~~violating~~ who violates this section is guilty of a gross misdemeanor and shall forfeit his or her office.

**Sec. 16.5. NRS 281.230 is hereby amended to read as follows:**

281.230 1. Except as otherwise provided in this section and NRS 218A.970, ~~281A.530~~ 281A.430 and 332.800, the following persons shall not, in any manner, directly or indirectly, receive any commission, personal profit or compensation of any kind resulting from any contract or other significant transaction in which the employing state, county, municipality, township, district or quasi-municipal corporation is in any way directly interested or affected:

(a) State, county, municipal, district and township officers of the State of Nevada;

(b) Deputies and employees of state, county, municipal, district and township officers; and

(c) Officers and employees of quasi-municipal corporations.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by the board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with any governmental agency, except the board, ~~for~~ commission or body of which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A public officer or employee, other than an officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the public officer or employee has not taken part in developing the contract plans or specifications and the public officer or employee will not be personally involved in opening, considering or accepting offers. If a public officer who is authorized to bid on or enter into a contract with a governmental agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose his or her interest in the contract and shall not vote on or advocate the approval of the contract.

5. A person who violates any of the provisions of this section shall be punished as provided in NRS 197.230 and:

(a) Where the commission, personal profit or compensation is \$650 or more, for a category D felony as provided in NRS 193.130.

(b) Where the commission, personal profit or compensation is less than \$650, for a misdemeanor.

6. A person who violates the provisions of this section shall pay any commission, personal profit or compensation resulting from the contract or transaction to the employing state, county, municipality, township, district or quasi-municipal corporation as restitution.

**Sec. 17.** Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 27.5, inclusive, of this act.

**Sec. 18.** *“Agency” means any state agency or local agency.*

Sec. 19. *“Commitment in a private capacity,” with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:*

- 1. Who is the spouse or domestic partner of the public officer or employee;*
- 2. Who is a member of the household of the public officer or employee;*
- 3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;*
- 4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;*
- 5. With whom the public officer or employee has a substantial and continuing business relationship; or*
- 6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.*

Sec. 20. *“Domestic partner” means a person in a domestic partnership.*

Sec. 21. *“Domestic partnership” means:*

- 1. A domestic partnership as defined in NRS 122A.040; or*
- 2. A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.*

Sec. 22. *“Local agency” means any local legislative body, agency, bureau, board, commission, department, division, office or other unit of any county, city or other political subdivision.*

Sec. 23. *“Pecuniary interest” means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including, without limitation:*

- 1. Anything of economic value; and*
- 2. Payments or other money which a person is owed or otherwise entitled to by virtue of any statute, regulation, code, ordinance or contract or other agreement.*

Sec. 24. *“State agency” means any agency, bureau, board, commission, department, division, office or other unit of the Executive Department of the State Government.*

Sec. 24.5. *1. Any person who serves in one of the following positions is designated as a public officer for the purposes of this chapter:*



(a) A president of a university, state college or community college within the Nevada System of Higher Education.

(b) A superintendent of a county school district.

(c) A county manager or a city manager.

2. This section applies to such a person regardless of whether the person serves in the position:

(a) By appointment, contract or employment;

(b) With or without compensation; or

(c) On a temporary, interim or acting basis.

Sec. 25. In computing any period prescribed or allowed by this chapter:

1. If the period begins to run on the occurrence of an act or event, the day on which the act or event begins is excluded from the computation.

2. The last day of the period is included in the computation, except that if the last day falls on a Saturday, Sunday, legal holiday or holiday proclaimed by the Governor or on a day on which the office of the Commission is not open for the conduct of business, the period is extended to the close of business on the next business day.

Sec. 26. (Deleted by amendment.)

Sec. 27. The Commission may apply for and accept grants, contributions, services or money for the purposes of carrying out the provisions of this chapter only if the action is approved by a majority vote in an open public meeting of the Commission and the Commission complies with the provisions of the State Budget Act.

Sec. 27.3. In any matter in which the Commission disposes of a request for an opinion by stipulation, agreed settlement or consent order, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the ~~request for an opinion~~ matter bears a reasonable relationship to the severity of the violation or alleged violation.

Sec. 27.5. 1. In determining whether a violation of this chapter is a willful violation and, if so, the amount of any civil penalty to be imposed on a public officer or employee or former public officer or employee pursuant to NRS 281A.480, the Commission shall consider:

~~1-1~~ (a) The seriousness of the violation, including, without limitation, the nature, circumstances, extent and gravity of the violation;

~~1-2~~ (b) The number and history of previous warnings issued to or violations of the provisions of this chapter by the public officer or employee;

~~1-3~~ (c) The cost to the Commission to conduct the investigation and any hearing relating to the violation;

~~4.1~~ (d) Any mitigating factors, including, without limitation, any self-reporting, prompt correction of the violation, any attempts to rectify the violation before any complaint is filed and any cooperation by the public officer or employee ~~for former public officer or employee~~ in resolving the complaint;

~~5.1~~ (e) Any restitution or reimbursement paid to parties affected by the violation;

~~6.1~~ (f) The extent of any financial gain resulting from the violation; and

~~7.1~~ (g) Any other matter justice may require.

**2. In applying the factors set forth in this section, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation.**

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 281A.030 is hereby amended to read as follows:

281A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.040 to 281A.170, inclusive, **and sections 18 to 24, inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 30. NRS 281A.100 is hereby amended to read as follows:

281A.100 “Household” means an association of persons who live in the same home or dwelling ~~[- sharing its expenses,]~~ and who are related by blood, adoption, ~~for marriage~~ **or domestic partnership**.

Sec. 31. NRS 281A.125 is hereby amended to read as follows:

281A.125 “Member of a local legislative body” means a member of a board of county commissioners, a governing body of a city or a governing body of any other political subdivision who performs any function that involves introducing, voting upon or otherwise acting upon any matter of a permanent or general character which may reflect public policy . ~~and which is not typically restricted to identifiable persons or groups.~~

Sec. 32. (Deleted by amendment.)

**Sec. 32.3. NRS 281A.160 is hereby amended to read as follows:**

281A.160 1. “Public officer” means a person ~~selected~~ **who is:**

**(a) Elected** or appointed to a position which:

~~(a)~~ **(1)** Is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision; and

~~(b)~~ **(2)** Involves the exercise of a public power, trust or duty ~~[-]~~ **; or**

**(b) Designated as a public officer for the purposes of this chapter pursuant to section 24.5 of this act.**

2. As used in this section, “the exercise of a public power, trust or duty” means:

~~1.1~~ (a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;

~~1.2~~ (b) The expenditure of public money; and

~~1.3~~ (c) The administration of laws and rules of the State or any county, city or other political subdivision.

~~2.1~~ 3. “Public officer” does not include:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or

(d) A county health officer appointed pursuant to NRS 439.290.

~~3.1~~ 4. “Public office” does not include an office held by:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or

(d) A county health officer appointed pursuant to NRS 439.290.

**Sec. 32.5. NRS 281A.170 is hereby amended to read as follows:**

281A.170 “Willful violation” means a violation where ~~the~~ :

1. The public officer or employee:

~~1.1~~ (a) Acted intentionally and knowingly; or

~~1.2~~ (b) Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter. ~~1.3~~ ; and

2. The Commission determines, after applying the factors set forth in section 27.5 of this act, that the public officer’s or employee’s act or failure to act resulted in a sanctionable violation of this chapter.

**Sec. 33.** NRS 281A.200 is hereby amended to read as follows:

281A.200 1. The Commission on Ethics, consisting of eight members, is hereby created.

2. The Legislative Commission shall appoint to the Commission four residents of the State, at least two of whom ~~are~~ **must be** former public officers ~~1.1~~ **or employees**, and at least one of whom must be an attorney licensed to practice law in this State.

3. The Governor shall appoint to the Commission four residents of the State, at least two of whom must be former public officers or ~~public~~ employees, and at least one of whom must be an attorney licensed to practice law in this State.

4. Not more than four members of the Commission may be members of the same political party. Not more than four members *of the Commission* may be residents of the same county.

5. None of the members of the Commission may, while the member is serving on the Commission:

- (a) Hold another public office;
- (b) Be actively involved in the work of any political party or political campaign; or
- (c) Communicate directly with a State Legislator or a member of a local legislative body on behalf of someone other than himself or herself or the Commission, for compensation, to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

- (I) The appropriation of public money;
- (II) The issuance of a license or permit; or
- (III) Any proposed subdivision of land or special exception or variance from zoning regulations.

6. After the initial terms, the terms of the members are 4 years. Any vacancy in the membership must be filled by the appropriate appointing authority for the unexpired term. Each member may serve no more than two consecutive full terms.

**Sec. 34.** NRS 281A.240 is hereby amended to read as follows:

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

- (a) Maintain complete and accurate records of all transactions and proceedings of the Commission.
- (b) Receive requests for opinions pursuant to NRS 281A.440.
- (c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the investigatory panel appointed pursuant to NRS 281A.220 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.
- (d) Recommend to the Commission any regulations or legislation that the Executive Director considers desirable or necessary to improve the operation

of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that the Executive Director is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

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

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

(a) The administration of the affairs of the Commission; and

(b) The investigation of matters under the jurisdiction of the Commission.

**3. *If the Executive Director is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Chair of the Commission shall designate a qualified person to perform the duties of the Executive Director with regard to that particular matter.***

**Sec. 35.** NRS 281A.260 is hereby amended to read as follows:

281A.260 1. The Commission Counsel is the legal adviser to the Commission. For each opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission, the appropriate findings of fact and conclusions as to relevant standards and the propriety of particular conduct . ~~[within the time set forth in subsection 6 of NRS 281A.440.]~~ The Commission Counsel shall not issue written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission.

2. The Commission may rely upon the legal advice of the Commission Counsel in conducting its daily operations.

3. If the Commission Counsel is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Commission may:

(a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or

(b) Employ outside legal counsel.

**Sec. 36.** NRS 281A.270 is hereby amended to read as follows:

281A.270 1. Each county whose population is 10,000 or more and each city whose population is 15,000 or more and that is located within such a

county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to this chapter. The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1 and February 1 of each year of the biennium. The Executive Director shall send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

3. Any money that the Commission receives pursuant to subsection 2:

(a) Must be deposited in the State Treasury, accounted for separately in the State General Fund and credited to the budget account for the Commission;

(b) May only be used to carry out the provisions of this chapter and only to the extent authorized for expenditure by the Legislature; ~~and~~

(c) Does not revert to the State General Fund at the end of any fiscal year ~~to~~; and

(d) ***Does not revert to a city or county if:***

***(1) The actual expenditures by the Commission are less than the amount of the assessments approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period; or***

***(2) The budget of the Commission is modified after the amount of the assessments has been approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period.***

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, the Executive Director shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of

the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, “population” means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

**Sec. 37.** NRS 281A.290 is hereby amended to read as follows:

281A.290 The Commission shall:

1. Adopt procedural regulations ~~that~~ **that are necessary and proper to carry out the provisions of this chapter, including, without limitation:**

- (a) To facilitate the receipt of inquiries by the Commission;
- (b) For the filing of a request for an opinion with the Commission;
- (c) For the withdrawal of a request for an opinion by the person who filed the request; and
- (d) To facilitate the prompt rendition of opinions by the Commission.

2. Prescribe, by regulation, forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. Inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

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

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

~~—(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;~~

~~—(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and~~

~~—(c) An abstract of~~ **explains** the requirements of this chapter.

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

**Sec. 38.** NRS 281A.300 is hereby amended to read as follows:

281A.300 1. The Chair and Vice Chair of the Commission may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of books and papers. Upon the request of the Executive Director or the public officer or ~~public~~ employee who is the subject of a request for an opinion, the Chair or, in the Chair's absence, the Vice Chair, may issue a subpoena to compel the attendance of a witness and the production of books and papers. ***A public officer or employee who requests the issuance of a subpoena pursuant to this subsection must serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay the costs of such service.***

3. Before issuing a subpoena to a public officer or ~~public~~ employee who is the subject of a request for an opinion ~~to~~ ***to compel his or her attendance as a witness or his or her production of books or papers,*** the Executive Director shall submit a written request to the public officer or ~~public~~ employee requesting:

(a) The appearance of the public officer or ~~public~~ employee as a witness; or

(b) The production by the public officer or ~~public~~ employee of any books and papers relating to the request for an opinion.

4. Each written request submitted by the Executive Director pursuant to subsection 3 must specify the time and place for the attendance of the public officer or ~~public~~ employee or the production of any books and papers, and designate with certainty the books and papers requested, if any. If the public officer or ~~public~~ employee fails or refuses to attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the request, the Chair may issue the subpoena. Failure of the public officer or ~~public~~ employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or ~~public~~ employee of the time set forth in subsections 4, 5 and 6 of NRS 281A.440.

5. If any witness refuses to attend, testify or produce any books and papers as required by the subpoena, the Chair of the Commission 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, 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.



6. 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 then and there show cause why the witness has not attended, testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

7. 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 and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

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

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

**Sec. 40.3.** NRS 281A.400 is hereby amended to read as follows:

281A.400 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. As used in this subsection ~~the~~:

~~—(a) “Commitment in a private capacity to the interests of that person” has the meaning ascribed to “commitment in a private capacity to the interests of others” in subsection 8 of NRS 281A.420.~~

~~—(b) “Unwarranted”~~, **“unwarranted”** means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any business entity in which the public officer or employee has a significant pecuniary interest.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of the public officer's or employee's duties as a public officer or employee.

5. If a public officer or employee acquires, through the public officer's or employee's public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or employee shall not use the information to further ~~the~~ **a significant** pecuniary ~~interests~~ **interest** of the public officer or employee or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other **official** document because it might tend to affect unfavorably ~~the public officer's or employee's~~ **a significant** pecuniary ~~interests.~~ **interest of the public officer or employee.**

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit ~~the public officer's or employee's~~ **a significant** personal or ~~financial~~ **pecuniary** interest ~~of the~~ **public officer or employee.** This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer **or employee** who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

➡ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A State Legislator shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of the State Legislator or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of the State Legislator's public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the State Legislator or legislative employee to perform that person's official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit ~~the public officer's or employee's~~ **a significant** personal or ~~financial~~ **pecuniary** interest **of the public officer or employee** through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of the public officer's or employee's official position.

**Sec. 40.5.** NRS 281A.410 is hereby amended to read as follows:

281A.410 In addition to the requirements of the code of ethical standards ~~of~~ **and the other provisions of this chapter:**

1. If a public officer or employee serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:

(a) Shall not accept compensation from any private person to represent or counsel the private person on any issue pending before the agency in which that public officer or employee serves, if the agency makes decisions; and

(b) If the public officer or employee leaves the service of the agency, shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon any issue which was under consideration by the agency during the public officer's or employee's service. As used in this paragraph, "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

2. ~~1A~~ **Except as otherwise provided in subsection 3, a** State Legislator or a member of a local legislative body, or a public officer or employee whose public service requires less than half of his or her time, may represent or counsel a private person before an agency in which he or she does not serve. ~~Any other~~

3. A member of a local legislative body shall not represent or counsel a private person for compensation before another local agency if the territorial jurisdiction of the other local agency includes any part of the county in which the member serves. The Commission may relieve the member from the strict application of the provisions of this subsection if:

(a) The member requests an opinion from the Commission pursuant to subsection 1 of NRS 281A.440; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each local agency affected by the matter; and

(3) The provisions of this chapter.

4. Unless permitted by this section, a public officer or employee shall not represent or counsel a private person for compensation before any state agency of the Executive or Legislative Department.

~~12.1~~ 5. Not later than January 15 of each year, ~~if~~ any State Legislator, ~~member of a local legislative body~~ or other public officer ~~who~~ permitted by this section has, within the preceding year, represented or counseled a private person for compensation before a state agency of the Executive Department, ~~he or she~~ shall disclose for each such representation or counseling during the previous calendar year:

(a) The name of the client;

(b) The nature of the representation; and

(c) The name of the state agency.

~~14.1~~ 6. The disclosure required by subsection ~~13.1~~ 5 must be made in writing and filed with the Commission on a form prescribed by the Commission. For the purposes of this subsection, the disclosure is timely filed if, on or before the last day for filing, the disclosure is filed in one of the following ways:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the disclosure with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the disclosure with the third-party commercial carrier.

*(d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.*

~~{5-}~~ 7. The Commission shall retain a disclosure filed pursuant to ~~{subsections 3 and 4}~~ **this section** for 6 years after the date on which the disclosure was filed.

**Sec. 41.** NRS 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

(a) Regarding which the public officer or employee has accepted a gift or loan;

(b) In which the public officer or employee has a **significant** pecuniary interest; or

(c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the ~~{interest of others,}~~ **interests of another person,**

↪ without disclosing ~~{sufficient}~~ information concerning the gift ~~{-}~~ or loan, **significant pecuniary** interest or commitment **in a private capacity to the interests of the person that is sufficient** to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's **significant** pecuniary interest, or upon the ~~{persons}~~ **person** to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

2. The provisions of subsection 1 do not require a public officer to disclose:

(a) Any campaign contributions that the public officer reported in a timely manner pursuant to NRS 294A.120 or 294A.125; or

(b) Any contributions to a legal defense fund that the public officer reported in a timely manner pursuant to NRS 294A.286.

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

(a) The public officer's acceptance of a gift or loan;

(b) The public officer's **significant** pecuniary interest; or

(c) The public officer's commitment in a private capacity to the interests of ~~{others,}~~ **another person.**

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's **acceptance of a gift or loan, significant** pecuniary interest or ~~{the public officer's}~~ commitment in a private capacity to the interests of ~~{others,}~~ **another person** where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of ~~{others,}~~ **another person**, accruing to the other ~~{persons,}~~ **person**, is not greater than that accruing to any other member of ~~{the}~~ **any** general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the **acceptance of a gift or loan, significant** pecuniary interest or commitment in a private capacity to the interests of ~~{others,}~~ **another person.**

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, ~~{the public officer's}~~ **significant** pecuniary interest or ~~{the public officer's}~~ commitment in a private capacity to the interests of ~~{others,}~~ **another person** in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, ~~{the public officer's}~~ **significant** pecuniary interest or ~~{the public officer's}~~ commitment in a private capacity to the interests of ~~{others,}~~ **another person.**

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that the public officer will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

6. The provisions of this section do not, under any circumstances:

(a) Prohibit a member of a local legislative body from requesting or introducing a legislative measure; or

(b) Require a member of a local legislative body to take any particular action before or while requesting or introducing a legislative measure.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of State Government pursuant to Section 6 of Article 4 of the Nevada Constitution.

8. As used in this section ~~the~~

~~—(a) “Commitment in a private capacity to the interests of others” means a commitment to a person:~~

~~—(1) Who is a member of the public officer’s or employee’s household;~~

~~—(2) Who is related to the public officer or employee by blood, adoption or marriage within the third degree of consanguinity or affinity;~~

~~—(3) Who employs the public officer or employee or a member of the public officer’s or employee’s household;~~

~~—(4) With whom the public officer or employee has a substantial and continuing business relationship; or~~

~~—(5) Any other commitment or relationship that is substantially similar to a commitment or relationship described in subparagraphs (1) to (4), inclusive, of this paragraph.~~

~~—(b) “Public” , “public officer” and “public employee” do not include a State Legislator.~~

**Sec. 42.** (Deleted by amendment.)

**Sec. 42.5. NRS 281A.430 is hereby amended to read as follows:**

281A.430 1. Except as otherwise provided in this section and NRS ~~[281A.530]~~ **218A.970** and 332.800, a public officer or employee shall not bid on or enter into a contract between ~~any governmental~~ **an** agency and any business entity in which the public officer or employee has a significant pecuniary interest.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with ~~any governmental~~ **an** agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the

member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with ~~the governmental~~ an agency, or may benefit financially or otherwise from a contract between ~~the governmental~~ an agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. ~~4.1~~ Except as otherwise provided in subsection 2, 3 or 5, a public officer or employee ~~is other than a public officer or employee described in subsection 2 or 3,~~ may bid on or enter into a contract with ~~the governmental~~ an agency if:

(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;

(b) The sources of supply are limited;

(c) The public officer or employee has not taken part in developing the contract plans or specifications; and

(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.

↪ If a public officer who is authorized to bid on or enter into a contract with ~~the governmental~~ an agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.

5. A member of a local legislative body shall not, either individually or through any business entity in which the member has a significant pecuniary interest, sell goods or services to the local agency governed by his or her local legislative body unless:

(a) The member, or the business entity in which the member has a significant pecuniary interest, offers the sole source of supply of the goods or services within the territorial jurisdiction of the local agency governed by his or her local legislative body;

(b) The local legislative body includes in the public notice and agenda for the meeting at which it will consider the purchase of such goods or services a clear and conspicuous statement that it is considering purchasing such goods or services from one of its members, or from a business entity in which the member has a significant pecuniary interest;

(c) At the meeting, the member discloses his or her significant pecuniary interest in the purchase of such goods or services and does not vote upon or advocate the approval of the matter pursuant to the requirements of NRS 281A.420; and



(d) The local legislative body approves the purchase of such goods or services in accordance with all other applicable provisions of law.

6. The Commission may relieve a public officer or employee from the strict application of the provisions of this section if:

(a) The public officer or employee requests an opinion from the Commission pursuant to subsection 1 of NRS 281A.440; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each agency affected by the matter; and

(3) The provisions of this chapter.

Sec. 43. NRS 281A.440 is hereby amended to read as follows:

281A.440 1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances within 45 days after receiving a request, on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of the requester's own past, present or future conduct as ~~an~~ **a public** officer or employee, unless the public officer or employee waives the time limit. The public officer or employee may also request the Commission to hold a public hearing regarding the requested opinion. If a requested opinion relates to the propriety of the requester's own present or future conduct, the opinion of the Commission is:

(a) Binding upon the requester as to the requester's future conduct; and

(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.

2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

(a) Upon request from a specialized or local ethics committee.

(b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:

(1) The request on a form prescribed by the Commission; and

(2) All related evidence deemed necessary by the Executive Director and the investigatory panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.

(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.

↪ The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State.

3. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The Executive Director shall notify the public officer or employee who is the subject of the request and provide the public officer or employee an opportunity to submit to the Executive Director a response to the allegations against the public officer or employee within 30 days after the date on which the public officer or employee received the notice of the request. The purpose of the response is to provide the Executive Director with any information relevant to the request which the public officer or employee believes may assist the Executive Director and the investigatory panel in conducting the investigation. The public officer or employee is not required in the response or in any proceeding before the investigatory panel to assert, claim or raise any objection or defense, in law or fact, to the allegations against the public officer or employee and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceeding before the investigatory panel.

4. The Executive Director shall complete the investigation and present a **written** recommendation relating to just and sufficient cause , **including, without limitation, the specific evidence or reasons that support the recommendation**, to the investigatory panel within 70 days after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. ~~If, after the investigation, the Executive Director determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific evidence that supports the Executive Director's recommendation. If, after the investigation, the Executive Director determines that there is not just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific reasons for the Executive Director's recommendation.]~~

5. Within 15 days after the Executive Director has provided the ~~[Executive Director's]~~ **written** recommendation in the matter to the investigatory panel ~~[.]~~ **pursuant to subsection 4**, the investigatory panel shall **conclude the investigation and** make a final determination regarding

whether there is just and sufficient cause for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The investigatory panel shall not determine that there is just and sufficient cause for the Commission to render an opinion in the matter unless the Executive Director has provided the public officer or employee an opportunity to respond to the allegations against the public officer or employee as required by subsection 3. The investigatory panel shall cause a record of its proceedings in each matter to be kept . ~~[-and such a record must remain confidential until the investigatory panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter.]~~

6. If the investigatory panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Commission shall hold a hearing and render an opinion in the matter within 60 days after the determination of just and sufficient cause by the investigatory panel, unless the public officer or employee waives this time limit.

7. Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:

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

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

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

8. Except as otherwise provided in ~~[-this] subsection [-each document]~~ **9, all information, communications, records, documents or other material** in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, ~~[-the Commission's copy of the request and all materials and information gathered in an investigation of the request, is]~~ **the record of the proceedings of the investigatory panel made pursuant to subsection 5, are confidential and not public records pursuant to chapter 239 of NRS until [the] :**

(a) **The** investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter ~~[-The]~~ **and serves written notice of such a determination on the public officer or employee who is the subject**

*of the request for an opinion submitted or initiated pursuant to subsection 2; or*

*(b) The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 ~~{may in writing authorize}~~ authorizes the Commission in writing to make its ~~{files, material and}~~ information, **communications, records, documents or other material** which are related to the request publicly available ~~{,}~~,*

*↪ whichever occurs first.*

9. Except as otherwise provided in ~~{paragraphs (a) and (b), the proceedings of the investigatory panel are}~~ **this section, the investigative file of the Commission is confidential.** ~~{until}~~ **At any time after being served with written notice of the determination of** the investigatory panel ~~{determines whether there is}~~ **regarding the existence of** just and sufficient cause **for the Commission** to render an opinion in the matter ~~{A person who:~~

~~— (a) Requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 may:~~

~~— (1) At any time, reveal to a third party the alleged conduct of a public officer or employee underlying the request that the person filed with the Commission or the substance of testimony, if any, that the person gave before the Commission.~~

~~— (2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person requested an opinion from the Commission.~~

~~— (b) Gives testimony before the Commission may:~~

~~— (1) At any time, reveal to a third party the substance of testimony that the person gave before the Commission.~~

~~— (2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person gave testimony before the Commission.]~~ **, the public officer or employee who is the subject of the request for an opinion may submit a written discovery request to the Commission for a copy of any portion of the investigative file that the Commission intends to present for consideration as evidence in rendering an opinion in the matter and a list of proposed witnesses. Any portion of the investigative file which the Commission presents as evidence in rendering an opinion in the matter becomes a public record as provided in chapter 239 of NRS.**

**10. Whenever the Commission holds a hearing pursuant to this section, the Commission shall:**

**(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;**

**(b) Allow the person to be represented by counsel; and**

(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on the person's own behalf.

↪ The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.

11. If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the question to the Executive Director in writing. The Executive Director may submit the question to the Commission if the Executive Director deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

12. If a person who requests an opinion pursuant to subsection 1 or 2 does not:

(a) Submit all necessary information to the Commission; and

(b) Declare by oath or affirmation that the person will testify truthfully,

↪ the Commission may decline to render an opinion.

13. For good cause shown, the Commission may take testimony from a person by telephone or video conference.

14. For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.

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

**16. *For the purposes of this section, the investigative file of the Commission which relates to a request for an opinion regarding a public officer or employee includes, without limitation, any information obtained by the Commission through any form of communication during the course of an investigation and any records, documents or other material created or maintained during the course of an investigation which relate to the public officer or employee who is the subject of the request for an opinion, regardless of whether such information, records, documents or other material are obtained by a subpoena.***

**Sec. 44.** NRS 281A.470 is hereby amended to read as follows:

281A.470 1. Any ~~{department, board, commission or other}~~ state agency ~~{of the State}~~ or the governing body of a county or an incorporated

city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

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

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

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

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

(2) Upon review, approved by the Secretary of State. ***The Secretary of State shall not approve the form unless the form contains all the information required to be included in a statement of financial disclosure pursuant to NRS 281.571.***

2. ***The Secretary of State is not responsible for the costs of producing or distributing a form for filing a statement of financial disclosure pursuant to the provisions of subsection 1.***

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

~~§ 4.~~ 4. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

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

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

**Sec. 45.** NRS 281A.480 is hereby amended to read as follows:

281A.480 1. In addition to any other penalties provided by law ~~§ 1~~ ***and in accordance with the provisions of section 27.5 of this act,*** the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

(a) Not to exceed \$5,000 for a first willful violation of this chapter;

(b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and

(c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.

2. In addition to any other penalties provided by law, the Commission may , ***upon its own motion or upon the motion of the person about whom an opinion was requested pursuant to NRS 281A.440***, impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281A.440 against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization of a financial benefit by the current or former public officer or employee or another person, the Commission may, in addition to any other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. In addition to any other penalties provided by law, if a proceeding results in an opinion that:

(a) One or more willful violations of this chapter have been committed by a State Legislator removable from office only through expulsion by the State Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission shall:

(1) If the State Legislator is a member of the Senate, submit the opinion to the Majority Leader of the Senate or, if the Majority Leader of the Senate is the subject of the opinion or the person who requested the opinion, to the President Pro Tempore of the Senate; or

(2) If the State Legislator is a member of the Assembly, submit the opinion to the Speaker of the Assembly or, if the Speaker of the Assembly is the subject of the opinion or the person who requested the opinion, to the Speaker Pro Tempore of the Assembly.

(b) One or more willful violations of this chapter have been committed by a state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution, the Commission shall submit the opinion to the Speaker of the Assembly and the Majority Leader of the Senate or, if the Speaker of the Assembly or the Majority Leader of the Senate is the person who requested the opinion, to the Speaker Pro Tempore of the Assembly or the President Pro Tempore of the Senate, as appropriate.

(c) One or more willful violations of this chapter have been committed by a public officer other than a public officer described in paragraphs (a) and (b), the willful violations shall be deemed to be malfeasance in office for the purposes of NRS 283.440 and the Commission:

(1) May file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in

the opinion to have committed fewer than three willful violations of this chapter.

(2) Shall file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed three or more willful violations of this chapter.

➔ This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation found in the opinion.

5. ~~{An action taken}~~ **Notwithstanding any other provision of this chapter, any act or failure to act** by a public officer or employee or former public officer or employee relating to this chapter is not a willful violation of ~~{a provision of}~~ ~~{those sections}~~ **this chapter** if the public officer or employee establishes by sufficient evidence that ~~\_: {the public officer or employee satisfied all of the following requirements.}~~

(a) The public officer or employee relied in good faith upon the advice of the legal counsel retained by ~~{the}~~ **his or her** public body ~~{which the public officer represents or by the}~~, **agency or employer**; ~~{of the public employee or upon the manual published by the Commission pursuant to NRS 281A.290.}~~

~~—(b) The public officer or employee was unable, through no fault of the public officer or employee, to obtain an opinion from the Commission before the action was taken;}~~ and

~~{(c)}~~ **(b)** The **act or failure to act by the** public officer or employee ~~{took action that}~~ was not contrary to a prior published opinion issued by the Commission.

6. In addition to any other penalties provided by law, a public employee who commits a willful violation of this chapter is subject to disciplinary proceedings by the employer of the public employee and must be referred for action in accordance to the applicable provisions governing the employment of the public employee.

7. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review pursuant to NRS 233B.130.



9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

**Sec. 46.** NRS 281A.500 is hereby amended to read as follows:

281A.500 1. ***On or before the date on which a public officer swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:***

***(a) For an appointed public officer, the appointing authority of the public officer; and***

***(b) For an elected public officer of:***

***(1) The county and other political subdivisions within the county except cities, the county clerk;***

***(2) The city, the city clerk;***

***(3) The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and***

***(4) The Executive Department of the State Government, the Director of the Department of Administration, or his or her designee.***

2. ***Within 30 days after a public employee begins employment:***

***(a) The Director of the Department of Administration, or his or her designee, shall provide each new public employee of a state agency with the information prepared by the Commission concerning the statutory ethical standards; and***

***(b) The manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.***

3. Each public officer shall acknowledge that the public officer:

(a) Has received, read and understands the statutory ethical standards; and

(b) Has a responsibility to inform himself or herself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.

~~{2-}~~ 4. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:

(a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.

(b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer ~~{takes}~~ ***swears or affirms the oath of office.***

~~{3-}~~ 5. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not

have a definite term of office, the public officer, in addition to executing and filing the acknowledgment after the public officer ~~takes~~ **swears or affirms the oath of** office in accordance with subsection ~~2,~~ **4**, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.

~~4.~~ **6.** For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is filed in one of the following ways:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.

~~5.~~ **(d) Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.**

7. The form for making the acknowledgment must contain:

(a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a ~~hard~~ copy **of the standards**; and

(b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a ~~hard~~ **printed** copy of the statutory ethical standards from the Commission.

~~6.~~ **8.** Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a ~~hard~~ **printed** copy of the form for making the acknowledgment, a ~~hard~~ **printed** copy of the statutory ethical standards must be included with the form.

~~7.~~ **9.** The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

~~8.~~ **10.** Willful refusal to execute and file the acknowledgment required by this section shall be deemed to be:

(a) A willful violation of this chapter for the purposes of NRS 281A.480; and

(b) Nonfeasance in office for the purposes of NRS 283.440 and, if the public officer is removable from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for removal of the public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.

~~{9.}~~ **11.** As used in this section, “general election” has the meaning ascribed to it in NRS 293.060.

**Sec. 47.** (Deleted by amendment.)

**Sec. 48.** (Deleted by amendment.)

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

**Sec. 50.** (Deleted by amendment.)

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

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

**Sec. 53.** (Deleted by amendment.)

**Sec. 54.** (Deleted by amendment.)

**Sec. 55.** (Deleted by amendment.)

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

**Sec. 56.5.** (Deleted by amendment.)

**Sec. 57. NRS 245.075 is hereby amended to read as follows:**

245.075 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~281A.530~~ and 332.800, it is unlawful for any county officer , directly or indirectly, to be interested in any contract made by the county officer or to be a purchaser or ~~be~~ interested in any purchase of a sale made by the county officer in the discharge of his or her official duties.

2. Any contract made in violation of ~~{subsection 1}~~ this section may be declared void at the instance of the county interested or of any other person interested in the contract except the officer prohibited from making or being interested in the contract.

3. Any person ~~{violating}~~ who violates this section ~~{, directly or indirectly,}~~ is guilty of a gross misdemeanor and shall forfeit his or her office.

**Sec. 58. NRS 268.384 is hereby amended to read as follows:**

268.384 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~281A.530~~ and 332.800, it is unlawful for any city officer , directly or indirectly, to be interested in any contract made by the city officer ~~{,}~~ or to be a purchaser or interested ~~{, directly or indirectly,}~~ in any purchase of a sale made by the city officer in the discharge of his or her official duties.

2. Any person ~~{violating}~~ who violates this section is guilty of a gross misdemeanor and shall forfeit his or her office.

**Sec. 59. NRS 269.071 is hereby amended to read as follows:**

269.071 1. ~~1. Except as otherwise provided in NRS 281.230, 281A.430 and 332.800, it~~ is unlawful for any member of a town board or board of county commissioners acting for any town to become a contractor under any contract or order for supplies or any other kind of contract authorized by or for the board of which he or she is a member, or to be interested, directly or indirectly, as principal ~~in~~ in any kind of contract so authorized.

2. Any person ~~violating subsection 1~~ **who violates this section** is guilty of a gross misdemeanor and shall forfeit his or her office.

**Sec. 60. NRS 269.072 is hereby amended to read as follows:**

269.072 1. ~~1. Except as otherwise provided in NRS 281.230, 281A.430 and 332.800, it~~ is unlawful for any town officer, directly or indirectly, to be interested in any contract made by the town officer ~~in~~ or **to** be a purchaser or ~~be~~ interested in any purchase under a sale made by the town officer in the discharge of **his or her** official duties.

2. Any person ~~violating subsection 1~~ **who violates this section** is guilty of a gross misdemeanor and shall forfeit his or her office.

**Sec. 61. NRS 332.800 is hereby amended to read as follows:**

332.800 1. Except as otherwise provided in NRS 281.230 ~~in~~ **and** 281A.430 ~~, and 281A.530,~~ a member of the governing body may not be interested, directly or indirectly, in any contract entered into by the governing body, but the governing body may purchase supplies, not to exceed \$1,500 in the aggregate in any 1 calendar month ~~from~~ **from** a member of such governing body ~~in~~ when not to do so would be of great inconvenience due to a lack of any other local source.

2. An evaluator may not be interested, directly or indirectly, in any contract awarded by such governing body or its authorized representative.

3. A member of a governing body who furnishes supplies in the manner permitted by subsection 1 may not vote on the allowance of the claim for such supplies.

4. A ~~violation of~~ **person who violates** this section is **guilty of** a misdemeanor and, in the case of a member of a governing body, **a violation is** cause for removal from office.

**Sec. 62. NRS 281A.530 is hereby repealed.**

~~{Sec. 57.}~~ **Sec. 63. {This}**

**1. Except as otherwise provided in subsection 2, this** act becomes effective upon passage and approval.

**2. Sections 16.3, 16.5, 24.5, 32.3, 40.5, 42.5 and 57 to 62, inclusive, of this act become effective on January 1, 2014.**

**TEXT OF REPEALED SECTION**

**281A.530 Purchase of goods or services by local government from member of governing body not unlawful or unethical; conditions. The purchase of goods or services by a local government upon a two-thirds vote of its governing body from a member of the governing body who is the sole source of supply within the area served by the governing body is not unlawful or unethical if the public notice of the meeting specifically mentioned that such a purchase would be discussed.**

Assemblyman Ohrenschall moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 228.

Remarks by Assemblyman Ohrenschall.

Motion carried by a constitutional majority.

**CONSIDERATION OF SENATE AMENDMENTS**

Assembly Bill No. 288.

The following Senate amendment was read:

Amendment No. 671.

AN ACT relating to education; **requiring the State Board of Education to select a high school equivalency assessment for certain persons who are not enrolled in high school and have not graduated; providing for the recognition of a document equivalent to a general educational development certificate, general educational development credential and general equivalency diploma;** requiring the State Board ~~of Education~~ to select a college and career readiness assessment for administration to pupils enrolled in grade 11 in public high schools; revising the requirements to receive a standard high school diploma by requiring pupils enrolled in grades 9 and 10 to pass end-of-course examinations for the courses of study prescribed by the State Board; eliminating the option for the issuance of a certificate of attendance indicating a pupil attended high school but did not satisfy the requirements for a standard high school diploma; eliminating the high school proficiency examination; repealing provisions relating to the high school proficiency examination; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Existing law authorizes a person who is 16 or 17 years of age, is not enrolled in high school and has not graduated from high school to take the tests of general educational development to obtain a general educational development certificate which demonstrates that the person has achieved an educational level which is an acceptable substitute for completing a high school education. (NRS 385.448) Section 12.3 of this bill removes the reference to the tests of general educational**

**development and requires the State Board of Education to select a high school equivalency assessment. Existing law also makes various references to a: (1) general educational development certificate; (2) general educational development credential; and (3) general equivalency diploma. (NRS 209.396, 209.433, 209.443, 209.446, 209.4465, 211.330, 213.315, 388.575, 389.810, 432B.595, 630.277, 641C.420, 652.127, 697.173) Sections 17.5, 33.5, 41.1-41.7 and 42.2-42.7 of this bill provide for the recognition of a document that is equivalent to such a certificate, credential or diploma.**

Existing law requires the administration of examinations based upon the State's academic standards to pupils enrolled in grades 3 through 8 and requires pupils to pass the high school proficiency examination to receive a standard high school diploma. (NRS 389.015, 389.550) **Section 43** of this bill eliminates the high school proficiency examination. **Section 19** of this bill requires the State Board ~~of Education~~ to select a college and career readiness assessment for administration to pupils enrolled in grade 11 in public high schools commencing with the 2014-2015 school year. **Section 19** further requires a pupil enrolled in grade 11 to take the assessment to receive a standard high school diploma, but prohibits the use of the results of the assessment in determining the pupil's eligibility for such a diploma.

Existing law prescribes the requirements for a standard high school diploma, including passage of the high school proficiency examination. (NRS 389.805) **Section 33** of this bill eliminates the requirement of passage of the high school proficiency examination and instead requires the State Board to prescribe the criteria for receipt of a standard high school diploma, which must include the requirement that, commencing with the 2014-2015 school year, a pupil enrolled in grade 9 or 10 pass an end-of-course examination. **Section 33** also requires the State Board to adopt the courses of study in which pupils enrolled in grades 9 and 10 must pass such an examination, which must include, without limitation, the subject areas for which the State Board has adopted the common core standards.

Under existing law, a pupil who does not pass the high school proficiency examination may be issued a certificate of attendance in lieu of a diploma if he or she is 18 years of age. (NRS 389.015) **Section 33** of this bill prohibits the issuance to a pupil of a certificate of attendance or any other document indicating that the pupil attended high school but did not satisfy the requirements for a standard high school diploma.

As a transition from the administration of the high school proficiency examination to the administration of end-of-course examinations, **sections 44-44.7** of this bill require the State Board of Education to prescribe the requirements which a pupil enrolled in grade 10, 11 or 12 in the 2013-2014 school year who has not passed the high school proficiency examination and

is required to pass the examination to receive a standard high school diploma must satisfy to receive a standard high school diploma. Such requirements may include the continuation of the administration of the high school proficiency examination to those pupils.

The remaining sections of this bill make conforming changes relating to the elimination of the high school proficiency examination.

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

**Section 1.** NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS ~~389.015 and~~ 389.550 ~~to~~ **and 389.805**, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

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

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

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

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

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

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS ~~389.015 and~~ 389.550 ~~to~~ **and 389.805**, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made:

(1) Adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(2) Progress based upon the model adopted by the Department pursuant to NRS 385.3595, if applicable for the grade level of pupils enrolled at the school.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) The total number of persons employed by each school district in this State, including without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by each school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph:

(1) "Administrator" means a person who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, and who is not classified by the board of trustees of a school district as a professional-technical employee.

(2) "Other staff" means all persons who are not reported as administrators or teachers, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and



(III) Persons classified by the board of trustees of a school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) “Teacher” means a person licensed pursuant to chapter 391 of NRS who is classified by the board of trustees of a school district:

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(I) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as

long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(m) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(o) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(p) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the ~~examinations of general educational development~~ **high school equivalency assessment selected by the State Board pursuant to NRS 385.448.**

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

(3) Withdraw from school to attend another school.

(q) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

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

(x) Each source of funding for this State to be used for the system of public education.

(y) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

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

(z) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma . ~~[- reported separately for pupils who received the diploma pursuant to:~~

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

~~—— (II) Paragraph (b) of subsection 1 of NRS 389.805.]~~

(2) An adult diploma.

(3) An adjusted diploma.

~~[(4) A certificate of attendance.]~~

(cc) ~~[- For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.~~

~~—(dd)]~~ The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(ee)]~~ **(dd)** Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

~~[(ff)]~~ **(ee)** An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

~~[(gg)]~~ **(ff)** A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

~~[(hh)]~~ **(gg)** For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on

pupils enrolled in career and technical education, including, without limitation:

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

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

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

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

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma ~~1; or an adjusted diploma ; for a certificate of attendance;~~ and

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

~~—(ii) satisfy the criteria prescribed by the State Board pursuant to NRS 389.805.~~

**(hh)** The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, reported for each school district, including, without limitation, each charter school in the district, and for the State as a whole.

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

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

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

4. On or before October 15 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

- (2) Committee;
- (3) Bureau;
- (4) Board of Regents of the University of Nevada;
- (5) Board of trustees of each school district; and
- (6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

- (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
- (c) "Harassment" has the meaning ascribed to it in NRS 388.125.
- (d) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. §

7801(23).

- (e) "Intimidation" has the meaning ascribed to it in NRS 388.129.
- (f) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

**Sec. 2.** NRS 385.34691 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; 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) 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 389.805**; 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 396.945, 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) 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) A 5-year strategic plan which identifies the recurring issues in improving the achievement and proficiency of pupils in this State and which establishes strategic goals to address those issues. The 5-year strategic plan must be:

(1) Based upon the data from previous years which is collected by the Department for the plan developed pursuant to this section; and

(2) Designed to track the progress made in achieving the strategic goals established by the Department.

(m) 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 annually to evaluate the effectiveness of the plan;

(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:

(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 January 31 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) Governing body of each charter school.

**Sec. 3.** NRS 385.34692 is hereby amended to read as follows:

385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes,

without limitation, a summary of the following information for each school district, each charter school and the State as a whole:

(a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:

- (1) Who are economically disadvantaged, as defined by the State Board;
- (2) Who are from major racial or ethnic groups, as defined by the State Board;
- (3) With disabilities;
- (4) Who are limited English proficient; and
- (5) Who are migratory children, as defined by the State Board;

(b) The average daily attendance of pupils, reported separately for the groups identified in paragraph (a);

(c) The transiency rate of pupils;

(d) The percentage of pupils who are habitual truants;

(e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;

(f) The number of incidents resulting in suspension or expulsion for:

- (1) Violence to other pupils or to school personnel;
- (2) Possession of a weapon;
- (3) Distribution of a controlled substance;
- (4) Possession or use of a controlled substance;
- (5) Possession or use of alcohol; and
- (6) Bullying, cyber-bullying, harassment or intimidation;

(g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;

(h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;

(i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;

(j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;

(k) The number and percentage of pupils who graduated from high school;

(l) The number and percentage of pupils who received a:

- (1) Standard diploma;
- (2) Adult diploma; **and**
- (3) Adjusted diploma; ~~and~~
- ~~(4) Certificate of attendance;~~

(m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;

(n) Per pupil expenditures;

(o) Information on the professional qualifications of teachers;

(p) The average daily attendance of teachers and licensure information;  
(q) Information on the adequate yearly progress of the schools and school districts;

(r) Pupil achievement based upon the:

(1) Examinations administered pursuant to NRS 389.550, including, without limitation, whether public schools have made progress based upon the model adopted by the Department pursuant to NRS 385.3595; and

(2) ~~High school proficiency examination administered pursuant to NRS 389.015; and~~ **End-of-course examinations administered pursuant to NRS 389.805; and**

(s) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

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

3. On or before October 20 of each year, the State Board shall:

(a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and

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

(1) Governor;

(2) Committee;

(3) Bureau;

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

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

(6) Governing body of each charter school.

4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.

5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.

6. As used in this section:

(a) “Bullying” has the meaning ascribed to it in NRS 388.122.

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

(c) "Harassment" has the meaning ascribed to it in NRS 388.125.

(d) "Intimidation" has the meaning ascribed to it in NRS 388.129.

**Sec. 4.** NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools sponsored by the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school sponsored by the school district. The information for charter schools must be reported separately.

2. The board of trustees of each school district shall, on or before September 30 of each year, prepare an annual report of accountability concerning:

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

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS ~~[389.015 and]~~ 389.550 and **389.805 and** shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school sponsored by the district, and each grade in which the examinations were administered:

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS ~~389.015 and 389.550~~ **and 389.805**, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

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

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

(10) Information on whether each school in the district, including, without limitation, each charter school sponsored by the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

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

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

(d) The total number of persons employed for each elementary school, middle school or junior high school, and high school in the district,

including, without limitation, each charter school sponsored by the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by each school in each category, the report must include the number of employees in each of the three categories for each school expressed as a percentage of the total number of persons employed by the school. As used in this paragraph:

(1) "Administrator" means a person who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, and who is not classified by the board of trustees of the school district as a professional-technical employee.

(2) "Other staff" means all persons who are not reported as administrators or teachers, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of the school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is classified by the board of trustees of the school district:

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(e) The total number of persons employed by the school district, including without limitation, each charter school sponsored by the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by the school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph, "administrator," "other staff" and "teacher" have the meanings ascribed to them in paragraph (d).

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

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

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

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

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

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

- (1) Any special programs for pupils at an individual school; and
- (2) The curriculum used by each charter school sponsored by the district.

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

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

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

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

(1) Provide proof to the school district of successful completion of the ~~examinations of general educational development~~ **high school equivalency assessment selected by the State Board pursuant to NRS 385.448.**

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

(3) Withdraw from school to attend another school.

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

(l) Efforts made by the school district and by each school in the district, including, without limitation, each charter school sponsored by the district, to increase:

- (1) Communication with the parents of pupils enrolled in the district;
- (2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees; and
- (3) The involvement of parents and the engagement of families of pupils enrolled in the district in the education of their children.



(m) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school sponsored by the district.

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

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

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

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

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

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

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

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

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

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

(v) The technological facilities and equipment available at each school, including, without limitation, each charter school sponsored by the district, and the district's plan to incorporate educational technology at each school.

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

(1) A standard high school diploma . ~~[- reported separately for pupils who received the diploma pursuant to:~~

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

~~—— (II) Paragraph (b) of subsection 1 of NRS 389.805.]~~

(2) An adult diploma.

(3) An adjusted diploma.

~~[(4) A certificate of attendance.]~~

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

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

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

~~[(aa)]~~ (z) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

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

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

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

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

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

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

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

~~[(ee)]~~ **(dd)** An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

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

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

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

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

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

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

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

~~[(gg)]~~ **satisfy the criteria prescribed by the State Board pursuant to NRS 389.805.**

**(ff)** The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

~~[(hh)]~~ **(gg)** Such other information as is directed by the Superintendent of Public Instruction.

3. The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before September 30 of each year, prepare an annual report of accountability of the charter schools sponsored by the State Public Charter School Authority or institution, as applicable, concerning the accountability information prescribed by the Department pursuant to this section. The Department, in consultation with the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, shall prescribe by regulation the information that must be prepared by the State Public Charter School Authority and institution, as applicable, which must include, without limitation, the information contained in paragraphs (a) to ~~h(h)~~ (gg), inclusive, of subsection 2, as applicable to charter schools. The Department shall provide for public dissemination of the annual report of accountability prepared pursuant to this section in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the Department.

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

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

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

5. The annual report of accountability prepared pursuant to subsection 2 or 3, as applicable, must:

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

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

6. The Superintendent of Public Instruction shall:

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

(b) Provide statistical information and technical assistance to the school districts, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a

charter school to ensure that the reports provide comparable information with respect to each school in each district, each charter school and among the districts and charter schools throughout this State.

(c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;
- (5) Budget Division of the Department of Administration;
- (6) Legislative Counsel Bureau; and
- (7) Charter School Association of Nevada,

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

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

8. On or before September 30 of each year:

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

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

9. On or before September 30 of each year:

(a) The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide written notice that the report required pursuant to subsection 2 or 3, as applicable, is available on the Internet website maintained by the school district, State Public Charter School Authority or institution, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee; and

(5) Bureau.

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

10. Upon the request of the Governor, an entity described in paragraph (a) of subsection 9 or a member of the general public, the board of trustees of a school district, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable, shall provide a portion or portions of the report required pursuant to subsection 2 or 3, as applicable.

11. As used in this section:

- (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
- (c) "Harassment" has the meaning ascribed to it in NRS 388.125.
- (d) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).
- (e) "Intimidation" has the meaning ascribed to it in NRS 388.129.
- (f) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

**Sec. 5.** NRS 385.357 is hereby amended to read as follows:

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

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

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

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

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

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

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

(f) Strategies and practices which:

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

(2) Are designed to improve and promote effective involvement and engagement by parents and families of pupils enrolled in the school which are consistent with the policies and recommendations of the Office of Parental Involvement and Family Engagement made pursuant to NRS 385.635.

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

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

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

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS ~~389.015 and~~ 389.550 ~~[-]~~ **and 389.805**; and

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

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

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

(4) Manage effectively the discipline of pupils; and

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

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

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

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

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

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

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

(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic



achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

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

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

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

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

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

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

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

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

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

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the

plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

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

9. On or before January 31 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:

- (a) Superintendent of Public Instruction;
- (b) Governor;
- (c) State Board;
- (d) Department;
- (e) Committee;
- (f) Bureau; and
- (g) Board of trustees of the school district in which the school is located or, if the school is a charter school, the sponsor of the charter school and the governing body of the charter school.

10. A plan for the improvement of a school must be carried out expeditiously, but not later than February 15 after approval of the plan pursuant to subsection 7 or 8, as applicable.

**Sec. 6.** NRS 385.361 is hereby amended to read as follows:

385.361 1. The State Board shall define the measurement for determining whether each public school, each school district and this State are making adequate yearly progress. The definition of adequate yearly progress must:

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

(b) Be designed to ensure that all pupils will meet or exceed the minimum level of proficiency set by the State Board, 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; and
- (4) Pupils who are limited English proficient;

(c) Be based primarily upon the measurement of progress of pupils on the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable;

(d) Include annual measurable objectives established pursuant to 20 U.S.C. § 6311(b)(2)(G) and the regulations adopted pursuant thereto;

(e) For high schools, include the rate of graduation; and

(f) For elementary schools, junior high schools and middle schools, include the rate of attendance.

2. The examination in science must not be included in the definition of adequate yearly progress.

3. The State Board shall prescribe, by regulation, the differentiated corrective actions, the consequences or the sanctions, or any combination thereof, based upon the identified needs of a public school, including, without limitation, the educational needs of English language learners, pupils with disabilities or other groups of pupils identified in paragraph (b) of subsection 1, that apply to the public school that has been designated as demonstrating need for improvement for 4 consecutive years or more, including, without limitation, the establishment of a support team for a school if deemed necessary by the Department in accordance with the regulations of the State Board. In no event may the consequences or sanctions be more strict than the restructuring that applies to Title I schools.

**Sec. 7.** NRS 385.3612 is hereby amended to read as follows:

385.3612 1. The State Board shall adopt regulations that prescribe, consistent with 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, the manner in which pupils enrolled in:

(a) A program of distance education pursuant to NRS 388.820 to 388.874, inclusive;

(b) An alternative program for the education of pupils at risk of dropping out of school pursuant to NRS 388.537; or

(c) A program of education that:

(1) Primarily serves pupils with disabilities; or

(2) Is operated within a:

(I) Local, regional or state facility for the detention of children;

(II) Juvenile forestry camp;

(III) Child welfare agency; or

(IV) Correctional institution,

↪ will be included within the statewide system of accountability set forth in NRS 385.3455 to 385.391, inclusive.

2. The regulations adopted pursuant to subsection 1 must also set forth the manner in which:

(a) The progress of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 will be accounted for within the statewide system of accountability; and

(b) The results of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 on the examinations administered pursuant to NRS ~~389.015 and~~ 389.550 **and 389.805** will be reported.

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

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

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

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

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

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

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

(1) The name of the program;

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

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

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

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

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

(1) The financial resources of the school;

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

(3) The curriculum of the school;

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

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

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

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 ~~for the high school proficiency examination, as applicable;~~ **and, if applicable for the grade levels of the school, the end-of-course examinations administered pursuant to NRS 389.805;**

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

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

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

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

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

(7) Except as otherwise provided in subparagraph (8), a description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (m) to (p), inclusive, of subsection 2 of NRS 385.347; and

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

2. On or before December 15, the support team of a school other than a charter school shall submit a copy of the final written report to the:

(a) Principal of the school;

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

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

(d) Department; and

(e) Bureau.

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

3. On or before December 15, the support team for a charter school shall submit a copy of the final written report to the:

- (a) Principal of the charter school;
- (b) Sponsor of the charter school;
- (c) Governing body of the charter school;
- (d) Department; and
- (e) Bureau.

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

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

385.3613 1. Except as otherwise provided in subsection 2, on or before July 31 of each year, the Department shall determine whether each public school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

2. On or before July 31 of each year, the Department shall determine whether each public school that operates on a schedule other than a traditional 9-month schedule is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the State Public Charter School Authority or by a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the State Public Charter School Authority or the institution within the Nevada System of Higher Education that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before July 31 of each year, the Department shall transmit:

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

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

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

4. Except as otherwise provided in this subsection, the Department shall determine that a public school has failed to make adequate yearly progress if any group identified in paragraph (b) of subsection 1 of NRS 385.361 does not satisfy the annual measurable objectives established by the State Board

pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school shall be deemed to have made adequate yearly progress even though a group identified in paragraph (b) of subsection 1 of NRS 385.361 did not satisfy the annual measurable objectives of the State Board.

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

(a) The number of pupils enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable, is less than 95 percent of all pupils enrolled in the school who were required to take the examinations; or

(b) Except as otherwise provided in subsection 6, for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the group enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable, is less than 95 percent of all pupils in that group enrolled in the school who were required to take the examinations.

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

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

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

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

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

8. As used in this section:

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

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

**Sec. 10.** NRS 385.3762 is hereby amended to read as follows:

385.3762 1. On or before August 15 of each year, the Department shall determine whether each school district is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361. The pupils who are enrolled in a charter school, if any, located within a school district must not be included in the determination made for that school district. The determination made for each school district must be based only upon the information and data for those pupils who were enrolled in the school district for a full academic year, regardless of whether those pupils attended more than one school within the school district for that academic year.

2. Except as otherwise provided in this subsection, the Department shall determine that a school district has failed to make adequate yearly progress if any group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school district does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school district shall be deemed to have made adequate yearly progress even though a group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school district did not satisfy the annual measurable objectives of the State Board.

3. In addition to the provisions of subsection 2, the Department shall determine that a school district has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school district who took the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable, is less than 95 percent of all pupils enrolled in the school district who were required to take the examinations; or

(b) Except as otherwise provided in subsection 4, for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils enrolled in the school district who took the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable, is less than 95 percent of all pupils in the group who were required to take the examinations.

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

(a) The Department shall not determine that the school district has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 3 based solely upon that particular group.



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

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

**Sec. 11.** NRS 385.389 is hereby amended to read as follows:

385.389 1. The Department shall adopt programs of remedial study for each subject tested on the examinations administered pursuant to NRS ~~389.015 and~~ 389.550 ~~and~~ **389.805**, including, without limitation, programs that are designed for pupils who are limited English proficient. The programs adopted for pupils who are limited English proficient must be designed to:

(a) Improve the academic achievement of those pupils; or

(b) Assist those pupils with attaining proficiency in the English language.

↪ In adopting these programs of remedial study, the Department shall consider the recommendations submitted by the Committee pursuant to NRS 218E.615 and programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

2. If a school fails to make adequate yearly progress based upon the results of the examinations administered pursuant to NRS ~~389.015 or~~ 389.550 ~~or~~ **389.805**, the school shall adopt a program of remedial study that has been adopted by the Department pursuant to subsection 1 or a program, practice or strategy recommended by the Commission on Educational Excellence pursuant to NRS 385.3785, or any combination thereof, as applicable.

3. A school district that includes a school described in subsection 2 shall ensure that each of the pupils enrolled in the school who failed to demonstrate at least adequate achievement on the examinations administered pursuant to NRS ~~389.015 or~~ 389.550 ~~or~~ **389.805**, as applicable, completes remedial study that is determined to be appropriate for the pupil.

**Sec. 12.** NRS 385.3891 is hereby amended to read as follows:

385.3891 1. The Department shall establish a monitoring system for the statewide system of accountability. The monitoring system must identify significant levels of achievement of pupils on the examinations that are administered pursuant to NRS 389.550 and the ~~high school proficiency examination that is~~ **examinations** administered pursuant to NRS ~~389.015,~~ **389.805**, identified by school and by school district.

2. On or before October 1 of each year, the Department shall prepare a written summary of the findings made pursuant to subsection 1. The written summary must be provided to:

(a) The Committee; and

(b) If the findings show inconsistencies applicable to a particular school district or school within a school district, the board of trustees of that school district.

3. The Committee shall review the report submitted pursuant to subsection 2 and take such action as it deems appropriate.

**Sec. 12.3. NRS 385.448 is hereby amended to read as follows:**

385.448 1. **The State Board shall select an assessment which enables a person who satisfies the requirements of subsection 2 or 3, as applicable, to demonstrate that he or she has achieved an educational level which is an acceptable substitute for completing a high school education.**

2. A person who:

- (a) Is 17 years of age or older;
  - (b) If he or she is at least 17 years of age but less than 18 years of age, submits to the State Board written permission signed by his or her parent or legal guardian;
  - (c) Has not graduated from a high school;
  - (d) Is not currently enrolled in a high school; and
  - (e) Satisfies any other requirements prescribed by the State Board,
- may take the ~~tests of general educational development prescribed~~ **high school equivalency assessment selected** by the State Board.

~~2.3~~ **3.** The board of trustees of a school district may, upon request and for good cause shown, grant permission to take the ~~tests of general educational development prescribed~~ **high school equivalency assessment selected** by the State Board to a person who:

- (a) Resides in the school district;
- (b) Is at least 16 years of age but less than 17 years of age;
- (c) Submits to the board of trustees written permission signed by his or her parent or legal guardian;
- (d) Has not graduated from a high school;
- (e) Is not currently enrolled in a high school; and
- (f) Satisfies any other requirements prescribed by the board of trustees.

~~3.4~~ **4.** The State Board may adopt regulations to carry out the provisions of ~~subsection 1.~~

~~4.~~ As used in this section, “tests of general educational development” means examinations which enable persons who have not graduated from high school to demonstrate that they have achieved an educational level which is an acceptable substitute for completing a high school education. ~~this section.~~

**Sec. 12.5. NRS 385.451 is hereby amended to read as follows:**

**385.451** It is unlawful to disclose the questions contained in ~~tests of general educational development~~ **the high school equivalency assessment selected by the State Board pursuant to NRS 385.448** and the approved answers used for grading the ~~tests~~ **assessment** except:

1. To the extent that disclosure is required in the Department's administration of the ~~tests~~ assessment.

2. That a disclosure may be made to a state officer who is a member of the Executive or Legislative branch to the extent that it is related to the performance of that officer's duties.

**Sec. 13.** NRS 386.550 is hereby amended to read as follows:

386.550 1. A charter school shall:

(a) Comply with all laws and regulations relating to discrimination and civil rights.

(b) Remain nonsectarian, including, without limitation, in its educational programs, policies for admission and employment practices.

(c) Refrain from charging tuition or fees, levying taxes or issuing bonds.

(d) Comply with any plan for desegregation ordered by a court that is in effect in the school district in which the charter school is located.

(e) Comply with the provisions of chapter 241 of NRS.

(f) Except as otherwise provided in this paragraph, schedule and provide annually at least as many days of instruction as are required of other public schools located in the same school district as the charter school is located. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction for a waiver from providing the days of instruction required by this paragraph. The Superintendent of Public Instruction may grant such a request if the governing body demonstrates to the satisfaction of the Superintendent that:

(1) Extenuating circumstances exist to justify the waiver; and

(2) The charter school will provide at least as many hours or minutes of instruction as would be provided under a program consisting of 180 days.

(g) Cooperate with the board of trustees of the school district in the administration of the ~~{achievement and proficiency}~~ examinations administered pursuant to ~~[NRS 389.015 and the examinations required pursuant to]~~ NRS 389.550 **and, if the charter school enrolls pupils at a high school grade level, the end-of-course examinations administered pursuant to NRS 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act** to the pupils who are enrolled in the charter school.

(h) Comply with applicable statutes and regulations governing the achievement and proficiency of pupils in this State.

(i) Provide instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school, and provide at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and require the pupils who are enrolled in the charter school to take those courses of study. This paragraph

does not preclude a charter school from offering, or requiring the pupils who are enrolled in the charter school to take, other courses of study that are required by statute or regulation.

(j) If the parent or legal guardian of a child submits an application to enroll in kindergarten, first grade or second grade at the charter school, comply with NRS 392.040 regarding the ages for enrollment in those grades.

(k) Refrain from using public money to purchase real property or buildings without the approval of the sponsor.

(l) Hold harmless, indemnify and defend the sponsor of the charter school against any claim or liability arising from an act or omission by the governing body of the charter school or an employee or officer of the charter school. An action at law may not be maintained against the sponsor of a charter school for any cause of action for which the charter school has obtained liability insurance.

(m) Provide written notice to the parents or legal guardians of pupils in grades 9 to 12, inclusive, who are enrolled in the charter school of whether the charter school is accredited by the Commission on Schools of the Northwest Association of Schools and of Colleges and Universities.

(n) Adopt a final budget in accordance with the regulations adopted by the Department. A charter school is not required to adopt a final budget pursuant to NRS 354.598 or otherwise comply with the provisions of chapter 354 of NRS.

(o) If the charter school provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive, comply with all statutes and regulations that are applicable to a program of distance education for purposes of the operation of the program.

2. A charter school shall not provide instruction through a program of distance education to children who are exempt from compulsory attendance authorized by the State Board pursuant to subsection 1 of NRS 392.070. As used in this subsection, "distance education" has the meaning ascribed to it in NRS 388.826.

**Sec. 14.** NRS 386.5515 is hereby amended to read as follows:

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

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

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

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

(d) At least 75 percent of the pupils enrolled in grade 12 in the charter school in the immediately preceding school year ~~[who] have [completed the required course work for graduation]~~ ~~have passed the high school proficiency examination,~~ **satisfied the criteria prescribed by the State Board pursuant to NRS 389.805,** if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the Department pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:

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

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

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

**Sec. 15.** NRS 386.740 is hereby amended to read as follows:

386.740 1. Each empowerment plan for a school must:

(a) Set forth the manner by which the school will be governed;

(b) Set forth the proposed budget for the school, including, without limitation, the cost of carrying out the empowerment plan, and the manner by which the money apportioned to the school will be administered;

(c) If a school support team has been established for the school in accordance with the regulations of the State Board adopted pursuant to

NRS 385.361, require the principal and the empowerment team for the school to work in consultation with the school support team;

(d) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the pupils enrolled in the school and any special programs that will be offered for pupils;

(e) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to NRS ~~389.015 and 389.550~~ **and, if applicable for the grade levels of the empowerment school, the end-of-course examinations administered pursuant to NRS 389.805;**

(f) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school, which must be determined and negotiated pursuant to chapter 288 of NRS;

(g) Prescribe the manner by which all other staff for the school will be selected and hired, which must be determined and negotiated pursuant to chapter 288 of NRS;

(h) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;

(i) Indicate the intended ratio of pupils to teachers at the school, designated by grade level, which must comply with NRS 388.700 or 388.720, as applicable;

(j) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;

(k) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;

(l) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385.357, the turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, whichever is applicable for the school;

(m) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and

(n) Set forth the calendar and schedule for the school.

2. If the empowerment plan includes an incentive pay structure, that pay structure must:

(a) Provide an incentive for all staff employed at the school;

(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and

(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.

3. An empowerment plan may:

(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.

(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services.

4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is a:

(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, and its proportionate share of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.

(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.

**Sec. 16.** NRS 386.765 is hereby amended to read as follows:

386.765 1. Except as otherwise provided pursuant to a waiver granted in accordance with NRS 386.745 or 386.750, each empowerment school, each person employed by an empowerment school and each pupil enrolled in an empowerment school shall comply with the applicable requirements of state law, including, without limitation, the standards of content and performance prescribed pursuant to NRS 389.520 and the examinations that are administered pursuant to NRS ~~389.015 and~~ 389.550 ~~1-1~~ **and 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act.**

2. Each empowerment school may accept gifts, grants and donations from any source for the support of its empowerment plan. A person who gives a gift, grant or donation may designate all or part of the gift, grant or

donation specifically to carry out the incentive pay structure of the school, if applicable.

**Sec. 17.** NRS 388.205 is hereby amended to read as follows:

388.205 1. The board of trustees of each school district shall adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. The academic plan must set forth the specific educational goals that the pupil intends to achieve before graduation from high school. The plan may include, without limitation, the designation of a career pathway and enrollment in dual credit courses, career and technical education courses, advanced placement courses and honors courses.

2. The policy may ensure that each pupil enrolled in ninth grade and the pupil's parent or legal guardian are provided with, to the extent practicable, the following information:

(a) The advanced placement courses, honors courses, international baccalaureate courses, dual credit courses, career and technical education courses, including, without limitation, career and technical skills-building programs, and any other educational programs, pathways or courses available to the pupil which will assist the pupil in the advancement of his or her education;

~~(b) The courses of study which the Department recommends that pupils take to prepare the pupils to successfully meet the academic challenges of the high school proficiency examination and pass that examination;~~

~~—(c)—~~ The requirements for graduation from high school with a diploma and the types of diplomas available;

~~—(d)—~~ (c) The requirements for admission to the Nevada System of Higher Education and the eligibility requirements for a Governor Guinn Millennium Scholarship; and

~~—(e)—~~ (d) The charter schools within the school district.

3. The policy required by subsection 1 must require each pupil enrolled in ninth grade and the pupil's parent or legal guardian to:

(a) Be notified of opportunities to work in consultation with a school counselor to develop and review an academic plan for the pupil;

(b) Sign the academic plan; and

(c) Review the academic plan at least once each school year in consultation with a school counselor and revise the plan if necessary.

4. If a pupil enrolls in a high school after ninth grade, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

5. ~~If the administration of the high school proficiency examination in the subject area of mathematics or science, or both, is postponed for a pupil pursuant to NRS 389.016, the pupil's academic plan must be revised in~~



~~consultation with the pupil's teacher who provides instruction in the applicable subject area and the pupil's parent or legal guardian as set forth in NRS 389.016.~~

~~—6.1~~ An academic plan for a pupil must be used as a guide for the pupil and the parent or legal guardian of the pupil to plan, monitor and manage the pupil's educational and occupational development and make determinations of the appropriate courses of study for the pupil. If a pupil does not satisfy all the goals set forth in the academic plan, the pupil is eligible to graduate and receive a high school diploma if the pupil otherwise satisfies the requirements for a diploma.

**Sec. 17.5. NRS 388.575 is hereby amended to read as follows:**

388.575 1. The Department of Education, after consulting with the Department of Corrections, shall:

(a) Adopt regulations that establish a statewide program of education for incarcerated persons; and

(b) Coordinate with and assist school districts in operating programs of education for incarcerated persons.

2. The statewide program may include courses of study for:

(a) A high school diploma;

(b) Basic literacy;

(c) English as a second language;

(d) General educational development;

(e) Life skills;

(f) Career and technical education; and

(g) Postsecondary education.

3. The statewide program does not include the programs of general education, vocational education and training established by the Board of State Prison Commissioners pursuant to NRS 209.389.

4. The statewide program must establish:

(a) Standards for each course of study that set forth the:

(1) Curriculum;

(2) Qualifications for entry; and

(3) Evaluation of incarcerated persons for placement; and

(b) Procedures to ensure that an incarcerated person who earns credits in a program of education for incarcerated persons operated by a school district at a facility or institution shall, if transferred to a different facility or institution, transfer those credits to the program operated by a school district at that facility or institution.

5. As used in this section, "general educational development" means preparation for and administration of the standardized examinations **or other high school equivalency assessments** that enable persons who have not graduated from high school to demonstrate that they have achieved an

educational level which denotes competency in core curriculum. The term includes programs for obtaining a general educational development certificate ~~or~~ **or an equivalent document.**

**Sec. 18.** NRS 388.874 is hereby amended to read as follows:

388.874 1. The State Board shall adopt regulations that prescribe:

(a) The process for submission of an application by a person or entity for inclusion of a course of distance education on the list prepared by the Department pursuant to NRS 388.834 and the contents of the application;

(b) The process for submission of an application by the board of trustees of a school district, the governing body of a charter school or a committee to form a charter school to provide a program of distance education and the contents of the application;

(c) The qualifications and conditions for enrollment that a pupil must satisfy to enroll in a program of distance education, consistent with NRS 388.850;

(d) A method for reporting to the Department the number of pupils who are enrolled in a program of distance education and the attendance of those pupils;

(e) The requirements for assessing the achievement of pupils who are enrolled in a program of distance education, which must include, without limitation, the administration of the ~~{achievement and proficiency}~~ examinations required pursuant to NRS ~~{389.015 and}~~ 389.550 ~~{;} and~~ **389.805**; and

(f) A written description of the process pursuant to which the State Board may revoke its approval for the operation of a program of distance education.

2. The State Board may adopt regulations as it determines are necessary to carry out the provisions of NRS 388.820 to 388.874, inclusive.

**Sec. 19.** Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The State Board shall select a college and career readiness assessment for administration, commencing with the 2014-2015 school year and each school year thereafter, to pupils who are enrolled in grade 11 in public high schools.**

**2. Except as otherwise provided in this subsection, a pupil must take the college and career readiness assessment to receive a standard high school diploma. The results of a pupil on the assessment must not be used in the determination of whether the pupil satisfies the requirements for receipt of a standard high school diploma. A pupil with a disability may, in accordance with his or her individualized education program, be exempt from the requirement to take the college and career readiness assessment.**

**3. The assessment selected pursuant to subsection 1 must be:**

*(a) Administered at the same time during the school year by the board of trustees of each school district to pupils enrolled in grade 11 in all public high schools of the school district and by the governing body of each charter school that enrolls pupils in grade 11, as prescribed by the State Board, and in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of the school districts and individual schools with the uniform procedures and report to the State Board any instance of noncompliance.*

*(b) Administered in accordance with the plan adopted by the Department pursuant to NRS 389.616 and with the plan adopted by the board of trustees of the school district in which the assessment is administered pursuant to NRS 389.620. The Department shall monitor the compliance of the school districts and individual schools with:*

*(1) The plan adopted by the Department; and*

*(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department, ➡ and shall report to the State Board any instance of noncompliance.*

*4. The assessment selected pursuant to subsection 1 must:*

*(a) Be used to provide data and information to each pupil who takes the assessment in a manner that allows the pupil to review the areas of his or her academic strengths and weaknesses, including, without limitation, areas where additional work in the subject areas tested on the assessment is necessary to prepare for college and career success without the need for remediation; and*

*(b) Allow teachers and other educational personnel to use the results of a pupil on the assessment to provide appropriate interventions for the pupil to prepare for college and career success.*

*5. The State Board may work in consultation with the boards of trustees of school districts and, if a charter school enrolls pupils at a high school grade level, the governing body of the charter school to develop and implement appropriate plans of remediation for pupils based upon the results of the pupils on the assessment.*

**Sec. 20.** NRS 389.004 is hereby amended to read as follows:

389.004 The board of trustees of each school district shall maintain on its Internet website, and shall post in a timely manner, all pertinent information concerning the examinations **and assessments** available to children who reside in the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations ~~and~~ **and assessments**. The examinations **and assessments** posted must include, without limitation:

1. The ~~{high school proficiency}~~ **college {examination} and career readiness assessment** administered pursuant to ~~{NRS 389.015; and}~~ **section 19 of this act.**

2. ***The examinations required pursuant to NRS 389.805.***

3. All **other** college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test.

**Sec. 21.** NRS 389.006 is hereby amended to read as follows:

389.006 1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments ~~{, including, without limitation, the practice test of the high school proficiency examination to pupils enrolled in high school,}~~ that the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination, the board of trustees shall consider any applicable findings and recommendations of the Legislative Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

**Sec. 22.** NRS 389.0115 is hereby amended to read as follows:

389.0115 1. If a pupil with a disability is unable to take an examination administered pursuant to NRS ~~{389.015 or}~~ 389.550 **or 389.805** under regular testing conditions, the pupil may take the examination with modifications and accommodations that the pupil's individualized education program team determines, in consultation with the Department and in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., are necessary to measure the progress of the pupil. If modifications or accommodations are made in the administration of an examination for a pupil with a disability, the modifications or accommodations must be set forth in the pupil's individualized education program. The results of each pupil with a disability who takes an examination with modifications or accommodations must be reported and must be included in the determination of whether the school and the school district have made adequate yearly progress.

2. The State Board shall prescribe an alternate examination for administration to a pupil with a disability if the pupil's individualized education program team determines, in consultation with the Department, that the pupil cannot participate in all or a portion of an examination administered pursuant to NRS ~~389.015 or~~ 389.550 **or 389.805** even with modifications and accommodations.

3. The State Board shall prescribe, in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., the modifications and accommodations that must be used in the administration of an examination to a pupil with a disability who is unable to take the examination under regular testing conditions.

4. As used in this section:

(a) "Individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

(b) "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

**Sec. 23.** NRS 389.012 is hereby amended to read as follows:

389.012 1. The State Board shall:

(a) In accordance with guidelines established by the National Assessment Governing Board and National Center for Education Statistics and in accordance with 20 U.S.C. §§ 6301 et seq. and the regulations adopted pursuant thereto, adopt regulations requiring the schools of this State that are selected by the National Assessment Governing Board or the National Center for Education Statistics to participate in the examinations of the National Assessment of Educational Progress.

(b) Report the results of those examinations to the:

(1) Governor;

(2) Board of trustees of each school district of this State;

(3) Legislative Committee on Education created pursuant to NRS 218E.605; and

(4) Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218E.625.

(c) Include in the report required pursuant to paragraph (b) an analysis and comparison of the results of pupils in this State on the examinations required by this section with:

(1) The results of pupils throughout this country who participated in the examinations of the National Assessment of Educational Progress; and

(2) The results of pupils on the achievement and proficiency examinations administered pursuant to this chapter.

2. If the report required by subsection 1 indicates that the percentage of pupils enrolled in the public schools in this State who are proficient on the

National Assessment of Educational Progress differs by more than 10 percent of the pupils who are proficient on the examinations administered pursuant to NRS 389.550 and the ~~high school proficiency examination~~ **examinations** administered pursuant to NRS ~~389.015,~~ **389.805**, the Department shall prepare a written report describing the discrepancy. The report must include, without limitation, a comparison and evaluation of:

(a) The standards of content and performance for English and mathematics established pursuant to NRS 389.520 with the standards for English and mathematics that are tested on the National Assessment.

(b) The standards for proficiency established for the National Assessment with the standards for proficiency established for the examinations that are administered pursuant to NRS 389.550 and the ~~high school proficiency examination~~ **examinations** administered pursuant to NRS ~~389.015,~~ **389.805**.

3. The report prepared by the Department pursuant to subsection 2 must be submitted to the:

- (a) Governor;
- (b) Legislative Committee on Education;
- (c) Legislative Bureau of Educational Accountability and Program Evaluation; and
- (d) Council to Establish Academic Standards for Public Schools.

4. The Council to Establish Academic Standards for Public Schools shall review and evaluate the report provided to the Council pursuant to subsection 3 to identify any discrepancies in the standards of content and performance established by the Council that require revision and a timeline for carrying out the revision, if necessary. The Council shall submit a written report of its review and evaluation to the Legislative Committee on Education and Legislative Bureau of Educational Accountability and Program Evaluation.

**Sec. 24.** NRS 389.0173 is hereby amended to read as follows:

389.0173 1. The Department shall develop an informational pamphlet concerning the ~~high school proficiency examination~~ **end-of-course examinations required pursuant to NRS 389.805** for pupils who are enrolled in ~~junior high, middle school and high school,~~ **grades 9 and 10** and their parents and legal guardians. The pamphlet must include a written explanation of the:

(a) Importance of passing the ~~examination, including, without limitation, an explanation that if the pupil fails the examination, or does not satisfy the requirements of paragraph (b) of subsection 1 of NRS 389.805, the pupil is not eligible to receive a standard high school diploma;~~

~~(b) Subject areas tested on the examination;~~

~~(c) Format for the examination, including, without limitation, the range of items that are contained on the examination;~~

- ~~—(d) Manner by which the scaled score, as reported to pupils and their parents or legal guardians, is derived from the raw score;~~
  - ~~—(e) Timeline by which the results of the examination must be reported to pupils and their parents or legal guardians;~~
  - ~~—(f) Maximum number of times that a pupil is allowed to take the examination if the pupil fails to pass the examination after the first administration;~~
  - ~~—(g) Courses of study that the Department recommends that pupils take to prepare the pupils to successfully meet the academic challenges of the examination and pass the examination; and~~
  - ~~—(h) Courses of study which the Department recommends that pupils take in high school to successfully prepare for the college entrance examinations.}]~~
- end-of-course examinations;***

***(b) Courses of study for which the end-of-course examinations are administered;***

***(c) Format for the end-of-course examinations, including, without limitation, the range of items that are contained on the examinations; and***

***(d) Maximum number of times, if any, that a pupil is allowed to take the end-of-course examinations if the pupil fails to pass the examinations after the first administration.***

2. The Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as it considers necessary to ensure that pupils and their parents or legal guardians fully understand the ~~[examination.]~~ ***end-of-course examinations.***

3. On or before September 1, the Department shall provide a copy of the pamphlet or revised pamphlet to the board of trustees of each school district and the governing body of each charter school that includes pupils enrolled in a junior high, middle school or high school grade level.

4. The board of trustees of each school district shall provide a copy of the pamphlet to each junior high, middle school or high school within the school district for posting. The governing body of each charter school shall ensure that a copy of the pamphlet is posted at the charter school. Each principal of a junior high, middle school, high school or charter school shall ensure that the teachers, counselors and administrators employed at the school fully understand the contents of the pamphlet.

5. On or before ~~January 15,~~ ***October 1,*** the:

(a) Board of trustees of each school district shall provide a copy of the pamphlet to each pupil who is enrolled in ~~in a junior high, middle school or high school~~ ***grade 9 or 10*** of the school district and to the parents or legal guardians of such a pupil.

(b) Governing body of each charter school shall provide a copy of the pamphlet to each pupil who is enrolled ***in grade 9 or 10*** in the charter school

~~[at a junior high, middle school or high school grade level]~~ and to the parents or legal guardians of such a pupil.

**Sec. 25.** NRS 389.550 is hereby amended to read as follows:

389.550 1. The State Board shall, in consultation with the Council, prescribe examinations that comply with 20 U.S.C. § 6311(b)(3) and that measure the achievement and proficiency of pupils:

(a) For grades 3, 4, 5, 6, 7 and 8 in the standards of content established by the Council for the subjects of English and mathematics.

(b) For grades 5 and 8, in the standards of content established by the Council for the subject of science.

➡ The examinations prescribed pursuant to this subsection must be written, developed, printed and scored by a nationally recognized testing company.

2. In addition to the examinations prescribed pursuant to subsection 1, the State Board shall, in consultation with the Council, prescribe a writing examination for grades 5 and 8 . ~~[and for the high school proficiency examination.]~~

3. The board of trustees of each school district and the governing body of each charter school shall administer the examinations prescribed by the State Board. The examinations must be:

(a) Administered to pupils in each school district and each charter school at the same time during the spring semester, as prescribed by the State Board.

(b) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the school districts and individual schools to ensure compliance with the uniform procedures.

(c) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

**Sec. 26.** NRS 389.604 is hereby amended to read as follows:

389.604 “Irregularity in testing administration” means the failure to administer an examination to pupils pursuant to NRS ~~{389.015 or}~~ 389.550 **or 389.805 or the college and career readiness assessment pursuant to section 19 of this act** in the manner intended by the person or entity that created the examination ~~[ ]~~ **or assessment.**



**Sec. 27.** NRS 389.608 is hereby amended to read as follows:

389.608 “Irregularity in testing security” means an act or omission that tends to corrupt or impair the security of an examination administered to pupils pursuant to NRS ~~389.015 or~~ 389.550 ~~1-1~~ **or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act**, including, without limitation:

1. The failure to comply with security procedures adopted pursuant to NRS 389.616 or 389.620;
2. The disclosure of questions or answers to questions on an examination **or assessment** in a manner not otherwise approved by law; and
3. Other breaches in the security or confidentiality of the questions or answers to questions on an examination ~~1-1~~ **or assessment.**

**Sec. 28.** NRS 389.616 is hereby amended to read as follows:

389.616 1. The Department shall, by regulation or otherwise, adopt and enforce a plan setting forth procedures to ensure the security of examinations that are administered to pupils pursuant to NRS ~~389.015 and~~ 389.550 ~~1-1~~ **and 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act.**

2. A plan adopted pursuant to subsection 1 must include, without limitation:

(a) Procedures pursuant to which pupils, school officials and other persons may, and are encouraged to, report irregularities in testing administration and testing security.

(b) Procedures necessary to ensure the security of test materials and the consistency of testing administration.

(c) Procedures that specifically set forth the action that must be taken in response to a report of an irregularity in testing administration or testing security and the actions that must be taken during an investigation of such an irregularity. For each action that is required, the procedures must identify:

(1) By category, the employees of the school district, charter school or Department, or any combination thereof, who are responsible for taking the action; and

(2) Whether the school district, charter school or Department, or any combination thereof, is responsible for ensuring that the action is carried out successfully.

(d) Objective criteria that set forth the conditions under which a school, including, without limitation, a charter school or a school district, or both, is required to file a plan for corrective action in response to an irregularity in testing administration or testing security for the purposes of NRS 389.636.

3. A copy of the plan adopted pursuant to this section and the procedures set forth therein must be submitted on or before September 1 of each year to:

- (a) The State Board; and

(b) The Legislative Committee on Education, created pursuant to NRS 218E.605.

**Sec. 29.** NRS 389.620 is hereby amended to read as follows:

389.620 1. The board of trustees of each school district shall, for each public school in the district, including, without limitation, charter schools, adopt and enforce a plan setting forth procedures to ensure the security of examinations ~~and~~ **and assessments**.

2. A plan adopted pursuant to subsection 1 must include, without limitation:

(a) Procedures pursuant to which pupils, school officials and other persons may, and are encouraged to, report irregularities in testing administration and testing security.

(b) Procedures necessary to ensure the security of test materials and the consistency of testing administration.

(c) With respect to secondary schools, procedures pursuant to which the school district or charter school, as appropriate, will verify the identity of pupils taking an examination ~~or~~ **or assessment**.

(d) Procedures that specifically set forth the action that must be taken in response to a report of an irregularity in testing administration or testing security and the action that must be taken during an investigation of such an irregularity. For each action that is required, the procedures must identify, by category, the employees of the school district or charter school who are responsible for taking the action and for ensuring that the action is carried out successfully.

↪ The procedures adopted pursuant to this subsection must be consistent, to the extent applicable, with the procedures adopted by the Department pursuant to NRS 389.616.

3. A copy of each plan adopted pursuant to this section and the procedures set forth therein must be submitted on or before September 1 of each year to:

(a) The State Board; and

(b) The Legislative Committee on Education, created pursuant to NRS 218E.605.

4. On or before September 30 of each school year, the board of trustees of each school district and the governing body of each charter school shall provide a written notice regarding the examinations **and assessments** to all teachers and educational personnel employed by the school district or governing body, all personnel employed by the school district or governing body who are involved in the administration of the examinations ~~and~~ **and assessments**, all pupils who are required to take the examinations **or assessments** and all parents and legal guardians of such pupils. The written

notice must be prepared in a format that is easily understood and must include, without limitation, a description of the:

- (a) Plan adopted pursuant to this section; and
- (b) Action that may be taken against personnel and pupils for violations of the plan or for other irregularities in testing administration or testing security.

5. As used in this section:

(a) ***“Assessment” means the college and career readiness assessment administered to pupils enrolled in grade 11 pursuant to section 19 of this act.***

(b) “Examination” means:

(1) ~~{Achievement and proficiency}~~ **The** examinations that are administered to pupils pursuant to NRS ~~{389.015 or}~~ 389.550 ~~{;} or 389.805;~~ and

(2) Any other examinations which measure the achievement and proficiency of pupils and which are administered to pupils on a district-wide basis.

~~{(b)}~~ (c) “Irregularity in testing administration” means the failure to administer an examination **or assessment** in the manner intended by the person or entity that created the examination ~~{-~~  
~~{(c)}~~ **or assessment.**

(d) “Irregularity in testing security” means an act or omission that tends to corrupt or impair the security of an examination ~~{;} or assessment,~~ including, without limitation:

(1) The failure to comply with security procedures adopted pursuant to this section or NRS 389.616;

(2) The disclosure of questions or answers to questions on an examination **or assessment** in a manner not otherwise approved by law; and

(3) Other breaches in the security or confidentiality of the questions or answers to questions on an examination ~~{;} or assessment.~~

**Sec. 30.** NRS 389.624 is hereby amended to read as follows:

389.624 1. If the Department:

(a) Has reason to believe that a violation of the plan adopted pursuant to NRS 389.616 may have occurred;

(b) Has reason to believe that a violation of the plan adopted pursuant to NRS 389.620 may have occurred with respect to an examination that is administered pursuant to NRS ~~{389.015 or}~~ 389.550 ~~{;} or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act;~~ or

(c) Receives a request pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 389.628 to investigate a potential violation of the plan adopted pursuant to NRS 389.620 with respect to an examination that is administered pursuant to NRS ~~{389.015 or}~~ 389.550 ~~{;} or 389.805 or the~~

***college and career readiness assessment administered pursuant to section 19 of this act,***

↪ the Department shall investigate the matter as it deems appropriate.

2. If the Department investigates a matter pursuant to subsection 1, the Department may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, without limitation, books, papers, documents, records, photographs, recordings, reports and tangible objects.

3. If a witness refuses to attend, testify or produce materials as required by the subpoena, the Department may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the Department pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials before the Department as required by the subpoena, or has refused to answer questions propounded to him or her,

↪ and asking for an order of the court compelling the witness to attend, testify or produce materials before the Department.

4. Upon receipt of 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 then and there show cause why the witness has not attended, testified or produced materials before the Department. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the Department, the court shall enter an order that the witness appear before the Department at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

**Sec. 31.** NRS 389.628 is hereby amended to read as follows:

389.628 1. If a school official has reason to believe that a violation of the plan adopted pursuant to NRS 389.620 may have occurred, the school official shall immediately report the incident to the board of trustees of the school district. If the board of trustees of a school district has reason to believe that a violation of the plan adopted pursuant to NRS 389.620 may have occurred, the board of trustees shall:

(a) If the violation is with respect to an examination administered pursuant to NRS ~~389.015 or~~ 389.550 ~~1~~ **or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act,** immediately report the incident to the Department orally or in writing

followed by a comprehensive written report within 14 school days after the incident occurred; and

(b) Cause to be commenced an investigation of the incident. The board of trustees may carry out the requirements of this paragraph by:

(1) Investigating the incident as it deems appropriate, including, without limitation, using the powers of subpoena set forth in this section.

(2) With respect to an examination that is administered pursuant to NRS ~~389.015 or~~ 389.550 ~~1~~ **or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act**, requesting that the Department investigate the incident pursuant to NRS 389.624.

↪ The fact that a board of trustees elects initially to carry out its own investigation pursuant to subparagraph (1) of paragraph (b) does not affect the ability of the board of trustees to request, at any time, that the Department investigate the incident as authorized pursuant to subparagraph (2) of paragraph (b).

2. Except as otherwise provided in this subsection, if the board of trustees of a school district proceeds in accordance with subparagraph (1) of paragraph (b) of subsection 1, the board of trustees may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, without limitation, books, papers, documents, records, photographs, recordings, reports and tangible objects. A board of trustees shall not issue a subpoena to compel the attendance or testimony of a witness or the production of materials unless the attendance, testimony or production sought to be compelled is related directly to a violation or an alleged violation of the plan adopted pursuant to NRS 389.620.

3. If a witness refuses to attend, testify or produce materials as required by the subpoena, the board of trustees may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the board of trustees pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials before the board of trustees as required by the subpoena, or has refused to answer questions propounded to him or her,

↪ and asking for an order of the court compelling the witness to attend, testify or produce materials before the board of trustees.

4. Upon receipt of 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 then and there show cause why the witness has not attended,

testified or produced materials before the board of trustees. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the board of trustees, the court shall enter an order that the witness appear before the board of trustees at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

**Sec. 32.** NRS 389.644 is hereby amended to read as follows:

389.644 1. The Department shall establish a program of education and training regarding the administration and security of the examinations administered pursuant to NRS ~~{389.015 and}~~ 389.550 ~~{,}~~ **or 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act.** Upon approval of the Department, the board of trustees of a school district or the governing body of a charter school may establish an expanded program of education and training that includes additional education and training if the expanded program complies with the program established by the Department.

2. The board of trustees of each school district and the governing body of each charter school shall ensure that:

(a) All the teachers and other educational personnel who provide instruction to pupils enrolled in a grade level that is required to be tested pursuant to NRS ~~{389.015 or}~~ 389.550 ~~{,}~~ **or 389.805 or section 19 of this act,** and all other personnel who are involved with the administration of the examinations that are administered pursuant to NRS ~~{389.015 or}~~ 389.550 ~~{,}~~ **or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act,** receive, on an annual basis, the program of education and training established by the Department or the expanded program, if applicable; and

(b) The training and education is otherwise available for all personnel who are not required to receive the training and education pursuant to paragraph (a).

**Sec. 33.** NRS 389.805 is hereby amended to read as follows:

389.805 1. ~~{Except as otherwise provided in subsection 3, a pupil must receive a standard high school diploma if the pupil:~~

~~—(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or~~

~~—(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than two times before beginning grade 12 and the pupil:~~

~~—(1) Passes the subject areas of mathematics and reading on the proficiency examination;~~

~~—(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;~~

~~—(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection 4; and~~

~~—(4) Otherwise satisfies the requirements for graduation from high school.~~

~~—2.] A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if the pupil satisfies the requirements set forth in his or her individualized education program. As used in this subsection, “individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).~~

~~[3.— A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of paragraphs (a) and (b) of subsection 1 if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:~~

~~—(a) Accepts the results of the exit or end of course examinations required for graduation in the local education agency in which the pupil was previously enrolled;~~

~~—(b) Accepts the results of a national norm referenced achievement examination taken by the pupil; or~~

~~—(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.~~

~~— 4.] 2. The State Board shall adopt regulations that prescribe the [alternative criteria]:~~

~~—(a) **Criteria** for a pupil to receive a standard high school diploma [pursuant to paragraph (b) of subsection 1, including, without limitation:~~

~~—(a) An essay;~~

~~—(b) A senior project; or~~

~~—(c) A portfolio of work;~~

~~↗ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.], which must include, without limitation, the requirement that:~~

~~(1) Commencing with the 2014-2015 school year and each school year thereafter, a pupil enrolled in grade 11 take the college and career readiness assessment administered pursuant to section 19 of this act; and~~

~~(2) Commencing with the 2014-2015 school year and each school year thereafter, a pupil enrolled in grade 9 or 10 who completes the required instruction in a course of study pass an end-of-course examination in that course of study.~~

*(b) Courses of study in which pupils enrolled in grades 9 and 10 must pass the end-of-course examinations required by subparagraph (2) of paragraph (a), which must include, without limitation, the subject areas for which the State Board has adopted the common core standards.*

*(c) The maximum number of times, if any, that a pupil is allowed to take the end-of-course examinations if the pupil fails to pass the examinations after the first administration.*

*3. The criteria prescribed by the State Board pursuant to subsection 2 for a pupil to receive a standard high school diploma must not include the results of the pupil on the college and career readiness assessment administered to the pupil in grade 11 pursuant to section 19 of this act.*

*4. If a pupil does not satisfy the requirements prescribed by the State Board to receive a standard high school diploma, the pupil must not be issued a certificate of attendance or any other document indicating that the pupil attended high school but did not satisfy the requirements for such a diploma. The provisions of this subsection do not apply to a pupil who receives an adjusted diploma pursuant to subsection 1.*

**Sec. 33.5. NRS 389.810 is hereby amended to read as follows:**

389.810 1. Notwithstanding any provision of this title to the contrary, a person who:

(a) Left high school before graduating to serve in the Armed Forces of the United States during:

(1) World War II and so served at any time between September 16, 1940, and December 31, 1946;

(2) The Korean War and so served at any time between June 25, 1950, and January 31, 1955; or

(3) The Vietnam Era and so served at any time between January 1, 1961, and May 7, 1975;

(b) Was discharged from the Armed Forces of the United States under honorable conditions; and

(c) As a result of his or her service in the Armed Forces of the United States, did not receive a high school diploma,

➡ shall be deemed to have earned sufficient credits to receive a standard high school diploma.

2. A school district may, upon request, issue a standard high school diploma to any person who meets the requirements set forth in subsection 1. A school district may issue a standard high school diploma to such a person even if the person:

(a) Holds a general educational development credential or ~~file~~ an equivalent ~~file~~ document; or

(b) Is deceased, if the family of the veteran requests the issuance of the diploma.



3. The State Board and the Office of Veterans Services shall work cooperatively to establish guidelines for identifying and issuing standard high school diplomas to persons pursuant to this section.

4. A person to whom a standard high school diploma is issued pursuant to this section shall not be deemed to be a pupil for the purposes of this title.

**Sec. 34.** NRS 389.900 is hereby amended to read as follows:

389.900 If the Department enters into a contract with a person or entity to score the results of an examination that is administered to pupils pursuant to NRS ~~389.015 or 389.550~~ **or, if applicable, pursuant to NRS 389.805**, and the contract sets forth penalties or sanctions in the event that the person or entity fails to deliver the scored results to a school district or charter school on a timely basis, the Department shall ensure that any such penalties or sanctions are fully enforced.

**Sec. 34.5.** Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

***“Assessment” means the college and career readiness assessment administered to pupils in grade 11 pursuant to section 19 of this act.***

**Sec. 35.** NRS 391.166 is hereby amended to read as follows:

391.166 1. There is hereby created the Grant Fund for Incentives for Licensed Educational Personnel to be administered by the Department. The Department may accept gifts and grants from any source for deposit in the Grant Fund.

2. The board of trustees of each school district shall establish a program of incentive pay for licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level which must be designed to attract and retain those employees. The program must be negotiated pursuant to chapter 288 of NRS and must include, without limitation, the attraction and retention of:

(a) Licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level who have been employed in that category of position for at least 5 years in this State or another state and who are employed in schools which are at-risk, as determined by the Department pursuant to subsection 8; and

(b) Teachers who hold a license or endorsement in the field of mathematics, science, special education, English as a second language or other area of need within the school district, as determined by the Superintendent of Public Instruction.

3. A program of incentive pay established by a school district must specify the type of financial incentives offered to the licensed educational personnel. Money available for the program must not be used to negotiate the salaries of individual employees who participate in the program.

4. If the board of trustees of a school district wishes to receive a grant of money from the Grant Fund, the board of trustees shall submit to the Department an application on a form prescribed by the Department. The application must include a description of the program of incentive pay established by the school district.

5. The Superintendent of Public Instruction shall compile a list of the financial incentives recommended by each school district that submitted an application. On or before December 1 of each year, the Superintendent shall submit the list to the Interim Finance Committee for its approval of the recommended incentives.

6. After approval of the list of incentives by the Interim Finance Committee pursuant to subsection 5 and within the limits of money available in the Grant Fund, the Department shall provide grants of money to each school district that submits an application pursuant to subsection 4 based upon the amount of money that is necessary to carry out each program. If an insufficient amount of money is available to pay for each program submitted to the Department, the amount of money available must be distributed pro rata based upon the number of licensed employees who are estimated to be eligible to participate in the program in each school district that submitted an application.

7. An individual employee may not receive as a financial incentive pursuant to a program an amount of money that is more than \$3,500 per year.

8. The Department shall, in consultation with representatives appointed by the Nevada Association of School Superintendents and the Nevada Association of School Boards, develop a formula for identifying at-risk schools for purposes of this section. The formula must be developed on or before July 1 of each year and include, without limitation, the following factors:

(a) The percentage of pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.;

(b) The transiency rate of pupils;

(c) The percentage of pupils who are limited English proficient;

(d) The percentage of pupils who have individualized education programs;

**and**

(e) ~~[(The percentage of pupils who score in the bottom two quarters on the mathematics portion or the reading portion, or both, of the high school proficiency examination; and~~

~~—(f)]~~ The percentage of pupils who drop out of high school before graduation.

9. The board of trustees of each school district that receives a grant of money pursuant to this section shall evaluate the effectiveness of the program for which the grant was awarded. The evaluation must include, without

limitation, an evaluation of whether the program is effective in recruiting and retaining the personnel as set forth in subsection 2. On or before December 1 of each year, the board of trustees shall submit a report of its evaluation to the:

- (a) Governor;
- (b) State Board;
- (c) Interim Finance Committee;
- (d) If the report is submitted in an even-numbered year, Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and
- (e) Legislative Committee on Education.

**Sec. 36.** NRS 391.312 is hereby amended to read as follows:

391.312 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

- (a) Inefficiency;
- (b) Immorality;
- (c) Unprofessional conduct;
- (d) Insubordination;
- (e) Neglect of duty;
- (f) Physical or mental incapacity;
- (g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
- (h) Conviction of a felony or of a crime involving moral turpitude;
- (i) Inadequate performance;
- (j) Evident unfitness for service;
- (k) Failure to comply with such reasonable requirements as a board may prescribe;
- (l) Failure to show normal improvement and evidence of professional training and growth;
- (m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;
- (n) Any cause which constitutes grounds for the revocation of a teacher's license;
- (o) Willful neglect or failure to observe and carry out the requirements of this title;
- (p) Dishonesty;
- (q) Breaches in the security or confidentiality of the questions and answers of the ~~achievement and proficiency~~ examinations that are administered

pursuant to NRS ~~[389.015,]~~ **389.550 or 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act;**

(r) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations **and assessments** adopted pursuant to NRS 389.616 or 389.620;

(s) An intentional violation of NRS 388.5265 or 388.527;

(t) Gross misconduct; or

(u) An intentional failure to report a violation of NRS 388.135 if the teacher or administrator witnessed the violation.

2. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

3. As used in this section, "gross misconduct" includes any act or omission that is in wanton, willful, reckless or deliberate disregard of the interests of a school or school district or a pupil thereof.

**Sec. 37.** NRS 391.330 is hereby amended to read as follows:

391.330 The State Board may suspend or revoke the license of any teacher, administrator or other licensed employee, after notice and an opportunity for hearing have been provided pursuant to NRS 391.322 and 391.323, for:

1. Immoral or unprofessional conduct.

2. Evident unfitness for service.

3. Physical or mental incapacity which renders the teacher, administrator or other licensed employee unfit for service.

4. Conviction of a felony or crime involving moral turpitude.

5. Conviction of a sex offense under NRS 200.366, 200.368, 201.190, 201.220, 201.230, 201.540 or 201.560 in which a pupil enrolled in a school of a county school district was the victim.

6. Knowingly advocating the overthrow of the Federal Government or of the State of Nevada by force, violence or unlawful means.

7. Persistent defiance of or refusal to obey the regulations of the State Board, the Commission or the Superintendent of Public Instruction, defining and governing the duties of teachers, administrators and other licensed employees.

8. Breaches in the security or confidentiality of the questions and answers of the ~~{achievement and proficiency}~~ examinations that are administered pursuant to NRS ~~[389.015,]~~ **389.550 or 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act.**

9. Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations **and assessments** adopted pursuant to NRS 389.616 or 389.620.

10. An intentional violation of NRS 388.5265 or 388.527.

**Sec. 37.5.** NRS 391.600 is hereby amended to read as follows:

391.600 As used in NRS 391.600 to 391.648, inclusive, unless the context otherwise requires, the words and terms defined in NRS 391.604 to 391.620, inclusive, **and section 34.5 of this act** have the meanings ascribed to them in those sections.

**Sec. 38.** NRS 391.604 is hereby amended to read as follows:

391.604 “Examination” means:

1. ~~{Achievement and proficiency}~~ **The** examinations that are administered to pupils pursuant to NRS ~~{389.015 or}~~ 389.550 ~~{;} or 389.805;~~ and

2. Any other examinations which measure the achievement and proficiency of pupils and which are administered to pupils on a district-wide basis.

**Sec. 38.3.** NRS 391.608 is hereby amended to read as follows:

391.608 “Irregularity in testing administration” means the failure to administer an examination **or assessment** in the manner intended by the person or entity that created the examination ~~{;} or assessment.~~

**Sec. 38.7.** NRS 391.612 is hereby amended to read as follows:

391.612 “Irregularity in testing security” means an act or omission that tends to corrupt or impair the security of an examination ~~{;} or assessment,~~ including, without limitation:

1. The failure to comply with security procedures adopted pursuant to NRS 389.616 or 389.620;

2. The disclosure of questions or answers to questions on an examination **or assessment** in a manner not otherwise approved by law; and

3. Other breaches in the security or confidentiality of the questions or answers to questions on an examination ~~{;} or assessment.~~

**Sec. 38.9.** NRS 392.075 is hereby amended to read as follows:

392.075 Attendance required by the provisions of NRS 392.040 must be excused if a child has obtained permission to take the ~~{tests of general educational development}~~ **high school equivalency assessment** pursuant to NRS 385.448.

**Sec. 39.** NRS 392.700 is hereby amended to read as follows:

392.700 1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form

must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance.

4. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

5. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) An educational plan for the child that is prepared pursuant to subsection 12;

(e) If applicable, the name of the public school in this State which the child most recently attended; and

(f) An optional statement that the parent may sign which provides:

I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

6. Each superintendent of schools of a school district shall accept notice of intent to homeschool that is filed with the superintendent pursuant to this section and meets the requirements of subsection 5, and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled. The

written acknowledgment shall be deemed proof of compliance with Nevada's compulsory school attendance law. The school district shall retain a copy of the written acknowledgment for not less than 15 years. The written acknowledgment may be retained in electronic format.

8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if the child is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. If the child enrolls in a charter school, the charter school shall, to the extent practicable, notify the board of trustees of the school district in which the child resides of the child's enrollment in the charter school. Regardless of whether the charter school provides such notification to the board of trustees, the charter school may count the child who is enrolled for the purposes of the calculation of basic support pursuant to NRS 387.1233. A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

11. Each school district shall allow homeschooled children to participate in ~~the high school proficiency examination administered pursuant to NRS 389.015 and~~ all college entrance examinations offered in this State, including, without limitation, the SAT, the ACT, the Preliminary SAT and the National Merit Scholarship Qualifying Test. Each school district shall ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such examinations on the Internet website of the school district maintained pursuant to NRS 389.004.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the notice of intent to homeschool filed pursuant to this section. If the educational plan contains the

requirements of this section, the educational plan must not be used in any manner as a basis for denial of a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

13. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his or her child based on religious preference unless it is:

- (a) Essential to further a compelling governmental interest; and
- (b) The least restrictive means of furthering that compelling governmental interest.

14. As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.

**Sec. 40.** NRS 392A.100 is hereby amended to read as follows:

392A.100 1. A university school for profoundly gifted pupils shall determine the eligibility of a pupil for admission to the school based upon a comprehensive assessment of the pupil's potential for academic and intellectual achievement at the school, including, without limitation, intellectual and academic ability, motivation, emotional maturity and readiness for the environment of an accelerated educational program. The assessment must be conducted by a broad-based committee of professionals in the field of education.

2. A person who wishes to apply for admission to a university school for profoundly gifted pupils must:

- (a) Submit to the governing body of the school:
  - (1) A completed application;
  - (2) Evidence that the applicant possesses advanced intellectual and academic ability, including, without limitation, proof that he or she satisfies the requirements of NRS 392A.030;
  - (3) At least three letters of recommendation from teachers or mentors familiar with the academic and intellectual ability of the applicant;
  - (4) A transcript from each school previously attended by the applicant; and
  - (5) Such other information as may be requested by the university school or governing body of the school.

(b) If requested by the governing body of the school, participate in an on-campus interview.

3. The curriculum developed for pupils in a university school for profoundly gifted pupils must provide exposure to the subject areas required of pupils enrolled in other public schools.



4. The Superintendent of Public Instruction shall, upon recommendation of the governing body, issue a high school diploma to a pupil who is enrolled in a university school for profoundly gifted pupils if that pupil ~~successfully passes the high school proficiency examination~~ **satisfies the criteria prescribed by the State Board pursuant to NRS 389.805** and the courses in American government and American history as required by NRS 389.020 and 389.030, and successfully completes any requirements established by the State Board of Education for graduation from high school.

5. On or before March 1 of each odd-numbered year, the governing body of a university school for profoundly gifted pupils shall prepare and submit to the Superintendent of Public Instruction, the president of the university where the university school for profoundly gifted pupils is located, the State Board and the Director of the Legislative Counsel Bureau a report that contains information regarding the school, including, without limitation, the process used by the school to identify and recruit profoundly gifted pupils from diverse backgrounds and with diverse talents, and data assessing the success of the school in meeting the educational needs of its pupils.

**Sec. 41.** NRS 392A.110 is hereby amended to read as follows:

392A.110 1. At least 70 percent of the teachers employed by a university school for profoundly gifted pupils must be licensed teachers.

2. A university school for profoundly gifted pupils shall administer to its pupils the achievement and proficiency examinations required by NRS ~~389.015 and~~ 389.550.

**Sec. 41.1.** **NRS 209.396 is hereby amended to read as follows:**

209.396 1. Except as otherwise provided in this section, an offender who is illiterate may not be assigned to an industrial or a vocational program unless:

(a) The offender is regularly attending and making satisfactory progress in a program for general education; or

(b) The Director for good cause determines that the limitation on assignment should be waived under the circumstances with respect to a particular offender.

2. An offender whose:

(a) Native language is not English;

(b) Ability to read and write in his or her native language is at or above the level of literacy designated by the Board in its regulations; and

(c) Ability to read and write the English language is below the level of literacy designated by the Board in its regulations,

↪ may not be assigned to an industrial or a vocational program unless the offender is regularly attending and making satisfactory progress in a course which teaches English as a second language or the Director for good cause

determines that the limitation on assignment should be waived under the circumstances with respect to a particular offender.

3. Upon written documentation that an illiterate offender has a developmental, learning or other similar disability which affects his or her ability to learn, the Director may:

(a) Adapt or create an educational program or guidelines for evaluating the educational progress of the offender to meet his or her particular needs; or

(b) Exempt the offender from the required participation in an educational program prescribed by this section.

4. The provisions of this section do not apply to an offender who presents satisfactory evidence that the offender has a ~~high~~ :

(a) High school diploma ; or ~~to general~~

(b) General educational development certificate ~~to~~ or an equivalent document.

5. As used in this section, "illiterate" means having an ability to read and write that is below the level of literacy designated by the Board in its regulations.

**Sec. 41.2. NRS 209.433 is hereby amended to read as follows:**

209.433 1. Every offender who was sentenced to prison on or before June 30, 1969, 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 for his or her term a deduction of 2 months in each of the first 2 years, 4 months in each of the next 2 years, and 5 months in each of the remaining years of the term, and pro rata for any part of a year where the sentence is for more or less than a year.

2. In addition to the credits for good behavior provided for in subsection 1, the Board shall adopt regulations allowing credits for offenders whose diligence in labor or study merits the credits and for offenders who donate their blood for charitable purposes. The regulations must provide that an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate ~~to~~ or an equivalent document, 30 days.

(b) For earning a high school diploma, 60 days.

(c) For earning an associate degree, 90 days.

3. Each offender is entitled to the deductions allowed by this section if the offender has satisfied the conditions of subsection 1 or 2 as determined by the Director.

**Sec. 41.3. NRS 209.443 is hereby amended to read as follows:**

209.443 1. Every offender who is sentenced to prison after June 30, 1969, for a crime committed before July 1, 1985, 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 under sentence; and

(b) For the period the offender is in residential confinement,

↪ a deduction of 2 months for each of the first 2 years, 4 months for each of the next 2 years and 5 months for each of the remaining years of the term, and pro rata for any part of a year where the actual term served is for more or less than a year. Credit must be recorded on a monthly basis as earned for actual time served.

2. The credits earned by an offender must be deducted from the maximum term imposed by the sentence and, except as otherwise provided in subsection 5, must apply to eligibility for parole.

3. In addition to the credits for good behavior provided for in subsection 1, the Board shall adopt regulations allowing credits for offenders whose diligence in labor or study merits such credits and for offenders who donate their blood for charitable purposes. The regulations must provide that an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate ~~15~~ **or an equivalent document**, 30 days.

(b) For earning a high school diploma, 60 days.

(c) For earning an associate degree, 90 days.

4. Each offender is entitled to the deductions allowed by this section if the offender has satisfied the conditions of subsection 1 or 3 as determined by the Director.

5. Credits earned pursuant to this section do not apply to eligibility for parole if a statute specifies a minimum sentence which must be served before a person becomes eligible for parole.

**Sec. 41.4. NRS 209.446 is hereby amended to read as follows:**

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 10 days from the offender's sentence for each month the offender serves.

2. In addition to the credit provided for in 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 ~~or~~ or an equivalent document, 30 days.

(b) For earning a high school diploma, 60 days.

(c) For earning an associate degree, 90 days.

3. 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 entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

**Sec. 41.5. 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 ~~or~~ or an equivalent document, 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) 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.

**Sec. 41.6. NRS 211.330 is hereby amended to read as follows:**

211.330 1. In addition to the credits on a term of imprisonment provided for in NRS 211.310, 211.320 and 211.340, the sheriff of the county or the chief of police of the municipality in which a prisoner is incarcerated shall deduct 5 days from the prisoner's term of imprisonment for earning a general educational development certificate ~~or the equivalent thereof,~~ **an equivalent document** by successfully completing an educational program for adults conducted jointly by the local detention facility in which the prisoner is incarcerated and the school district in which the facility is located.

2. The provisions of this section apply to any prisoner who is sentenced on or after October 1, 1991, to a term of imprisonment of 90 days or more.

**Sec. 41.7. NRS 213.315 is hereby amended to read as follows:**

213.315 1. Except as otherwise provided in this section, an offender who is illiterate is not eligible to participate in a program unless:

(a) The offender is regularly attending and making satisfactory progress in a program for general education; or

(b) The Director, for good cause, determines that the limitation on eligibility should be waived under the circumstances with respect to a particular offender.

2. An offender whose:

(a) Native language is not English;

(b) Ability to read and write in his or her native language is at or above the level of literacy designated by the Board of State Prison Commissioners in its regulations; and

(c) Ability to read and write the English language is below the level of literacy designated by the Board of State Prison Commissioners in its regulations,

➔ may not be assigned to an industrial or a vocational program unless the offender is regularly attending and making satisfactory progress in a course which teaches English as a second language or the Director, for good cause, determines that the limitation on eligibility should be waived under the circumstances with respect to a particular offender.

3. Upon written documentation that an illiterate offender has a developmental, learning or other similar disability which affects his or her ability to learn, the Director may:

(a) Adapt or create an educational program or guidelines for evaluating the educational progress of the offender to meet his or her particular needs;

or

(b) Exempt the offender from the required participation in an educational program prescribed by this section.

4. The provisions of this section do not apply to an offender who:

(a) Presents satisfactory evidence that the offender has ~~met~~ :

(1) A high school diploma; or ~~met~~

(2) A general educational development certificate ~~met~~ or *an equivalent document; or*

(b) Is admitted into a program for the purpose of obtaining additional education in this state.

5. As used in this section, “illiterate” means having an ability to read and write that is below the level of literacy designated by the Board of State Prison Commissioners in its regulations.

**Sec. 42.** NRS 218E.615 is hereby amended to read as follows:

218E.615 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

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

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, State Public Charter School Authority, school

districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS ~~389.015~~ **389.550 or 389.805**. In recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in NRS 385.3785, recommend to the Commission on Educational Excellence created by NRS 385.3784 programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

**Sec. 42.2. NRS 432B.595 is hereby amended to read as follows:**

432B.595 1. If the court retains jurisdiction over a child pursuant to NRS 432B.594, the agency which provides child welfare services shall develop a written plan to assist the child in transitioning to independent living. Such a plan must include, without limitation, the following goals:

(a) That the child save enough money to pay for his or her monthly expenses for at least 3 months;

(b) If the child has not graduated from high school or obtained a general equivalency diploma ~~or~~ **or an equivalent document**, that the child remain enrolled in high school or a program to obtain a general equivalency diploma **or an equivalent document** until graduation or completion of the program;

(c) If the child has graduated from high school or obtained a general equivalency diploma ~~or~~ **or an equivalent document**, that the child:

(1) Enroll in a program of postsecondary or vocational education;

(2) Enroll or participate in a program or activity designed to promote or remove obstacles to employment; or

(3) Obtain or actively seek employment which is at least 80 hours per month;

(d) That the child secure housing;

(e) That the child have adequate income to meet his or her monthly expenses;

(f) That the child identify an adult who will be available to provide support to the child;



(g) If applicable, that the child have established appropriate supportive services to address any mental health or developmental needs of the child; and

(h) If a child is not capable of achieving one or more of the goals set forth in paragraphs (a) to (g), inclusive, that the child have goals which are appropriate for the child based upon the needs of the child.

2. During the period in which the court retains jurisdiction over the child, the agency which provides child welfare services shall:

(a) Monitor the plan developed pursuant to subsection 1 and adjust the plan as necessary;

(b) Contact the child by telephone at least once each month and in person at least quarterly;

(c) Ensure that the child meets with a person who will provide guidance to the child and make the child aware of the services which will be available to the child; and

(d) Conduct a meeting with the child at least 30 days, but not more than 45 days, before the jurisdiction of the court is terminated to determine whether the child requires any additional guidance.

**Sec. 42.4. NRS 630.277 is hereby amended to read as follows:**

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have ~~at least~~:

(1) A high school diploma; or

(2) A general equivalency diploma ~~or~~ or an equivalent document;

(b) Complete an educational program for respiratory care which has been approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the National Board for Respiratory Care or its successor organization;

(d) Be certified by the National Board for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself or herself out as qualified to practice respiratory care,   
 ➔ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care

pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

**Sec. 42.5. NRS 641C.420 is hereby amended to read as follows:**

641C.420 1. The Board shall issue a certificate as an alcohol and drug abuse counselor intern to a person who:

- (a) Is 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 ~~the~~:

(1) A high school diploma; or ~~the~~

(2) A general equivalency diploma ~~the~~ or an equivalent document;

(d) Pays the fees required pursuant to NRS 641C.470;

(e) Submits proof to the Board that the person:

(1) Is enrolled in a program from which he or she will receive an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; or

(2) Has received an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; and

(f) Submits all information required to complete an application for a certificate.

2. A certificate as an alcohol and drug abuse counselor intern is valid for 1 year and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified alcohol and drug abuse counselor intern may, under the supervision of a licensed alcohol and drug abuse counselor or licensed clinical alcohol and drug abuse counselor:

- (a) Engage in the practice of counseling alcohol and drug abusers; and
- (b) Diagnose or classify a person as an alcoholic or drug abuser.

**Sec. 42.6. NRS 652.127 is hereby amended to read as follows:**

652.127 To qualify for certification as an assistant in a medical laboratory, a person must be a high school graduate or have a general equivalency diploma or an equivalent document and:

1. Must complete at least 6 months of training approved by the Board and demonstrate an ability to perform laboratory procedures in the medical laboratory where he or she receives the training; or

2. Must:

(a) Complete a course of instruction that qualifies him or her to take an examination for certification in phlebotomy that is administered by:

- (1) The American Medical Technologists;
- (2) The American Society of Clinical Pathologists; or

- (3) The National Certification Agency; and
- (b) Pass an examination specified in paragraph (a).

**Sec. 42.7. NRS 697.173 is hereby amended to read as follows:**

697.173 1. Except as otherwise provided in subsection 2, 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 ~~met~~:

(1) A high school diploma ~~for a~~;

(2) A general equivalency diploma or an equivalent document; or ~~has~~  
~~and~~

(3) An equivalent education as determined by the Commissioner.

(d) Has 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. 43.** NRS 389.015, 389.016, 389.017, 389.0175 and 389.045 are hereby repealed.

**Sec. 44.** 1. The Legislature hereby recognizes that to receive federal money under the Elementary and Secondary Education Act of 1965, 20 U.S.C. §§ 6301 et seq., pupils enrolled in public high schools in this State must be administered an assessment at least one time while in high school based upon the State's academic and content standards. To continue to

receive federal money under the Act, the State Board of Education may, for the purposes set forth in subsection 2, continue to provide for the administration of the high school proficiency examination.

2. On or before August 1, 2013, the State Board of Education shall:

(a) Prescribe the requirements, in addition to any requirements prescribed by statute, that a pupil enrolled in grade 12 in the 2013-2014 school year, the 2014-2015 school year or the 2015-2016 school year must satisfy to receive a standard high school diploma, which may include, without limitation, passage of the high school proficiency examination pursuant to section 44.3 of this act;

(b) Provide timely notice to the board of trustees of each school district and the governing body of each charter high school of the requirements prescribed pursuant to paragraph (a); and

(c) Post notice of the requirements on the Internet website maintained by the Department of Education.

3. On or before September 1, 2013, the board of trustees of each school district and the governing body of each charter school shall:

(a) Provide timely notice to each pupil and the parent or legal guardian of each pupil enrolled in grade 10, 11 or 12 in the 2013-2014 school year of the requirements the pupil must satisfy to receive a standard high school diploma.

(b) Post notice of the requirements on the Internet website maintained by the board of trustees or the governing body of the charter school, as applicable.

4. If a pupil to whom the provisions of this section apply is retained in grade 10, 11 or 12, the requirements for receipt of a standard high school diploma prescribed by the State Board of Education pursuant to subsection 2 continue to apply to that pupil until he or she exits high school.

**Sec. 44.3.** If the State Board of Education prescribes passage of the high school proficiency examination pursuant to paragraph (a) of subsection 2 of section 44 of this act as a requirement that a pupil must satisfy to receive a standard high school diploma:

1. The board of trustees of each school district shall administer the high school proficiency examination to pupils who have not passed the examination and are required to pass the examination to receive a standard high school diploma. The governing body of a charter school that enrolls pupils at the high school grade levels shall administer the same examination to pupils who have not passed the examination and are required to pass the examination to receive a standard high school diploma. The high school proficiency examination administered by the board of trustees and governing body must determine the achievement and proficiency of those pupils in:

(a) Reading;

- (b) Mathematics;
- (c) Science; and
- (d) Writing.

2. The high school proficiency examination required by subsection 1 must be:

(a) Administered in each school district and each charter school that enrolls pupils at the high school grade levels who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma at the same time, as prescribed by the State Board, and in accordance with uniform procedures adopted by the State Board. The Department of Education shall monitor the compliance of school districts and individual schools with the uniform procedures.

(b) Administered in accordance with the plan adopted pursuant to NRS 389.616 by the Department and the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the high school proficiency examination is administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(c) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the high school proficiency examination shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department of Education by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each applicable charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district at which the high school proficiency examination was administered pursuant to this section. Except as otherwise provided in this subsection, not more than 15 working days after each such school receives the results of the examinations, the principal of each such school and the governing body of each such charter school shall certify that the results for each pupil that took the examination have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or the administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the high school proficiency examination to the last known address of the parent or legal guardian of the pupil.

↪ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. A pupil who transfers during grade 12 to a school in this State from a school outside of this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of subsection 4 if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

5. For the purposes of this section, the State Board shall prescribe the high school proficiency examination, which must include the subjects of reading, mathematics and science and, except for the writing portion, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The State Board, in consultation with the Council to Establish Academic Standards for Public Schools created by NRS 389.510, shall prescribe the writing portion of the high school proficiency examination. The questions contained in the high school proficiency examination and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the high school proficiency examination.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch of State Government, to the extent that it is necessary for the performance of his or her duties;

(2) Superintendent of schools of a school district, to the extent that it is necessary for the performance of his or her duties;

(3) Director of curriculum of a school district, to the extent that it is necessary for the performance of his or her duties; and

(4) Director of testing of a school district, to the extent that it is necessary for the performance of his or her duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

6. The administrative regulations adopted by the State Board of Education for purposes of carrying out NRS 389.015 as of June 30, 2013, continue in effect if the high school proficiency examination is administered pursuant to this section.

**Sec. 44.7.** If the State Board of Education prescribes passage of the high school proficiency examination pursuant to paragraph (a) of subsection 2 of section 44 of this act as a requirement that a pupil must satisfy to receive a standard high school diploma:

1. The results of the high school proficiency examination administered pursuant to section 44.3 of this act must be reported for the applicable school year for each school, including, without limitation, each charter school that enrolls pupils at the high school grade levels who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma, each school district and this State, as follows:

(a) The average score, as defined by the Department, of such pupils who took the high school proficiency examination under regular testing conditions; and

(b) The average score, as defined by the Department of Education, of such pupils who took the high school proficiency examination with modifications or accommodations, if such reporting does not violate the confidentiality of the test scores of any individual pupil.

2. The superintendent of schools of each school district and the governing body of each charter school that enrolls pupils at the high school grade levels who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma, through the sponsor of the charter school, shall certify that the number of pupils who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma and who took the high school proficiency examination in the applicable school year is equal to the number of such pupils in each school in the school district or in the charter school who are required to take the high school proficiency examination in that school year.

3. In addition to the information required by subsection 2, the Superintendent of Public Instruction shall, for each applicable school year:

(a) Report the number of pupils who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma and who were absent from school on the day that the high school proficiency examination was administered; and

(b) Reconcile the number of pupils who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma with the number of such pupils who were absent from school on the day that the examination was administered.

**Sec. 45.** 1. This section and sections 44, 44.3, and 44.7 of this act become effective upon passage and approval.

2. Sections 1 to 43, inclusive, of this act become effective on July 1, 2013.

#### LEADLINES OF REPEALED SECTIONS

**389.015 Administration and scoring; transmission of results; effect of failure to pass; certain exceptions for child transferred due to military transfer of parent; confidentiality of examinations.**

**389.016 Postponement of administration of examination in mathematics and science for pupil enrolled in grade 10; revision of pupil's academic plan; annual report by school district.**

**389.017 Reporting of results of examinations; reconciliation of number of pupils taking examinations.**

**389.0175 Establishment of statewide program for preparation of pupils to take examination; compliance with program required of school districts and certain schools; use of additional materials and information.**

**389.045 Course of study designed to assist pupils with passing high school proficiency examination; board of trustees authorized to offer course as elective.**

Assemblyman Elliot Anderson moved that the Assembly concur in the Senate Amendment No. 671 to Assembly Bill No. 288.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

This amendment requires the State Board of Education to select a high school equivalency assessment for certain persons who are not enrolled in high school and have not graduated and provides for the recognition of other documents for a GED.

Motion carried.

The following Senate amendment was read:

Amendment No. 949.

AN ACT relating to education; requiring the State Board of Education to select a high school equivalency assessment for certain persons who are not



enrolled in high school and have not graduated; providing for the recognition of a document equivalent to a general educational development certificate, general educational development credential and general equivalency diploma; requiring the State Board to select a college and career readiness assessment for administration to pupils enrolled in grade 11 in public high schools; revising the requirements to receive a standard high school diploma by requiring pupils ~~enrolled in grades 9 and 10~~ to pass end-of-course examinations for the courses of study prescribed by the State Board; eliminating the option for the issuance of a certificate of attendance indicating a pupil attended high school but did not satisfy the requirements for a standard high school diploma; eliminating the high school proficiency examination; repealing provisions relating to the high school proficiency examination; **making an appropriation;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes a person who is 16 or 17 years of age, is not enrolled in high school and has not graduated from high school to take the tests of general educational development to obtain a general educational development certificate which demonstrates that the person has achieved an educational level which is an acceptable substitute for completing a high school education. (NRS 385.448) **Section 12.3** of this bill removes the reference to the tests of general educational development and requires the State Board of Education to select a high school equivalency assessment. Existing law also makes various references to a: (1) general educational development certificate; (2) general educational development credential; and (3) general equivalency diploma. (NRS 209.396, 209.433, 209.443, 209.446, 209.4465, 211.330, 213.315, 388.575, 389.810, 432B.595, 630.277, 641C.420, 652.127, 697.173) **Sections 17.5, 33.5, 41.1-41.7 and 42.2-42.7** of this bill provide for the recognition of a document that is equivalent to such a certificate, credential or diploma.

Existing law requires the administration of examinations based upon the State's academic standards to pupils enrolled in grades 3 through 8 and requires pupils to pass the high school proficiency examination to receive a standard high school diploma. (NRS 389.015, 389.550) **Section 43** of this bill eliminates the high school proficiency examination. **Section 19** of this bill requires the State Board to select a college and career readiness assessment for administration to pupils enrolled in grade 11 in public high schools commencing with the 2014-2015 school year. **Section 19** further requires a pupil enrolled in grade 11 to take the assessment to receive a standard high school diploma, but prohibits the use of the results of the assessment in determining the pupil's eligibility for such a diploma.

Existing law prescribes the requirements for a standard high school diploma, including passage of the high school proficiency examination. (NRS 389.805) **Section 33** of this bill eliminates the requirement of passage of the high school proficiency examination and instead requires the State Board to prescribe the criteria for receipt of a standard high school diploma, which must include the requirement that, commencing with the 2014-2015 school year, a pupil ~~enrolled in grade 9 or 10~~ pass ~~an~~ **at least four** end-of-course ~~examination~~ **examinations**. **Section 33** also requires the State Board to adopt the courses of study in which pupils ~~enrolled in grades 9 and 10~~ must pass such ~~an examination~~ **examinations**, which must include, without limitation, the subject areas for which the State Board has adopted the common core standards.

Under existing law, a pupil who does not pass the high school proficiency examination may be issued a certificate of attendance in lieu of a diploma if he or she is 18 years of age. (NRS 389.015) **Section 33** of this bill prohibits the issuance to a pupil of a certificate of attendance or any other document indicating that the pupil attended high school but did not satisfy the requirements for a standard high school diploma.

As a transition from the administration of the high school proficiency examination to the administration of end-of-course examinations, **sections 44-44.7** of this bill require the State Board of Education to prescribe the requirements which a pupil enrolled in grade 10, 11 or 12 in the 2013-2014 school year who has not passed the high school proficiency examination and is required to pass the examination to receive a standard high school diploma must satisfy to receive a standard high school diploma. Such requirements may include the continuation of the administration of the high school proficiency examination to those pupils.

The remaining sections of this bill make conforming changes relating to the elimination of the high school proficiency examination.

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

**Section 1.** NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS ~~389.015 and~~ 389.550 ~~and 389.805~~ **and the college and career readiness assessment administered pursuant to section 19 of this act**, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

- (1) Pupils who are economically disadvantaged, as defined by the State Board;
- (2) Pupils from major racial and ethnic groups, as defined by the State Board;
- (3) Pupils with disabilities;
- (4) Pupils who are limited English proficient; and
- (5) Pupils who are migratory children, as defined by the State Board.

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

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS ~~389.015 and 389.550~~ and 389.805 ~~and section 19 of this act~~, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made:

(1) Adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(2) Progress based upon the model adopted by the Department pursuant to NRS 385.3595, if applicable for the grade level of pupils enrolled at the school.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) The total number of persons employed by each school district in this State, including without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by each school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph:

(1) "Administrator" means a person who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, and who is not classified by the board of trustees of a school district as a professional-technical employee.

(2) "Other staff" means all persons who are not reported as administrators or teachers, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of a school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is classified by the board of trustees of a school district:

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(l) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the

professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

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

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(m) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide

program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(o) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(p) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the ~~examinations of general educational development.~~ **high school equivalency assessment selected by the State Board pursuant to NRS 385.448.**

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

(3) Withdraw from school to attend another school.

(q) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district,

including, without limitation, each charter school in the district, and for this State as a whole.

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

(x) Each source of funding for this State to be used for the system of public education.

(y) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

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

(z) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

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

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

~~—— (II) Paragraph (b) of subsection 1 of NRS 389.805.]~~

(2) An adult diploma.

(3) An adjusted diploma.

~~[(4) A certificate of attendance.]~~

(cc) ~~[(For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.~~

~~—(dd)~~ The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

~~[(ee)]~~ **(dd)** Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

~~[(ff)]~~ **(ee)** An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

~~[(gg)]~~ **(ff)** A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

~~[(hh)]~~ **(gg)** For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

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

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

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

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

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



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

~~—(ii) ***satisfy the criteria prescribed by the State Board pursuant to NRS 389.805.***~~

***(hh)*** The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, reported for each school district, including, without limitation, each charter school in the district, and for the State as a whole.

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

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

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

4. On or before October 15 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

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

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

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) “Bullying” has the meaning ascribed to it in NRS 388.122.

(b) “Cyber-bullying” has the meaning ascribed to it in NRS 388.123.

(c) “Harassment” has the meaning ascribed to it in NRS 388.125.

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

(e) "Intimidation" has the meaning ascribed to it in NRS 388.129.

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

**Sec. 2.** NRS 385.34691 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; 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) 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 ~~1-1~~ **and 389.805, ~~1-1~~ and the college and career readiness assessment administered pursuant to section 19 of this act;** 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 396.945, 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) 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) A 5-year strategic plan which identifies the recurring issues in improving the achievement and proficiency of pupils in this State and which establishes strategic goals to address those issues. The 5-year strategic plan must be:

(1) Based upon the data from previous years which is collected by the Department for the plan developed pursuant to this section; and

(2) Designed to track the progress made in achieving the strategic goals established by the Department.

(m) 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 annually to evaluate the effectiveness of the plan;

(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:

(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 January 31 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) Governing body of each charter school.

**Sec. 3.** NRS 385.34692 is hereby amended to read as follows:

385.34692 1. The State Board shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.3469 that includes, without limitation, a summary of the following information for each school district, each charter school and the State as a whole:

(a) Demographic information of pupils, including, without limitation, the number and percentage of pupils:

(1) Who are economically disadvantaged, as defined by the State Board;

(2) Who are from major racial or ethnic groups, as defined by the State Board;

(3) With disabilities;

(4) Who are limited English proficient; and

(5) Who are migratory children, as defined by the State Board;

(b) The average daily attendance of pupils, reported separately for the groups identified in paragraph (a);

- (c) The transiency rate of pupils;
- (d) The percentage of pupils who are habitual truants;
- (e) The percentage of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655;
- (f) The number of incidents resulting in suspension or expulsion for:
  - (1) Violence to other pupils or to school personnel;
  - (2) Possession of a weapon;
  - (3) Distribution of a controlled substance;
  - (4) Possession or use of a controlled substance;
  - (5) Possession or use of alcohol; and
  - (6) Bullying, cyber-bullying, harassment or intimidation;
- (g) For kindergarten through grade 8, the number and percentage of pupils who are retained in the same grade;
- (h) For grades 9 to 12, inclusive, the number and percentage of pupils who are deficient in the number of credits required for promotion to the next grade or graduation from high school;
- (i) The pupil-teacher ratio for kindergarten and grades 1 to 8, inclusive;
- (j) The average class size for the subject area of mathematics, English, science and social studies in schools where pupils rotate to different teachers for different subjects;
- (k) The number and percentage of pupils who graduated from high school;
- (l) The number and percentage of pupils who received a:
  - (1) Standard diploma;
  - (2) Adult diploma; **and**
  - (3) Adjusted diploma; ~~and~~
  - ~~(4) Certificate of attendance;~~
- (m) The number and percentage of pupils who graduated from high school and enrolled in remedial courses at the Nevada System of Higher Education;
- (n) Per pupil expenditures;
- (o) Information on the professional qualifications of teachers;
- (p) The average daily attendance of teachers and licensure information;
- (q) Information on the adequate yearly progress of the schools and school districts;
- (r) Pupil achievement based upon the:
  - (1) Examinations administered pursuant to NRS 389.550, including, without limitation, whether public schools have made progress based upon the model adopted by the Department pursuant to NRS 385.3595; and
  - (2) ~~High school proficiency examination administered pursuant to NRS 389.015; and~~ **End-of-course examinations administered pursuant to NRS 389.805; and**
- (s) Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

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

3. On or before October 20 of each year, the State Board shall:

(a) Provide for public dissemination of the summary prepared pursuant to subsection 1 by posting the summary on the Internet website maintained by the Department; and

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

(1) Governor;

(2) Committee;

(3) Bureau;

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

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

(6) Governing body of each charter school.

4. The board of trustees of each school district and the governing body of each charter school shall ensure that the parents and guardians of pupils enrolled in the school district or charter school, as applicable, have sufficient information concerning the availability of the summary prepared by the State Board pursuant to subsection 1, including, without limitation, information that describes how to access the summary on the Internet website maintained by the Department. Upon the request of a parent or guardian of a pupil, the Department shall provide the parent or guardian with a written copy of the summary.

5. The Department shall, in consultation with the Bureau and the school districts, prescribe a form for the summary required by this section.

6. As used in this section:

(a) “Bullying” has the meaning ascribed to it in NRS 388.122.

(b) “Cyber-bullying” has the meaning ascribed to it in NRS 388.123.

(c) “Harassment” has the meaning ascribed to it in NRS 388.125.

(d) “Intimidation” has the meaning ascribed to it in NRS 388.129.

**Sec. 4.** NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools sponsored by the school district. The board of trustees of each school district shall report the information

required by subsection 2 for each charter school sponsored by the school district. The information for charter schools must be reported separately.

2. The board of trustees of each school district shall, on or before September 30 of each year, prepare an annual report of accountability concerning:

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

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS ~~389.015 and~~ 389.550 and **389.805 and the college and career readiness assessment administered pursuant to section 19 of this act** and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school sponsored by the district, and each grade in which the examinations **and assessments** were administered:

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS ~~389.015 and~~ 389.550 ~~and~~ **389.805 and section 19 of this act**, which may include



information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

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

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

(10) Information on whether each school in the district, including, without limitation, each charter school sponsored by the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

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

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

(d) The total number of persons employed for each elementary school, middle school or junior high school, and high school in the district, including, without limitation, each charter school sponsored by the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by each school in each category, the report must include the number of employees in each of the three categories for each school expressed as a percentage of the total number of persons employed by the school. As used in this paragraph:

(1) “Administrator” means a person who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both,

and who is not classified by the board of trustees of the school district as a professional-technical employee.

(2) "Other staff" means all persons who are not reported as administrators or teachers, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of the school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is classified by the board of trustees of the school district:

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(e) The total number of persons employed by the school district, including without limitation, each charter school sponsored by the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by the school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph, "administrator," "other staff" and "teacher" have the meanings ascribed to them in paragraph (d).

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

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

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

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

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

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

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

(2) The curriculum used by each charter school sponsored by the district.

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

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

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

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

(1) Provide proof to the school district of successful completion of the ~~examinations of general educational development~~ **high school equivalency assessment selected by the State Board pursuant to NRS 385.448.**

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

(3) Withdraw from school to attend another school.

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

(l) Efforts made by the school district and by each school in the district, including, without limitation, each charter school sponsored by the district, to increase:

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

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

(3) The involvement of parents and the engagement of families of pupils enrolled in the district in the education of their children.

(m) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school sponsored by the district.

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

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

(p) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a

whole, including, without limitation, each charter school sponsored by the district.

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

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

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

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

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

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

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

(v) The technological facilities and equipment available at each school, including, without limitation, each charter school sponsored by the district, and the district's plan to incorporate educational technology at each school.

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

(1) A standard high school diploma . ~~[(I) reported separately for pupils who received the diploma pursuant to:~~

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

~~—— (II) Paragraph (b) of subsection 1 of NRS 389.805.]~~

(2) An adult diploma.

(3) An adjusted diploma.

~~[(4) A certificate of attendance.]~~

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

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

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

~~{(aa)}~~ (z) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

~~{(bb)}~~ (aa) Information on whether each public school in the district, including, without limitation, each charter school sponsored by the district, has made adequate yearly progress, including, without limitation:

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

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

~~{(cc)}~~ (bb) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school sponsored by the district. The information must include:

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

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

~~{(dd)}~~ (cc) For each high school in the district, including, without limitation, each charter school sponsored by the district that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by

this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

~~[(ee)]~~ **(dd)** An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

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

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

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

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

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

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

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

~~—(gg)]~~ **satisfy the criteria prescribed by the State Board pursuant to NRS 389.805.**

**(ff)** The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

~~[(hh)]~~ **(gg)** Such other information as is directed by the Superintendent of Public Instruction.

3. The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before September 30 of each year, prepare an annual report of accountability of the charter schools sponsored by the State Public Charter School Authority or institution, as applicable, concerning the accountability information prescribed by the Department pursuant to this section. The Department, in consultation with the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, shall prescribe by regulation the information that must be prepared by the State Public Charter School

Authority and institution, as applicable, which must include, without limitation, the information contained in paragraphs (a) to ~~[(hh)]~~ **(gg)**, inclusive, of subsection 2, as applicable to charter schools. The Department shall provide for public dissemination of the annual report of accountability prepared pursuant to this section in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the Department.

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

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

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

5. The annual report of accountability prepared pursuant to subsection 2 or 3, as applicable, must:

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

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

6. The Superintendent of Public Instruction shall:

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

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

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration;

(6) Legislative Counsel Bureau; and



(7) Charter School Association of Nevada,  
↪ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

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

8. On or before September 30 of each year:

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

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

9. On or before September 30 of each year:

(a) The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide written notice that the report required pursuant to subsection 2 or 3, as applicable, is available on the Internet website maintained by the school district, State Public Charter School Authority or institution, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

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

(b) The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 or 3, as applicable, in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, the State Public Charter School Authority or the institution, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report

by providing a copy of the report to the schools in the school district, including, without limitation, each charter school sponsored by the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school sponsored by the district. If the State Public Charter School Authority or the institution does not maintain a website, the State Public Charter School Authority or the institution, as applicable, shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school it sponsors and the parents and guardians of pupils enrolled in each charter school it sponsors.

10. Upon the request of the Governor, an entity described in paragraph (a) of subsection 9 or a member of the general public, the board of trustees of a school district, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable, shall provide a portion or portions of the report required pursuant to subsection 2 or 3, as applicable.

11. As used in this section:

- (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
- (c) "Harassment" has the meaning ascribed to it in NRS 388.125.
- (d) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).
- (e) "Intimidation" has the meaning ascribed to it in NRS 388.129.
- (f) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

**Sec. 5.** NRS 385.357 is hereby amended to read as follows:

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

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

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

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

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

(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each group of pupils identified in

paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school will make adequate yearly progress and meet the minimum level of proficiency prescribed by the State Board.

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

(f) Strategies and practices which:

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

(2) Are designed to improve and promote effective involvement and engagement by parents and families of pupils enrolled in the school which are consistent with the policies and recommendations of the Office of Parental Involvement and Family Engagement made pursuant to NRS 385.635.

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

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

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

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS ~~389.015 and~~ 389.550 ~~;~~ **and 389.805 ~~;~~ and the college and career readiness assessment administered pursuant to section 19 of this act;** and

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

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

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

(4) Manage effectively the discipline of pupils; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. On or before January 31 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:

- (a) Superintendent of Public Instruction;
- (b) Governor;
- (c) State Board;
- (d) Department;
- (e) Committee;
- (f) Bureau; and
- (g) Board of trustees of the school district in which the school is located or, if the school is a charter school, the sponsor of the charter school and the governing body of the charter school.

10. A plan for the improvement of a school must be carried out expeditiously, but not later than February 15 after approval of the plan pursuant to subsection 7 or 8, as applicable.

**Sec. 6.** NRS 385.361 is hereby amended to read as follows:

385.361 1. The State Board shall define the measurement for determining whether each public school, each school district and this State are making adequate yearly progress. The definition of adequate yearly progress must:

- (a) Comply with 20 U.S.C. § 6311(b)(2) and the regulations adopted pursuant thereto;
- (b) Be designed to ensure that all pupils will meet or exceed the minimum level of proficiency set by the State Board, 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; and
  - (4) Pupils who are limited English proficient;
- (c) Be based primarily upon the measurement of progress of pupils on the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable;
- (d) Include annual measurable objectives established pursuant to 20 U.S.C. § 6311(b)(2)(G) and the regulations adopted pursuant thereto;
- (e) For high schools, include the rate of graduation; and
- (f) For elementary schools, junior high schools and middle schools, include the rate of attendance.

2. The examination in science must not be included in the definition of adequate yearly progress.

3. The State Board shall prescribe, by regulation, the differentiated corrective actions, the consequences or the sanctions, or any combination thereof, based upon the identified needs of a public school, including, without limitation, the educational needs of English language learners, pupils with disabilities or other groups of pupils identified in paragraph (b) of subsection 1, that apply to the public school that has been designated as demonstrating need for improvement for 4 consecutive years or more, including, without limitation, the establishment of a support team for a school if deemed necessary by the Department in accordance with the regulations of the State Board. In no event may the consequences or sanctions be more strict than the restructuring that applies to Title I schools.

**Sec. 7.** NRS 385.3612 is hereby amended to read as follows:

385.3612 1. The State Board shall adopt regulations that prescribe, consistent with 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, the manner in which pupils enrolled in:

(a) A program of distance education pursuant to NRS 388.820 to 388.874, inclusive;

(b) An alternative program for the education of pupils at risk of dropping out of school pursuant to NRS 388.537; or

(c) A program of education that:

(1) Primarily serves pupils with disabilities; or

(2) Is operated within a:

(I) Local, regional or state facility for the detention of children;

(II) Juvenile forestry camp;

(III) Child welfare agency; or

(IV) Correctional institution,

↪ will be included within the statewide system of accountability set forth in NRS 385.3455 to 385.391, inclusive.

2. The regulations adopted pursuant to subsection 1 must also set forth the manner in which:

(a) The progress of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 will be accounted for within the statewide system of accountability; and

(b) The results of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 on the examinations administered pursuant to NRS ~~389.015 and~~ 389.550 **and, if applicable for the grade levels of the pupils enrolled, the examinations administered pursuant to NRS 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act** will be reported.

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

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

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

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

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

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

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

(1) The name of the program;

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

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

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

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

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

(1) The financial resources of the school;

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

(3) The curriculum of the school;

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

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

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

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 ~~for the high~~



~~school proficiency examination, as applicable;}~~ ***and, if applicable for the grade levels of the school, the end-of-course examinations administered pursuant to NRS 389.805;***

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

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

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

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

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

(7) Except as otherwise provided in subparagraph (8), a description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (m) to (p), inclusive, of subsection 2 of NRS 385.347; and

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

2. On or before December 15, the support team of a school other than a charter school shall submit a copy of the final written report to the:

(a) Principal of the school;

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

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

(d) Department; and

(e) Bureau.

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

3. On or before December 15, the support team for a charter school shall submit a copy of the final written report to the:

(a) Principal of the charter school;

(b) Sponsor of the charter school;

(c) Governing body of the charter school;

(d) Department; and

(e) Bureau.

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

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

385.3613 1. Except as otherwise provided in subsection 2, on or before July 31 of each year, the Department shall determine whether each public school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

2. On or before July 31 of each year, the Department shall determine whether each public school that operates on a schedule other than a traditional 9-month schedule is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the State Public Charter School Authority or by a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the State Public Charter School Authority or the institution within the Nevada System of Higher Education that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before July 31 of each year, the Department shall transmit:

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

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

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

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

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

(a) The number of pupils enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable, is less than 95 percent of all pupils enrolled in the school who were required to take the examinations; or

(b) Except as otherwise provided in subsection 6, for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the group enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable, is less than 95 percent of all pupils in that group enrolled in the school who were required to take the examinations.

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

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

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

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

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

8. As used in this section:

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

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

**Sec. 10.** NRS 385.3762 is hereby amended to read as follows:

385.3762 1. On or before August 15 of each year, the Department shall determine whether each school district is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361. The pupils who are enrolled in a charter school, if any, located within a school district must not be included in the determination made for that school district. The determination made for each school district must be based only upon the

information and data for those pupils who were enrolled in the school district for a full academic year, regardless of whether those pupils attended more than one school within the school district for that academic year.

2. Except as otherwise provided in this subsection, the Department shall determine that a school district has failed to make adequate yearly progress if any group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school district does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school district shall be deemed to have made adequate yearly progress even though a group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school district did not satisfy the annual measurable objectives of the State Board.

3. In addition to the provisions of subsection 2, the Department shall determine that a school district has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school district who took the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable, is less than 95 percent of all pupils enrolled in the school district who were required to take the examinations; or

(b) Except as otherwise provided in subsection 4, for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils enrolled in the school district who took the examinations administered pursuant to NRS 389.550 or the ~~high school proficiency examination,~~ **examinations administered pursuant to NRS 389.805**, as applicable, is less than 95 percent of all pupils in the group who were required to take the examinations.

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

(a) The Department shall not determine that the school district has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 3 based solely upon that particular group.

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

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

**Sec. 11.** NRS 385.389 is hereby amended to read as follows:

385.389 1. The Department shall adopt programs of remedial study for each subject tested on the examinations administered pursuant to

NRS ~~[389.015 and]~~ 389.550 ~~[,]~~ **and 389.805**, including, without limitation, programs that are designed for pupils who are limited English proficient. The programs adopted for pupils who are limited English proficient must be designed to:

- (a) Improve the academic achievement of those pupils; or
- (b) Assist those pupils with attaining proficiency in the English language.

➔ In adopting these programs of remedial study, the Department shall consider the recommendations submitted by the Committee pursuant to NRS 218E.615 and programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

2. If a school fails to make adequate yearly progress based upon the results of the examinations administered pursuant to NRS ~~[389.015 or]~~ 389.550 ~~[,]~~ **or 389.805**, the school shall adopt a program of remedial study that has been adopted by the Department pursuant to subsection 1 or a program, practice or strategy recommended by the Commission on Educational Excellence pursuant to NRS 385.3785, or any combination thereof, as applicable.

3. A school district that includes a school described in subsection 2 shall ensure that each of the pupils enrolled in the school who failed to demonstrate at least adequate achievement on the examinations administered pursuant to NRS ~~[389.015 or]~~ 389.550 ~~[,]~~ **or 389.805**, as applicable, completes remedial study that is determined to be appropriate for the pupil.

**Sec. 12.** NRS 385.3891 is hereby amended to read as follows:

385.3891 1. The Department shall establish a monitoring system for the statewide system of accountability. The monitoring system must identify significant levels of achievement of pupils on the examinations that are administered pursuant to NRS 389.550 and ~~[the] [high school proficiency examination that is]~~ ~~[examinations administered pursuant to NRS]~~ ~~[389.015,]~~ **389.805 ~~[,]~~ and the college and career readiness assessment administered pursuant to section 19 of this act,** identified by school and by school district.

2. On or before October 1 of each year, the Department shall prepare a written summary of the findings made pursuant to subsection 1. The written summary must be provided to:

- (a) The Committee; and
- (b) If the findings show inconsistencies applicable to a particular school district or school within a school district, the board of trustees of that school district.

3. The Committee shall review the report submitted pursuant to subsection 2 and take such action as it deems appropriate.

**Sec. 12.3.** NRS 385.448 is hereby amended to read as follows:

385.448 1. ***The State Board shall select an assessment which enables a person who satisfies the requirements of subsection 2 or 3, as applicable, to demonstrate that he or she has achieved an educational level which is an acceptable substitute for completing a high school education.***

2. A person who:

- (a) Is 17 years of age or older;
  - (b) If he or she is at least 17 years of age but less than 18 years of age, submits to the State Board written permission signed by his or her parent or legal guardian;
  - (c) Has not graduated from a high school;
  - (d) Is not currently enrolled in a high school; and
  - (e) Satisfies any other requirements prescribed by the State Board,
- ↪ may take the ~~{tests of general educational development prescribed}~~ **high school equivalency assessment selected** by the State Board.

~~{2.}~~ 3. The board of trustees of a school district may, upon request and for good cause shown, grant permission to take the ~~{tests of general educational development prescribed}~~ **high school equivalency assessment selected** by the State Board to a person who:

- (a) Resides in the school district;
- (b) Is at least 16 years of age but less than 17 years of age;
- (c) Submits to the board of trustees written permission signed by his or her parent or legal guardian;
- (d) Has not graduated from a high school;
- (e) Is not currently enrolled in a high school; and
- (f) Satisfies any other requirements prescribed by the board of trustees.

~~{3.}~~ 4. The State Board may adopt regulations to carry out the provisions of ~~{subsection 1.}~~

~~— 4. As used in this section, “tests of general educational development” means examinations which enable persons who have not graduated from high school to demonstrate that they have achieved an educational level which is an acceptable substitute for completing a high school education.}~~ **this section.**

**Sec. 12.5.** NRS 385.451 is hereby amended to read as follows:

385.451 It is unlawful to disclose the questions contained in ~~{tests of general educational development}~~ **the high school equivalency assessment selected by the State Board pursuant to NRS 385.448** and the approved answers used for grading the ~~{tests}~~ **assessment** except:

1. To the extent that disclosure is required in the Department’s administration of the ~~{tests.}~~ **assessment.**

2. That a disclosure may be made to a state officer who is a member of the Executive or Legislative branch to the extent that it is related to the performance of that officer’s duties.

**Sec. 13.** NRS 386.550 is hereby amended to read as follows:

386.550 1. A charter school shall:

(a) Comply with all laws and regulations relating to discrimination and civil rights.

(b) Remain nonsectarian, including, without limitation, in its educational programs, policies for admission and employment practices.

(c) Refrain from charging tuition or fees, levying taxes or issuing bonds.

(d) Comply with any plan for desegregation ordered by a court that is in effect in the school district in which the charter school is located.

(e) Comply with the provisions of chapter 241 of NRS.

(f) Except as otherwise provided in this paragraph, schedule and provide annually at least as many days of instruction as are required of other public schools located in the same school district as the charter school is located. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction for a waiver from providing the days of instruction required by this paragraph. The Superintendent of Public Instruction may grant such a request if the governing body demonstrates to the satisfaction of the Superintendent that:

(1) Extenuating circumstances exist to justify the waiver; and

(2) The charter school will provide at least as many hours or minutes of instruction as would be provided under a program consisting of 180 days.

(g) Cooperate with the board of trustees of the school district in the administration of the ~~{achievement and proficiency}~~ examinations administered pursuant to ~~[NRS 389.015 and the examinations required pursuant to]~~ NRS 389.550 **and, if the charter school enrolls pupils at a high school grade level, the end-of-course examinations administered pursuant to NRS 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act** to the pupils who are enrolled in the charter school.

(h) Comply with applicable statutes and regulations governing the achievement and proficiency of pupils in this State.

(i) Provide instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school, and provide at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and require the pupils who are enrolled in the charter school to take those courses of study. This paragraph does not preclude a charter school from offering, or requiring the pupils who are enrolled in the charter school to take, other courses of study that are required by statute or regulation.

(j) If the parent or legal guardian of a child submits an application to enroll in kindergarten, first grade or second grade at the charter school, comply with NRS 392.040 regarding the ages for enrollment in those grades.

(k) Refrain from using public money to purchase real property or buildings without the approval of the sponsor.

(l) Hold harmless, indemnify and defend the sponsor of the charter school against any claim or liability arising from an act or omission by the governing body of the charter school or an employee or officer of the charter school. An action at law may not be maintained against the sponsor of a charter school for any cause of action for which the charter school has obtained liability insurance.

(m) Provide written notice to the parents or legal guardians of pupils in grades 9 to 12, inclusive, who are enrolled in the charter school of whether the charter school is accredited by the Commission on Schools of the Northwest Association of Schools and of Colleges and Universities.

(n) Adopt a final budget in accordance with the regulations adopted by the Department. A charter school is not required to adopt a final budget pursuant to NRS 354.598 or otherwise comply with the provisions of chapter 354 of NRS.

(o) If the charter school provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive, comply with all statutes and regulations that are applicable to a program of distance education for purposes of the operation of the program.

2. A charter school shall not provide instruction through a program of distance education to children who are exempt from compulsory attendance authorized by the State Board pursuant to subsection 1 of NRS 392.070. As used in this subsection, "distance education" has the meaning ascribed to it in NRS 388.826.

**Sec. 14.** NRS 386.5515 is hereby amended to read as follows:

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

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

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

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by



annual measurable objectives determined by the State Board, for the majority of the years of its operation; and

(d) At least 75 percent of the pupils enrolled in grade 12 in the charter school in the immediately preceding school year ~~[who] have [completed the required course work for graduation have passed the high school proficiency examination,]~~ **satisfied the criteria prescribed by the State Board pursuant to NRS 389.805,** if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the Department one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the Department pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:

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

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

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

**Sec. 15.** NRS 386.740 is hereby amended to read as follows:

386.740 1. Each empowerment plan for a school must:

(a) Set forth the manner by which the school will be governed;

(b) Set forth the proposed budget for the school, including, without limitation, the cost of carrying out the empowerment plan, and the manner by which the money apportioned to the school will be administered;

(c) If a school support team has been established for the school in accordance with the regulations of the State Board adopted pursuant to NRS 385.361, require the principal and the empowerment team for the school to work in consultation with the school support team;

(d) Prescribe the academic plan for the school, including, without limitation, the manner by which courses of study will be provided to the

pupils enrolled in the school and any special programs that will be offered for pupils;

(e) Prescribe the manner by which the achievement of pupils will be measured and reported for the school, including, without limitation, the results of the pupils on the examinations administered pursuant to ~~NRS 389.015 and 389.550~~ ~~1-1~~ **and, if applicable for the grade levels of the empowerment school, the end-of-course examinations administered pursuant to NRS 389.805 ~~1-1~~ and the college and career readiness assessment administered pursuant to section 19 of this act;**

(f) Prescribe the manner by which teachers and other licensed educational personnel will be selected and hired for the school, which must be determined and negotiated pursuant to chapter 288 of NRS;

(g) Prescribe the manner by which all other staff for the school will be selected and hired, which must be determined and negotiated pursuant to chapter 288 of NRS;

(h) Indicate whether the empowerment plan will offer an incentive pay structure for staff and a description of that pay structure, if applicable;

(i) Indicate the intended ratio of pupils to teachers at the school, designated by grade level, which must comply with NRS 388.700 or 388.720, as applicable;

(j) Provide a description of the professional development that will be offered to the teachers and other licensed educational personnel employed at the school;

(k) Prescribe the manner by which the empowerment plan will increase the involvement of parents and legal guardians of pupils enrolled in the school;

(l) Comply with the plan to improve the achievement of the pupils enrolled in the school prepared pursuant to NRS 385.357, the turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, whichever is applicable for the school;

(m) Address the specific educational needs and concerns of the pupils who are enrolled in the school; and

(n) Set forth the calendar and schedule for the school.

2. If the empowerment plan includes an incentive pay structure, that pay structure must:

(a) Provide an incentive for all staff employed at the school;

(b) Set forth the standards that must be achieved by the pupils enrolled in the school and any other measurable objectives that must be met to be eligible for incentive pay; and

(c) Be in addition to the salary or hourly rate of pay negotiated pursuant to chapter 288 of NRS that is otherwise payable to the employee.

3. An empowerment plan may:

(a) Request a waiver from a statute contained in this title or a regulation of the State Board or the Department.

(b) Identify the services of the school district which the school wishes to receive, including, without limitation, professional development, transportation, food services and discretionary services. Upon approval of the empowerment plan, the school district may deduct from the total apportionment to the empowerment school the costs of such services.

4. For purposes of determining the budget pursuant to paragraph (b) of subsection 1, if a public school which converts to an empowerment school is a:

(a) Charter school, the amount of the budget is the amount equal to the apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, and its proportionate share of any other money available from federal, state or local sources that the school or the pupils enrolled in the school are eligible to receive.

(b) Public school, other than a charter school, the empowerment team for the school shall have discretion of 90 percent of the amount of money from the state financial aid and local funds that the school district apportions for the school, without regard to any line-item specifications or specific uses determined advisable by the school district, unless the empowerment team determines that a lesser amount is necessary to carry out the empowerment plan.

**Sec. 16.** NRS 386.765 is hereby amended to read as follows:

386.765 1. Except as otherwise provided pursuant to a waiver granted in accordance with NRS 386.745 or 386.750, each empowerment school, each person employed by an empowerment school and each pupil enrolled in an empowerment school shall comply with the applicable requirements of state law, including, without limitation, the standards of content and performance prescribed pursuant to NRS 389.520 and the examinations that are administered pursuant to NRS ~~389.015 and~~ 389.550 ~~1-1~~ **and 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act.**

2. Each empowerment school may accept gifts, grants and donations from any source for the support of its empowerment plan. A person who gives a gift, grant or donation may designate all or part of the gift, grant or donation specifically to carry out the incentive pay structure of the school, if applicable.

**Sec. 17.** NRS 388.205 is hereby amended to read as follows:

388.205 1. The board of trustees of each school district shall adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those

pupils. The academic plan must set forth the specific educational goals that the pupil intends to achieve before graduation from high school. The plan may include, without limitation, the designation of a career pathway and enrollment in dual credit courses, career and technical education courses, advanced placement courses and honors courses.

2. The policy may ensure that each pupil enrolled in ninth grade and the pupil's parent or legal guardian are provided with, to the extent practicable, the following information:

(a) The advanced placement courses, honors courses, international baccalaureate courses, dual credit courses, career and technical education courses, including, without limitation, career and technical skills-building programs, and any other educational programs, pathways or courses available to the pupil which will assist the pupil in the advancement of his or her education;

~~(b) The courses of study which the Department recommends that pupils take to prepare the pupils to successfully meet the academic challenges of the high school proficiency examination and pass that examination;~~

~~—(c)—~~ The requirements for graduation from high school with a diploma and the types of diplomas available;

~~—(d)—~~ (c) The requirements for admission to the Nevada System of Higher Education and the eligibility requirements for a Governor Guinn Millennium Scholarship; and

~~—(e)—~~ (d) The charter schools within the school district.

3. The policy required by subsection 1 must require each pupil enrolled in ninth grade and the pupil's parent or legal guardian to:

(a) Be notified of opportunities to work in consultation with a school counselor to develop and review an academic plan for the pupil;

(b) Sign the academic plan; and

(c) Review the academic plan at least once each school year in consultation with a school counselor and revise the plan if necessary.

4. If a pupil enrolls in a high school after ninth grade, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

5. ~~If the administration of the high school proficiency examination in the subject area of mathematics or science, or both, is postponed for a pupil pursuant to NRS 389.016, the pupil's academic plan must be revised in consultation with the pupil's teacher who provides instruction in the applicable subject area and the pupil's parent or legal guardian as set forth in NRS 389.016.~~

~~—6.—~~ An academic plan for a pupil must be used as a guide for the pupil and the parent or legal guardian of the pupil to plan, monitor and manage the pupil's educational and occupational development and make determinations

of the appropriate courses of study for the pupil. If a pupil does not satisfy all the goals set forth in the academic plan, the pupil is eligible to graduate and receive a high school diploma if the pupil otherwise satisfies the requirements for a diploma.

**Sec. 17.5.** NRS 388.575 is hereby amended to read as follows:

388.575 1. The Department of Education, after consulting with the Department of Corrections, shall:

(a) Adopt regulations that establish a statewide program of education for incarcerated persons; and

(b) Coordinate with and assist school districts in operating programs of education for incarcerated persons.

2. The statewide program may include courses of study for:

(a) A high school diploma;

(b) Basic literacy;

(c) English as a second language;

(d) General educational development;

(e) Life skills;

(f) Career and technical education; and

(g) Postsecondary education.

3. The statewide program does not include the programs of general education, vocational education and training established by the Board of State Prison Commissioners pursuant to NRS 209.389.

4. The statewide program must establish:

(a) Standards for each course of study that set forth the:

(1) Curriculum;

(2) Qualifications for entry; and

(3) Evaluation of incarcerated persons for placement; and

(b) Procedures to ensure that an incarcerated person who earns credits in a program of education for incarcerated persons operated by a school district at a facility or institution shall, if transferred to a different facility or institution, transfer those credits to the program operated by a school district at that facility or institution.

5. As used in this section, “general educational development” means preparation for and administration of the standardized examinations ***or other high school equivalency assessments*** that enable persons who have not graduated from high school to demonstrate that they have achieved an educational level which denotes competency in core curriculum. The term includes programs for obtaining a general educational development certificate ~~or~~ ***or an equivalent document.***

**Sec. 18.** NRS 388.874 is hereby amended to read as follows:

388.874 1. The State Board shall adopt regulations that prescribe:

(a) The process for submission of an application by a person or entity for inclusion of a course of distance education on the list prepared by the Department pursuant to NRS 388.834 and the contents of the application;

(b) The process for submission of an application by the board of trustees of a school district, the governing body of a charter school or a committee to form a charter school to provide a program of distance education and the contents of the application;

(c) The qualifications and conditions for enrollment that a pupil must satisfy to enroll in a program of distance education, consistent with NRS 388.850;

(d) A method for reporting to the Department the number of pupils who are enrolled in a program of distance education and the attendance of those pupils;

(e) The requirements for assessing the achievement of pupils who are enrolled in a program of distance education, which must include, without limitation, the administration of the ~~achievement and proficiency~~ examinations required pursuant to NRS ~~389.015 and~~ 389.550 ~~;~~ and, if applicable for the grade levels of the pupils enrolled, the administration of the examinations pursuant to NRS 389.805 ~~;~~ and the college and career readiness assessment pursuant to section 19 of this act; and

(f) A written description of the process pursuant to which the State Board may revoke its approval for the operation of a program of distance education.

2. The State Board may adopt regulations as it determines are necessary to carry out the provisions of NRS 388.820 to 388.874, inclusive.

**Sec. 19.** Chapter 389 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The State Board shall select a college and career readiness assessment for administration, commencing with the 2014-2015 school year and each school year thereafter, to pupils who are enrolled in grade 11 in public high schools.**

**2- Except as otherwise provided in this subsection, a pupil must take the college and career readiness assessment to receive a standard high school diploma. The results of a pupil on the assessment must not be used in the determination of whether the pupil satisfies the requirements for receipt of a standard high school diploma. A pupil with a disability may, in accordance with his or her individualized education program, be exempt from the requirement to take the college and career readiness assessment.**

**3. The assessment selected pursuant to subsection 1 must be:**

**(a) Administered at the same time during the school year by the board of trustees of each school district to pupils enrolled in grade 11 in all public high schools of the school district and by the governing body of each charter school that enrolls pupils in grade 11, as prescribed by the State**

*Board, and in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of the school districts and individual schools with the uniform procedures and report to the State Board any instance of noncompliance.*

*(b) Administered in accordance with the plan adopted by the Department pursuant to NRS 389.616 and with the plan adopted by the board of trustees of the school district in which the assessment is administered pursuant to NRS 389.620. The Department shall monitor the compliance of the school districts and individual schools with:*

*(1) The plan adopted by the Department; and*

*(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department, and shall report to the State Board any instance of noncompliance.*

*4. The assessment selected pursuant to subsection 1 must:*

*(a) Be used to provide data and information to each pupil who takes the assessment in a manner that allows the pupil to review the areas of his or her academic strengths and weaknesses, including, without limitation, areas where additional work in the subject areas tested on the assessment is necessary to prepare for college and career success without the need for remediation; and*

*(b) Allow teachers and other educational personnel to use the results of a pupil on the assessment to provide appropriate interventions for the pupil to prepare for college and career success.*

*5. The State Board may work in consultation with the boards of trustees of school districts and, if a charter school enrolls pupils at a high school grade level, the governing body of the charter school to develop and implement appropriate plans of remediation for pupils based upon the results of the pupils on the assessment.*

**Sec. 20.** NRS 389.004 is hereby amended to read as follows:

389.004 The board of trustees of each school district shall maintain on its Internet website, and shall post in a timely manner, all pertinent information concerning the examinations **and assessments** available to children who reside in the school district, including, without limitation, the dates and times of, and contact information concerning, such examinations ~~[-]~~ **and assessments**. The examinations **and assessments** posted must include, without limitation:

1. The ~~high school proficiency~~ **college examination** ~~and career readiness assessment~~ administered pursuant to ~~NRS 389.015; and~~ **section 19 of this act.**

2. *The examinations required pursuant to NRS 389.805.*

3. All **other** college entrance examinations offered in this State, including, without limitation, the Scholastic Aptitude Test, the American College Test, the Preliminary Scholastic Aptitude Test and the National Merit Scholarship Qualifying Test.

**Sec. 21.** NRS 389.006 is hereby amended to read as follows:

389.006 1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments ~~[including, without limitation, the practice test of the high school proficiency examination to pupils enrolled in high school,]~~ that the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination, the board of trustees shall consider any applicable findings and recommendations of the Legislative Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

**Sec. 22.** NRS 389.0115 is hereby amended to read as follows:

389.0115 1. If a pupil with a disability is unable to take an examination administered pursuant to NRS ~~[389.015 or]~~ 389.550 **or 389.805** under regular testing conditions, the pupil may take the examination with modifications and accommodations that the pupil's individualized education program team determines, in consultation with the Department and in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., are necessary to measure the progress of the pupil. If modifications or accommodations are made in the administration of an examination for a pupil with a disability, the modifications or accommodations must be set forth in the pupil's individualized education program. The results of each pupil with a disability who takes an examination with modifications or accommodations must be reported and must be included in the determination of whether the school and the school district have made adequate yearly progress.

2. The State Board shall prescribe an alternate examination for administration to a pupil with a disability if the pupil's individualized education program team determines, in consultation with the Department, that the pupil cannot participate in all or a portion of an examination



administered pursuant to NRS ~~389.015 or~~ 389.550 **or 389.805** even with modifications and accommodations.

3. The State Board shall prescribe, in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., the modifications and accommodations that must be used in the administration of an examination to a pupil with a disability who is unable to take the examination under regular testing conditions.

4. As used in this section:

(a) “Individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

(b) “Individualized education program team” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(B).

**Sec. 23.** NRS 389.012 is hereby amended to read as follows:

389.012 1. The State Board shall:

(a) In accordance with guidelines established by the National Assessment Governing Board and National Center for Education Statistics and in accordance with 20 U.S.C. §§ 6301 et seq. and the regulations adopted pursuant thereto, adopt regulations requiring the schools of this State that are selected by the National Assessment Governing Board or the National Center for Education Statistics to participate in the examinations of the National Assessment of Educational Progress.

(b) Report the results of those examinations to the:

(1) Governor;

(2) Board of trustees of each school district of this State;

(3) Legislative Committee on Education created pursuant to NRS 218E.605; and

(4) Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218E.625.

(c) Include in the report required pursuant to paragraph (b) an analysis and comparison of the results of pupils in this State on the examinations required by this section with:

(1) The results of pupils throughout this country who participated in the examinations of the National Assessment of Educational Progress; and

(2) The results of pupils on the achievement and proficiency examinations administered pursuant to this chapter.

2. If the report required by subsection 1 indicates that the percentage of pupils enrolled in the public schools in this State who are proficient on the National Assessment of Educational Progress differs by more than 10 percent of the pupils who are proficient on the examinations administered pursuant to NRS 389.550 and the ~~high school proficiency examination~~ **examinations** administered pursuant to NRS ~~389.015,~~ **389.805**, the Department shall

prepare a written report describing the discrepancy. The report must include, without limitation, a comparison and evaluation of:

(a) The standards of content and performance for English and mathematics established pursuant to NRS 389.520 with the standards for English and mathematics that are tested on the National Assessment.

(b) The standards for proficiency established for the National Assessment with the standards for proficiency established for the examinations that are administered pursuant to NRS 389.550 and the ~~high school proficiency examination~~ **examinations** administered pursuant to NRS ~~389.015,~~ **389.805**.

3. The report prepared by the Department pursuant to subsection 2 must be submitted to the:

- (a) Governor;
- (b) Legislative Committee on Education;
- (c) Legislative Bureau of Educational Accountability and Program Evaluation; and
- (d) Council to Establish Academic Standards for Public Schools.

4. The Council to Establish Academic Standards for Public Schools shall review and evaluate the report provided to the Council pursuant to subsection 3 to identify any discrepancies in the standards of content and performance established by the Council that require revision and a timeline for carrying out the revision, if necessary. The Council shall submit a written report of its review and evaluation to the Legislative Committee on Education and Legislative Bureau of Educational Accountability and Program Evaluation.

**Sec. 24.** NRS 389.0173 is hereby amended to read as follows:

389.0173 1. The Department shall develop an informational pamphlet concerning the ~~high school proficiency examination~~ **end-of-course examinations required pursuant to NRS 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act** for pupils who are enrolled in junior high, middle school and high school, ~~grades 9 and 10~~ and their parents and legal guardians. The pamphlet must include a written explanation of the:

- (a) Importance of passing the ~~examination, including, without limitation, an explanation that if the pupil fails the examination, or does not satisfy the requirements of paragraph (b) of subsection 1 of NRS 389.805, the pupil is not eligible to receive a standard high school diploma;~~
- (b) Subject areas tested on the examination;
- (c) Format for the examination, including, without limitation, the range of items that are contained on the examination;
- (d) Manner by which the scaled score, as reported to pupils and their parents or legal guardians, is derived from the raw score;

- ~~—(e) Timeline by which the results of the examination must be reported to pupils and their parents or legal guardians;~~
  - ~~—(f) Maximum number of times that a pupil is allowed to take the examination if the pupil fails to pass the examination after the first administration;~~
  - ~~—(g) Courses of study that the Department recommends that pupils take to prepare the pupils to successfully meet the academic challenges of the examination and pass the examination; and~~
  - ~~—(h) Courses of study which the Department recommends that pupils take in high school to successfully prepare for the college entrance examinations.]~~
- end-of-course examinations ~~for~~ and the importance of taking the college and career readiness assessment;**

**(b) Courses of study for which the end-of-course examinations are administered ~~for~~ and the subject areas tested on the college and career readiness assessment;**

**(c) Format for the end-of-course examinations ~~for~~ and the college and career readiness assessment, including, without limitation, the range of items that are contained on the examinations ~~for~~ and the assessment; and**

**(d) Maximum number of times, if any, that a pupil is allowed to take the end-of-course examinations if the pupil fails to pass the examinations after the first administration.**

2. The Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as it considers necessary to ensure that pupils and their parents or legal guardians fully understand the ~~[examination.]~~ **end-of-course examinations ~~for~~ and the college and career readiness assessment.**

3. On or before September 1, the Department shall provide a copy of the pamphlet or revised pamphlet to the board of trustees of each school district and the governing body of each charter school that includes pupils enrolled in a junior high, middle school or high school grade level.

4. The board of trustees of each school district shall provide a copy of the pamphlet to each junior high, middle school or high school within the school district for posting. The governing body of each charter school shall ensure that a copy of the pamphlet is posted at the charter school. Each principal of a junior high, middle school, high school or charter school shall ensure that the teachers, counselors and administrators employed at the school fully understand the contents of the pamphlet.

5. On or before ~~January 15,~~ **October 1,** the:

(a) Board of trustees of each school district shall provide a copy of the pamphlet to each pupil who is enrolled in a junior high, middle school or high school ~~grade 9 or 10~~ of the school district and to the parents or legal guardians of such a pupil.

(b) Governing body of each charter school shall provide a copy of the pamphlet to each pupil who is enrolled ~~in grade 9 or 10~~ in the charter school at a junior high, middle school or high school grade level and to the parents or legal guardians of such a pupil.

**Sec. 25.** NRS 389.550 is hereby amended to read as follows:

389.550 1. The State Board shall, in consultation with the Council, prescribe examinations that comply with 20 U.S.C. § 6311(b)(3) and that measure the achievement and proficiency of pupils:

(a) For grades 3, 4, 5, 6, 7 and 8 in the standards of content established by the Council for the subjects of English and mathematics.

(b) For grades 5 and 8, in the standards of content established by the Council for the subject of science.

↪ The examinations prescribed pursuant to this subsection must be written, developed, printed and scored by a nationally recognized testing company.

2. In addition to the examinations prescribed pursuant to subsection 1, the State Board shall, in consultation with the Council, prescribe a writing examination for grades 5 and 8 . ~~and for the high school proficiency examination.~~

3. The board of trustees of each school district and the governing body of each charter school shall administer the examinations prescribed by the State Board. The examinations must be:

(a) Administered to pupils in each school district and each charter school at the same time during the spring semester, as prescribed by the State Board.

(b) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the school districts and individual schools to ensure compliance with the uniform procedures.

(c) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

**Sec. 26.** NRS 389.604 is hereby amended to read as follows:

389.604 “Irregularity in testing administration” means the failure to administer an examination to pupils pursuant to NRS ~~389.015 or~~ 389.550 **or 389.805 or the college and career readiness assessment pursuant to section 19 of this act** in the manner intended by the person or entity that created the examination ~~or assessment.~~

**Sec. 27.** NRS 389.608 is hereby amended to read as follows:

389.608 “Irregularity in testing security” means an act or omission that tends to corrupt or impair the security of an examination administered to pupils pursuant to NRS ~~389.015 or~~ 389.550 ~~1-1~~ **or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act**, including, without limitation:

1. The failure to comply with security procedures adopted pursuant to NRS 389.616 or 389.620;
2. The disclosure of questions or answers to questions on an examination **or assessment** in a manner not otherwise approved by law; and
3. Other breaches in the security or confidentiality of the questions or answers to questions on an examination ~~1-1~~ **or assessment.**

**Sec. 28.** NRS 389.616 is hereby amended to read as follows:

389.616 1. The Department shall, by regulation or otherwise, adopt and enforce a plan setting forth procedures to ensure the security of examinations that are administered to pupils pursuant to NRS ~~389.015 and~~ 389.550 ~~1-1~~ **and 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act.**

2. A plan adopted pursuant to subsection 1 must include, without limitation:

(a) Procedures pursuant to which pupils, school officials and other persons may, and are encouraged to, report irregularities in testing administration and testing security.

(b) Procedures necessary to ensure the security of test materials and the consistency of testing administration.

(c) Procedures that specifically set forth the action that must be taken in response to a report of an irregularity in testing administration or testing security and the actions that must be taken during an investigation of such an irregularity. For each action that is required, the procedures must identify:

(1) By category, the employees of the school district, charter school or Department, or any combination thereof, who are responsible for taking the action; and

(2) Whether the school district, charter school or Department, or any combination thereof, is responsible for ensuring that the action is carried out successfully.

(d) Objective criteria that set forth the conditions under which a school, including, without limitation, a charter school or a school district, or both, is required to file a plan for corrective action in response to an irregularity in testing administration or testing security for the purposes of NRS 389.636.

3. A copy of the plan adopted pursuant to this section and the procedures set forth therein must be submitted on or before September 1 of each year to:

- (a) The State Board; and

(b) The Legislative Committee on Education, created pursuant to NRS 218E.605.

**Sec. 29.** NRS 389.620 is hereby amended to read as follows:

389.620 1. The board of trustees of each school district shall, for each public school in the district, including, without limitation, charter schools, adopt and enforce a plan setting forth procedures to ensure the security of examinations ~~and~~ **and assessments**.

2. A plan adopted pursuant to subsection 1 must include, without limitation:

(a) Procedures pursuant to which pupils, school officials and other persons may, and are encouraged to, report irregularities in testing administration and testing security.

(b) Procedures necessary to ensure the security of test materials and the consistency of testing administration.

(c) With respect to secondary schools, procedures pursuant to which the school district or charter school, as appropriate, will verify the identity of pupils taking an examination ~~or~~ **or assessment**.

(d) Procedures that specifically set forth the action that must be taken in response to a report of an irregularity in testing administration or testing security and the action that must be taken during an investigation of such an irregularity. For each action that is required, the procedures must identify, by category, the employees of the school district or charter school who are responsible for taking the action and for ensuring that the action is carried out successfully.

↪ The procedures adopted pursuant to this subsection must be consistent, to the extent applicable, with the procedures adopted by the Department pursuant to NRS 389.616.

3. A copy of each plan adopted pursuant to this section and the procedures set forth therein must be submitted on or before September 1 of each year to:

(a) The State Board; and

(b) The Legislative Committee on Education, created pursuant to NRS 218E.605.

4. On or before September 30 of each school year, the board of trustees of each school district and the governing body of each charter school shall provide a written notice regarding the examinations **and assessments** to all teachers and educational personnel employed by the school district or governing body, all personnel employed by the school district or governing body who are involved in the administration of the examinations ~~and~~ **and assessments**, all pupils who are required to take the examinations **or assessments** and all parents and legal guardians of such pupils. The written

notice must be prepared in a format that is easily understood and must include, without limitation, a description of the:

- (a) Plan adopted pursuant to this section; and
- (b) Action that may be taken against personnel and pupils for violations of the plan or for other irregularities in testing administration or testing security.

5. As used in this section:

(a) ***“Assessment” means the college and career readiness assessment administered to pupils enrolled in grade 11 pursuant to section 19 of this act.***

(b) “Examination” means:

(1)  ~~Achievement and proficiency~~ **The** examinations that are administered to pupils pursuant to NRS ~~389.015 or~~ 389.550 ~~;~~ **or 389.805;** and

(2) Any other examinations which measure the achievement and proficiency of pupils and which are administered to pupils on a district-wide basis.

~~(b)~~  (c) “Irregularity in testing administration” means the failure to administer an examination **or assessment** in the manner intended by the person or entity that created the examination ~~;~~

~~(c)~~  **or assessment.**

(d) “Irregularity in testing security” means an act or omission that tends to corrupt or impair the security of an examination ~~;~~ **or assessment,** including, without limitation:

(1) The failure to comply with security procedures adopted pursuant to this section or NRS 389.616;

(2) The disclosure of questions or answers to questions on an examination **or assessment** in a manner not otherwise approved by law; and

(3) Other breaches in the security or confidentiality of the questions or answers to questions on an examination ~~;~~ **or assessment.**

**Sec. 30.** NRS 389.624 is hereby amended to read as follows:

389.624 1. If the Department:

(a) Has reason to believe that a violation of the plan adopted pursuant to NRS 389.616 may have occurred;

(b) Has reason to believe that a violation of the plan adopted pursuant to NRS 389.620 may have occurred with respect to an examination that is administered pursuant to NRS ~~389.015 or~~ 389.550 ~~;~~ **or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act;** or

(c) Receives a request pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 389.628 to investigate a potential violation of the plan adopted pursuant to NRS 389.620 with respect to an examination that is administered pursuant to NRS ~~389.015 or~~ 389.550 ~~;~~ **or 389.805 or the**

***college and career readiness assessment administered pursuant to section 19 of this act,***

→ the Department shall investigate the matter as it deems appropriate.

2. If the Department investigates a matter pursuant to subsection 1, the Department may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, without limitation, books, papers, documents, records, photographs, recordings, reports and tangible objects.

3. If a witness refuses to attend, testify or produce materials as required by the subpoena, the Department may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the Department pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials before the Department as required by the subpoena, or has refused to answer questions propounded to him or her,

→ and asking for an order of the court compelling the witness to attend, testify or produce materials before the Department.

4. Upon receipt of 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 then and there show cause why the witness has not attended, testified or produced materials before the Department. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the Department, the court shall enter an order that the witness appear before the Department at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

**Sec. 31.** NRS 389.628 is hereby amended to read as follows:

389.628 1. If a school official has reason to believe that a violation of the plan adopted pursuant to NRS 389.620 may have occurred, the school official shall immediately report the incident to the board of trustees of the school district. If the board of trustees of a school district has reason to believe that a violation of the plan adopted pursuant to NRS 389.620 may have occurred, the board of trustees shall:

(a) If the violation is with respect to an examination administered pursuant to NRS ~~389.015 or~~ 389.550 ~~1~~ **or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act,** immediately report the incident to the Department orally or in writing



followed by a comprehensive written report within 14 school days after the incident occurred; and

(b) Cause to be commenced an investigation of the incident. The board of trustees may carry out the requirements of this paragraph by:

(1) Investigating the incident as it deems appropriate, including, without limitation, using the powers of subpoena set forth in this section.

(2) With respect to an examination that is administered pursuant to NRS ~~389.015 or~~ 389.550 ~~1~~ **or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act**, requesting that the Department investigate the incident pursuant to NRS 389.624.

↪ The fact that a board of trustees elects initially to carry out its own investigation pursuant to subparagraph (1) of paragraph (b) does not affect the ability of the board of trustees to request, at any time, that the Department investigate the incident as authorized pursuant to subparagraph (2) of paragraph (b).

2. Except as otherwise provided in this subsection, if the board of trustees of a school district proceeds in accordance with subparagraph (1) of paragraph (b) of subsection 1, the board of trustees may issue a subpoena to compel the attendance or testimony of a witness or the production of any relevant materials, including, without limitation, books, papers, documents, records, photographs, recordings, reports and tangible objects. A board of trustees shall not issue a subpoena to compel the attendance or testimony of a witness or the production of materials unless the attendance, testimony or production sought to be compelled is related directly to a violation or an alleged violation of the plan adopted pursuant to NRS 389.620.

3. If a witness refuses to attend, testify or produce materials as required by the subpoena, the board of trustees may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the board of trustees pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials before the board of trustees as required by the subpoena, or has refused to answer questions propounded to him or her,

↪ and asking for an order of the court compelling the witness to attend, testify or produce materials before the board of trustees.

4. Upon receipt of 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 then and there show cause why the witness has not attended,

testified or produced materials before the board of trustees. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the board of trustees, the court shall enter an order that the witness appear before the board of trustees at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

**Sec. 32.** NRS 389.644 is hereby amended to read as follows:

389.644 1. The Department shall establish a program of education and training regarding the administration and security of the examinations administered pursuant to NRS ~~389.015 and~~ 389.550 ~~or~~ **or 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act.** Upon approval of the Department, the board of trustees of a school district or the governing body of a charter school may establish an expanded program of education and training that includes additional education and training if the expanded program complies with the program established by the Department.

2. The board of trustees of each school district and the governing body of each charter school shall ensure that:

(a) All the teachers and other educational personnel who provide instruction to pupils enrolled in a grade level that is required to be tested pursuant to NRS ~~389.015 or~~ 389.550 ~~or~~ **or 389.805 or section 19 of this act**, and all other personnel who are involved with the administration of the examinations that are administered pursuant to NRS ~~389.015 or~~ 389.550 ~~or~~ **or 389.805 or the college and career readiness assessment administered pursuant to section 19 of this act**, receive, on an annual basis, the program of education and training established by the Department or the expanded program, if applicable; and

(b) The training and education is otherwise available for all personnel who are not required to receive the training and education pursuant to paragraph (a).

**Sec. 33.** NRS 389.805 is hereby amended to read as follows:

389.805 1. ~~Except as otherwise provided in subsection 3, a pupil must receive a standard high school diploma if the pupil:~~

~~—(a) Passes all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school; or~~

~~—(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than two times before beginning grade 12 and the pupil:~~

~~—(1) Passes the subject areas of mathematics and reading on the proficiency examination;~~

~~—(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;~~

~~—(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection 4; and~~

~~—(4) Otherwise satisfies the requirements for graduation from high school.~~

~~—2.1~~ A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if the pupil satisfies the requirements set forth in his or her individualized education program. As used in this subsection, “individualized education program” has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

~~{3. A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of paragraphs (a) and (b) of subsection 1 if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:~~

~~—(a) Accepts the results of the exit or end of course examinations required for graduation in the local education agency in which the pupil was previously enrolled;~~

~~—(b) Accepts the results of a national norm referenced achievement examination taken by the pupil; or~~

~~—(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.~~

~~—4.1~~ 2. The State Board shall adopt regulations that prescribe the ~~{alternative criteria}~~ :

~~(a) Criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:~~

~~—(a) An essay;~~

~~—(b) A senior project; or~~

~~—(c) A portfolio of work;~~

~~↗ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.}, which must include, without limitation, the requirement that:~~

~~(1) Commencing with the 2014-2015 school year and each school year thereafter, a pupil enrolled in grade 11 take the college and career readiness assessment administered pursuant to section 19 of this act; and~~

~~(2) Commencing with the 2014-2015 school year and each school year thereafter, a pupil enroll in the courses of study designed to ~~for a pupil enrolled in grade 9 or 10 who completes the required instruction in a~~~~

~~course of study~~ prepare the pupil for graduation from high school and for readiness for college and career; and

(3) Commencing with the 2014-2015 school year and each school year thereafter, a pupil pass ~~an~~ at least four end-of-course ~~examination in that course of study.~~ examinations prescribed pursuant to paragraph (b).

(b) Courses of study in which pupils ~~enrolled in grades 9 and 10~~ must pass the end-of-course examinations required by subparagraph ~~(2)~~ (3) of paragraph (a), which must include, without limitation, the subject areas for which the State Board has adopted the common core standards ~~for~~ and which may include any other courses of study prescribed by the State Board.

(c) The maximum number of times, if any, that a pupil is allowed to take the end-of-course examinations if the pupil fails to pass the examinations after the first administration.

3. The criteria prescribed by the State Board pursuant to subsection 2 for a pupil to receive a standard high school diploma must not include the results of the pupil on the college and career readiness assessment administered to the pupil in grade 11 pursuant to section 19 of this act.

4. If a pupil does not satisfy the requirements prescribed by the State Board to receive a standard high school diploma, the pupil must not be issued a certificate of attendance or any other document indicating that the pupil attended high school but did not satisfy the requirements for such a diploma. The provisions of this subsection do not apply to a pupil who receives an adjusted diploma pursuant to subsection 1.

Sec. 33.5. NRS 389.810 is hereby amended to read as follows:

389.810 1. Notwithstanding any provision of this title to the contrary, a person who:

(a) Left high school before graduating to serve in the Armed Forces of the United States during:

(1) World War II and so served at any time between September 16, 1940, and December 31, 1946;

(2) The Korean War and so served at any time between June 25, 1950, and January 31, 1955; or

(3) The Vietnam Era and so served at any time between January 1, 1961, and May 7, 1975;

(b) Was discharged from the Armed Forces of the United States under honorable conditions; and

(c) As a result of his or her service in the Armed Forces of the United States, did not receive a high school diploma,

➤ shall be deemed to have earned sufficient credits to receive a standard high school diploma.

2. A school district may, upon request, issue a standard high school diploma to any person who meets the requirements set forth in subsection 1. A school district may issue a standard high school diploma to such a person even if the person:

(a) Holds a general educational development credential or ~~its~~ **an** equivalent ~~it~~ **document**; or

(b) Is deceased, if the family of the veteran requests the issuance of the diploma.

3. The State Board and the Office of Veterans Services shall work cooperatively to establish guidelines for identifying and issuing standard high school diplomas to persons pursuant to this section.

4. A person to whom a standard high school diploma is issued pursuant to this section shall not be deemed to be a pupil for the purposes of this title.

**Sec. 34.** NRS 389.900 is hereby amended to read as follows:

389.900 If the Department enters into a contract with a person or entity to score the results of an examination that is administered to pupils pursuant to NRS ~~389.015 or~~ 389.550 ~~or, if applicable, pursuant to NRS 389.805~~ **or the college and career readiness assessment administered pursuant to section 19 of this act**, and the contract sets forth penalties or sanctions in the event that the person or entity fails to deliver the scored results to a school district or charter school on a timely basis, the Department shall ensure that any such penalties or sanctions are fully enforced.

**Sec. 34.5.** Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

***“Assessment” means the college and career readiness assessment administered to pupils in grade 11 pursuant to section 19 of this act.***

**Sec. 35.** NRS 391.166 is hereby amended to read as follows:

391.166 1. There is hereby created the Grant Fund for Incentives for Licensed Educational Personnel to be administered by the Department. The Department may accept gifts and grants from any source for deposit in the Grant Fund.

2. The board of trustees of each school district shall establish a program of incentive pay for licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level which must be designed to attract and retain those employees. The program must be negotiated pursuant to chapter 288 of NRS and must include, without limitation, the attraction and retention of:

(a) Licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level who have been employed in that category of position for at least 5 years in this State or another state and who are employed in schools which are at-risk, as determined by the Department pursuant to subsection 8; and

(b) Teachers who hold a license or endorsement in the field of mathematics, science, special education, English as a second language or other area of need within the school district, as determined by the Superintendent of Public Instruction.

3. A program of incentive pay established by a school district must specify the type of financial incentives offered to the licensed educational personnel. Money available for the program must not be used to negotiate the salaries of individual employees who participate in the program.

4. If the board of trustees of a school district wishes to receive a grant of money from the Grant Fund, the board of trustees shall submit to the Department an application on a form prescribed by the Department. The application must include a description of the program of incentive pay established by the school district.

5. The Superintendent of Public Instruction shall compile a list of the financial incentives recommended by each school district that submitted an application. On or before December 1 of each year, the Superintendent shall submit the list to the Interim Finance Committee for its approval of the recommended incentives.

6. After approval of the list of incentives by the Interim Finance Committee pursuant to subsection 5 and within the limits of money available in the Grant Fund, the Department shall provide grants of money to each school district that submits an application pursuant to subsection 4 based upon the amount of money that is necessary to carry out each program. If an insufficient amount of money is available to pay for each program submitted to the Department, the amount of money available must be distributed pro rata based upon the number of licensed employees who are estimated to be eligible to participate in the program in each school district that submitted an application.

7. An individual employee may not receive as a financial incentive pursuant to a program an amount of money that is more than \$3,500 per year.

8. The Department shall, in consultation with representatives appointed by the Nevada Association of School Superintendents and the Nevada Association of School Boards, develop a formula for identifying at-risk schools for purposes of this section. The formula must be developed on or before July 1 of each year and include, without limitation, the following factors:

(a) The percentage of pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.;

(b) The transiency rate of pupils;

(c) The percentage of pupils who are limited English proficient;

(d) The percentage of pupils who have individualized education programs;

**and**

(e) ~~[(The percentage of pupils who score in the bottom two quarters on the mathematics portion or the reading portion, or both, of the high school proficiency examination; and~~

~~—(f)]~~ The percentage of pupils who drop out of high school before graduation.

9. The board of trustees of each school district that receives a grant of money pursuant to this section shall evaluate the effectiveness of the program for which the grant was awarded. The evaluation must include, without limitation, an evaluation of whether the program is effective in recruiting and retaining the personnel as set forth in subsection 2. On or before December 1 of each year, the board of trustees shall submit a report of its evaluation to the:

(a) Governor;

(b) State Board;

(c) Interim Finance Committee;

(d) If the report is submitted in an even-numbered year, Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and

(e) Legislative Committee on Education.

**Sec. 36.** NRS 391.312 is hereby amended to read as follows:

391.312 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

(a) Inefficiency;

(b) Immorality;

(c) Unprofessional conduct;

(d) Insubordination;

(e) Neglect of duty;

(f) Physical or mental incapacity;

(g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;

(h) Conviction of a felony or of a crime involving moral turpitude;

(i) Inadequate performance;

(j) Evident unfitness for service;

(k) Failure to comply with such reasonable requirements as a board may prescribe;

(l) Failure to show normal improvement and evidence of professional training and growth;

(m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;

(n) Any cause which constitutes grounds for the revocation of a teacher's license;

(o) Willful neglect or failure to observe and carry out the requirements of this title;

(p) Dishonesty;

(q) Breaches in the security or confidentiality of the questions and answers of the ~~achievement and proficiency~~ examinations that are administered pursuant to NRS ~~389.015~~; **389.550 or 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act;**

(r) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations **and assessments** adopted pursuant to NRS 389.616 or 389.620;

(s) An intentional violation of NRS 388.5265 or 388.527;

(t) Gross misconduct; or

(u) An intentional failure to report a violation of NRS 388.135 if the teacher or administrator witnessed the violation.

2. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

3. As used in this section, "gross misconduct" includes any act or omission that is in wanton, willful, reckless or deliberate disregard of the interests of a school or school district or a pupil thereof.

**Sec. 37.** NRS 391.330 is hereby amended to read as follows:

391.330 The State Board may suspend or revoke the license of any teacher, administrator or other licensed employee, after notice and an opportunity for hearing have been provided pursuant to NRS 391.322 and 391.323, for:

1. Immoral or unprofessional conduct.
2. Evident unfitness for service.
3. Physical or mental incapacity which renders the teacher, administrator or other licensed employee unfit for service.
4. Conviction of a felony or crime involving moral turpitude.
5. Conviction of a sex offense under NRS 200.366, 200.368, 201.190, 201.220, 201.230, 201.540 or 201.560 in which a pupil enrolled in a school of a county school district was the victim.
6. Knowingly advocating the overthrow of the Federal Government or of the State of Nevada by force, violence or unlawful means.
7. Persistent defiance of or refusal to obey the regulations of the State Board, the Commission or the Superintendent of Public Instruction, defining



and governing the duties of teachers, administrators and other licensed employees.

8. Breaches in the security or confidentiality of the questions and answers of the ~~{achievement and proficiency}~~ examinations that are administered pursuant to NRS ~~{389.015,}~~ **389.550 or 389.805 and the college and career readiness assessment administered pursuant to section 19 of this act.**

9. Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations **and assessments** adopted pursuant to NRS 389.616 or 389.620.

10. An intentional violation of NRS 388.5265 or 388.527.

**Sec. 37.5.** NRS 391.600 is hereby amended to read as follows:

391.600 As used in NRS 391.600 to 391.648, inclusive, unless the context otherwise requires, the words and terms defined in NRS 391.604 to 391.620, inclusive, **and section 34.5 of this act** have the meanings ascribed to them in those sections.

**Sec. 38.** NRS 391.604 is hereby amended to read as follows:

391.604 “Examination” means:

1. ~~{Achievement and proficiency}~~ **The** examinations that are administered to pupils pursuant to NRS ~~{389.015 or}~~ 389.550 ~~{,}~~ **or 389.805;** and

2. Any other examinations which measure the achievement and proficiency of pupils and which are administered to pupils on a district-wide basis.

**Sec. 38.3.** NRS 391.608 is hereby amended to read as follows:

391.608 “Irregularity in testing administration” means the failure to administer an examination **or assessment** in the manner intended by the person or entity that created the examination ~~{,}~~ **or assessment.**

**Sec. 38.7.** NRS 391.612 is hereby amended to read as follows:

391.612 “Irregularity in testing security” means an act or omission that tends to corrupt or impair the security of an examination ~~{,}~~ **or assessment,** including, without limitation:

1. The failure to comply with security procedures adopted pursuant to NRS 389.616 or 389.620;

2. The disclosure of questions or answers to questions on an examination **or assessment** in a manner not otherwise approved by law; and

3. Other breaches in the security or confidentiality of the questions or answers to questions on an examination ~~{,}~~ **or assessment.**

**Sec. 38.9.** NRS 392.075 is hereby amended to read as follows:

392.075 Attendance required by the provisions of NRS 392.040 must be excused if a child has obtained permission to take the ~~tests of general~~

~~educational development]~~ **high school equivalency assessment** pursuant to NRS 385.448.

**Sec. 39.** NRS 392.700 is hereby amended to read as follows:

392.700 1. If the parent of a child who is subject to compulsory attendance wishes to homeschool the child, the parent must file with the superintendent of schools of the school district in which the child resides a written notice of intent to homeschool the child. The Department shall develop a standard form for the notice of intent to homeschool. The form must not require any information or assurances that are not otherwise required by this section or other specific statute. The board of trustees of each school district shall, in a timely manner, make only the form developed by the Department available to parents who wish to homeschool their child.

2. The notice of intent to homeschool must be filed before beginning to homeschool the child or:

(a) Not later than 10 days after the child has been formally withdrawn from enrollment in public school; or

(b) Not later than 30 days after establishing residency in this State.

3. The purpose of the notice of intent to homeschool is to inform the school district in which the child resides that the child is exempt from the requirement of compulsory attendance.

4. If the name or address of the parent or child as indicated on a notice of intent to homeschool changes, the parent must, not later than 30 days after the change, file a new notice of intent to homeschool with the superintendent of schools of the school district in which the child resides.

5. A notice of intent to homeschool must include only the following:

(a) The full name, age and gender of the child;

(b) The name and address of each parent filing the notice of intent to homeschool;

(c) A statement signed and dated by each such parent declaring that the parent has control or charge of the child and the legal right to direct the education of the child, and assumes full responsibility for the education of the child while the child is being homeschooled;

(d) An educational plan for the child that is prepared pursuant to subsection 12;

(e) If applicable, the name of the public school in this State which the child most recently attended; and

(f) An optional statement that the parent may sign which provides:

I expressly prohibit the release of any information contained in this document, including, without limitation, directory information as defined in 20 U.S.C. § 1232g(a)(5)(A), without my prior written consent.

6. Each superintendent of schools of a school district shall accept notice of intent to homeschool that is filed with the superintendent pursuant to this section and meets the requirements of subsection 5, and shall not require or request any additional information or assurances from the parent who filed the notice.

7. The school district shall provide to a parent who files a notice a written acknowledgment which clearly indicates that the parent has provided notification required by law and that the child is being homeschooled. The written acknowledgment shall be deemed proof of compliance with Nevada's compulsory school attendance law. The school district shall retain a copy of the written acknowledgment for not less than 15 years. The written acknowledgment may be retained in electronic format.

8. The superintendent of schools of a school district shall process a written request for a copy of the records of the school district, or any information contained therein, relating to a child who is being or has been homeschooled not later than 5 days after receiving the request. The superintendent of schools may only release such records or information:

(a) To a person or entity specified by the parent of the child, or by the child if the child is at least 18 years of age, upon suitable proof of identity of the parent or child; or

(b) If required by specific statute.

9. If a child who is or was homeschooled seeks admittance or entrance to any school in this State, the school may use only commonly used practices in determining the academic ability, placement or eligibility of the child. If the child enrolls in a charter school, the charter school shall, to the extent practicable, notify the board of trustees of the school district in which the child resides of the child's enrollment in the charter school. Regardless of whether the charter school provides such notification to the board of trustees, the charter school may count the child who is enrolled for the purposes of the calculation of basic support pursuant to NRS 387.1233. A homeschooled child seeking admittance to public high school must comply with NRS 392.033.

10. A school or organization shall not discriminate in any manner against a child who is or was homeschooled.

11. Each school district shall allow homeschooled children to participate in ~~the high school proficiency examination administered pursuant to NRS 389.015 and~~ all college entrance examinations offered in this State, including, without limitation, the SAT, the ACT, the Preliminary SAT and the National Merit Scholarship Qualifying Test. Each school district shall ensure that the homeschooled children who reside in the school district have adequate notice of the availability of information concerning such

examinations on the Internet website of the school district maintained pursuant to NRS 389.004.

12. The parent of a child who is being homeschooled shall prepare an educational plan of instruction for the child in the subject areas of English, including reading, composition and writing, mathematics, science and social studies, including history, geography, economics and government, as appropriate for the age and level of skill of the child as determined by the parent. The educational plan must be included in the notice of intent to homeschool filed pursuant to this section. If the educational plan contains the requirements of this section, the educational plan must not be used in any manner as a basis for denial of a notice of intent to homeschool that is otherwise complete. The parent must be prepared to present the educational plan of instruction and proof of the identity of the child to a court of law if required by the court. This subsection does not require a parent to ensure that each subject area is taught each year that the child is homeschooled.

13. No regulation or policy of the State Board, any school district or any other governmental entity may infringe upon the right of a parent to educate his or her child based on religious preference unless it is:

- (a) Essential to further a compelling governmental interest; and
- (b) The least restrictive means of furthering that compelling governmental interest.

14. As used in this section, "parent" means the parent, custodial parent, legal guardian or other person in this State who has control or charge of a child and the legal right to direct the education of the child.

**Sec. 40.** NRS 392A.100 is hereby amended to read as follows:

392A.100 1. A university school for profoundly gifted pupils shall determine the eligibility of a pupil for admission to the school based upon a comprehensive assessment of the pupil's potential for academic and intellectual achievement at the school, including, without limitation, intellectual and academic ability, motivation, emotional maturity and readiness for the environment of an accelerated educational program. The assessment must be conducted by a broad-based committee of professionals in the field of education.

2. A person who wishes to apply for admission to a university school for profoundly gifted pupils must:

- (a) Submit to the governing body of the school:
  - (1) A completed application;
  - (2) Evidence that the applicant possesses advanced intellectual and academic ability, including, without limitation, proof that he or she satisfies the requirements of NRS 392A.030;
  - (3) At least three letters of recommendation from teachers or mentors familiar with the academic and intellectual ability of the applicant;

(4) A transcript from each school previously attended by the applicant; and

(5) Such other information as may be requested by the university school or governing body of the school.

(b) If requested by the governing body of the school, participate in an on-campus interview.

3. The curriculum developed for pupils in a university school for profoundly gifted pupils must provide exposure to the subject areas required of pupils enrolled in other public schools.

4. The Superintendent of Public Instruction shall, upon recommendation of the governing body, issue a high school diploma to a pupil who is enrolled in a university school for profoundly gifted pupils if that pupil ~~successfully passes the high school proficiency examination~~ **satisfies the criteria prescribed by the State Board pursuant to NRS 389.805** and the courses in American government and American history as required by NRS 389.020 and 389.030, and successfully completes any requirements established by the State Board of Education for graduation from high school.

5. On or before March 1 of each odd-numbered year, the governing body of a university school for profoundly gifted pupils shall prepare and submit to the Superintendent of Public Instruction, the president of the university where the university school for profoundly gifted pupils is located, the State Board and the Director of the Legislative Counsel Bureau a report that contains information regarding the school, including, without limitation, the process used by the school to identify and recruit profoundly gifted pupils from diverse backgrounds and with diverse talents, and data assessing the success of the school in meeting the educational needs of its pupils.

**Sec. 41.** NRS 392A.110 is hereby amended to read as follows:

392A.110 1. At least 70 percent of the teachers employed by a university school for profoundly gifted pupils must be licensed teachers.

2. A university school for profoundly gifted pupils shall administer to its pupils the achievement and proficiency examinations required by NRS ~~389.015 and~~ 389.550.

**Sec. 41.1.** NRS 209.396 is hereby amended to read as follows:

209.396 1. Except as otherwise provided in this section, an offender who is illiterate may not be assigned to an industrial or a vocational program unless:

(a) The offender is regularly attending and making satisfactory progress in a program for general education; or

(b) The Director for good cause determines that the limitation on assignment should be waived under the circumstances with respect to a particular offender.

2. An offender whose:

- (a) Native language is not English;
- (b) Ability to read and write in his or her native language is at or above the level of literacy designated by the Board in its regulations; and
- (c) Ability to read and write the English language is below the level of literacy designated by the Board in its regulations,  
 ➔ may not be assigned to an industrial or a vocational program unless the offender is regularly attending and making satisfactory progress in a course which teaches English as a second language or the Director for good cause determines that the limitation on assignment should be waived under the circumstances with respect to a particular offender.

3. Upon written documentation that an illiterate offender has a developmental, learning or other similar disability which affects his or her ability to learn, the Director may:

- (a) Adapt or create an educational program or guidelines for evaluating the educational progress of the offender to meet his or her particular needs; or
- (b) Exempt the offender from the required participation in an educational program prescribed by this section.

4. The provisions of this section do not apply to an offender who presents satisfactory evidence that the offender has a ~~high~~ :

- (a) **High** school diploma ; or ~~a general~~
- (b) **General** educational development certificate ~~[-]~~ **or an equivalent document.**

5. As used in this section, “illiterate” means having an ability to read and write that is below the level of literacy designated by the Board in its regulations.

**Sec. 41.2.** NRS 209.433 is hereby amended to read as follows:

209.433 1. Every offender who was sentenced to prison on or before June 30, 1969, 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 for his or her term a deduction of 2 months in each of the first 2 years, 4 months in each of the next 2 years, and 5 months in each of the remaining years of the term, and pro rata for any part of a year where the sentence is for more or less than a year.

2. In addition to the credits for good behavior provided for in subsection 1, the Board shall adopt regulations allowing credits for offenders whose diligence in labor or study merits the credits and for offenders who donate their blood for charitable purposes. The regulations must provide that an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate ~~or~~ **or an equivalent document**, 30 days.

(b) For earning a high school diploma, 60 days.

(c) For earning an associate degree, 90 days.

3. Each offender is entitled to the deductions allowed by this section if the offender has satisfied the conditions of subsection 1 or 2 as determined by the Director.

**Sec. 41.3.** NRS 209.443 is hereby amended to read as follows:

209.443 1. Every offender who is sentenced to prison after June 30, 1969, for a crime committed before July 1, 1985, 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 under sentence; and

(b) For the period the offender is in residential confinement,

↪ a deduction of 2 months for each of the first 2 years, 4 months for each of the next 2 years and 5 months for each of the remaining years of the term, and pro rata for any part of a year where the actual term served is for more or less than a year. Credit must be recorded on a monthly basis as earned for actual time served.

2. The credits earned by an offender must be deducted from the maximum term imposed by the sentence and, except as otherwise provided in subsection 5, must apply to eligibility for parole.

3. In addition to the credits for good behavior provided for in subsection 1, the Board shall adopt regulations allowing credits for offenders whose diligence in labor or study merits such credits and for offenders who donate their blood for charitable purposes. The regulations must provide that an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate ~~or~~ **or an equivalent document**, 30 days.

(b) For earning a high school diploma, 60 days.

(c) For earning an associate degree, 90 days.

4. Each offender is entitled to the deductions allowed by this section if the offender has satisfied the conditions of subsection 1 or 3 as determined by the Director.

5. Credits earned pursuant to this section do not apply to eligibility for parole if a statute specifies a minimum sentence which must be served before a person becomes eligible for parole.

**Sec. 41.4.** NRS 209.446 is hereby amended to read as follows:

209.446 1. Every offender who is sentenced to prison for a crime committed on or after July 1, 1985, but before 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 under 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 10 days from the offender's sentence for each month the offender serves.

2. In addition to the credit provided for in 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 ~~§~~ **or an equivalent document**, 30 days.
- (b) For earning a high school diploma, 60 days.
- (c) For earning an associate degree, 90 days.

3. 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 entitled to the entire 20 days of credit each month which is authorized in subsections 1 and 2.

4. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

5. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

6. 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 which must be served before a person becomes eligible for parole.

**Sec. 41.5.** 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 ~~§~~ **or an equivalent document**, 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) 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.

**Sec. 41.6.** NRS 211.330 is hereby amended to read as follows:

211.330 1. In addition to the credits on a term of imprisonment provided for in NRS 211.310, 211.320 and 211.340, the sheriff of the county or the chief of police of the municipality in which a prisoner is incarcerated shall deduct 5 days from the prisoner's term of imprisonment for earning a general educational development certificate ~~[.]~~ or ~~[the equivalent thereof.]~~ **an equivalent document** by successfully completing an educational program for adults conducted jointly by the local detention facility in which the prisoner is incarcerated and the school district in which the facility is located.

2. The provisions of this section apply to any prisoner who is sentenced on or after October 1, 1991, to a term of imprisonment of 90 days or more.

**Sec. 41.7.** NRS 213.315 is hereby amended to read as follows:

213.315 1. Except as otherwise provided in this section, an offender who is illiterate is not eligible to participate in a program unless:

- (a) The offender is regularly attending and making satisfactory progress in a program for general education; or
- (b) The Director, for good cause, determines that the limitation on eligibility should be waived under the circumstances with respect to a particular offender.

2. An offender whose:

- (a) Native language is not English;
- (b) Ability to read and write in his or her native language is at or above the level of literacy designated by the Board of State Prison Commissioners in its regulations; and
- (c) Ability to read and write the English language is below the level of literacy designated by the Board of State Prison Commissioners in its regulations,

➔ may not be assigned to an industrial or a vocational program unless the offender is regularly attending and making satisfactory progress in a course which teaches English as a second language or the Director, for good cause, determines that the limitation on eligibility should be waived under the circumstances with respect to a particular offender.

3. Upon written documentation that an illiterate offender has a developmental, learning or other similar disability which affects his or her ability to learn, the Director may:

(a) Adapt or create an educational program or guidelines for evaluating the educational progress of the offender to meet his or her particular needs; or

(b) Exempt the offender from the required participation in an educational program prescribed by this section.

4. The provisions of this section do not apply to an offender who:

(a) Presents satisfactory evidence that the offender has ~~ta~~ :

(1) A high school diploma ; or ~~ta~~

(2) A general educational development certificate ~~ta~~ or *an equivalent document; or*

(b) Is admitted to a program for the purpose of obtaining additional education in this state.

5. As used in this section, “illiterate” means having an ability to read and write that is below the level of literacy designated by the Board of State Prison Commissioners in its regulations.

**Sec. 42.** NRS 218E.615 is hereby amended to read as follows:

218E.615 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

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

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, State Public Charter School Authority, school districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS ~~389.015~~ **389.550 or 389.805**. In recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

(d) For the purposes set forth in NRS 385.3785, recommend to the Commission on Educational Excellence created by NRS 385.3784 programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

**Sec. 42.2.** NRS 432B.595 is hereby amended to read as follows:

432B.595 1. If the court retains jurisdiction over a child pursuant to NRS 432B.594, the agency which provides child welfare services shall develop a written plan to assist the child in transitioning to independent living. Such a plan must include, without limitation, the following goals:

(a) That the child save enough money to pay for his or her monthly expenses for at least 3 months;

(b) If the child has not graduated from high school or obtained a general equivalency diploma ~~or an equivalent document~~, that the child remain enrolled in high school or a program to obtain a general equivalency diploma **or an equivalent document** until graduation or completion of the program;

(c) If the child has graduated from high school or obtained a general equivalency diploma ~~or an equivalent document~~, that the child:

(1) Enroll in a program of postsecondary or vocational education;

(2) Enroll or participate in a program or activity designed to promote or remove obstacles to employment; or

(3) Obtain or actively seek employment which is at least 80 hours per month;

- (d) That the child secure housing;
- (e) That the child have adequate income to meet his or her monthly expenses;
- (f) That the child identify an adult who will be available to provide support to the child;
- (g) If applicable, that the child have established appropriate supportive services to address any mental health or developmental needs of the child; and
- (h) If a child is not capable of achieving one or more of the goals set forth in paragraphs (a) to (g), inclusive, that the child have goals which are appropriate for the child based upon the needs of the child.

2. During the period in which the court retains jurisdiction over the child, the agency which provides child welfare services shall:

- (a) Monitor the plan developed pursuant to subsection 1 and adjust the plan as necessary;
- (b) Contact the child by telephone at least once each month and in person at least quarterly;
- (c) Ensure that the child meets with a person who will provide guidance to the child and make the child aware of the services which will be available to the child; and
- (d) Conduct a meeting with the child at least 30 days, but not more than 45 days, before the jurisdiction of the court is terminated to determine whether the child requires any additional guidance.

**Sec. 42.4.** NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

- (a) Have ~~1a~~ :
  - (1) A high school diploma ; or
  - (2) A general equivalency diploma ~~1b~~ **or an equivalent document;**
- (b) Complete an educational program for respiratory care which has been approved by the Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation for Respiratory Care or its successor organization;
- (c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the National Board for Respiratory Care or its successor organization;
- (d) Be certified by the National Board for Respiratory Care or its successor organization; and
- (e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

- (a) Practice respiratory care; or

(b) Hold himself or herself out as qualified to practice respiratory care, ➡ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

**Sec. 42.5.** NRS 641C.420 is hereby amended to read as follows:

641C.420 1. The Board shall issue a certificate as an alcohol and drug abuse counselor intern to a person who:

(a) Is 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 ~~the~~ :

(1) A high school diploma ; or ~~the~~

(2) A general equivalency diploma ~~the~~ **or an equivalent document;**

(d) Pays the fees required pursuant to NRS 641C.470;

(e) Submits proof to the Board that the person:

(1) Is enrolled in a program from which he or she will receive an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; or

(2) Has received an associate's degree, bachelor's degree, master's degree or doctoral degree in a field of social science approved by the Board; and

(f) Submits all information required to complete an application for a certificate.

2. A certificate as an alcohol and drug abuse counselor intern is valid for 1 year and may be renewed. The Board may waive any requirement for the renewal of a certificate upon good cause shown by the holder of the certificate.

3. A certified alcohol and drug abuse counselor intern may, under the supervision of a licensed alcohol and drug abuse counselor or licensed clinical alcohol and drug abuse counselor:

(a) Engage in the practice of counseling alcohol and drug abusers; and

(b) Diagnose or classify a person as an alcoholic or drug abuser.

**Sec. 42.6.** NRS 652.127 is hereby amended to read as follows:

652.127 To qualify for certification as an assistant in a medical laboratory, a person must be a high school graduate or have a general equivalency diploma **or an equivalent document** and:

1. Must complete at least 6 months of training approved by the Board and demonstrate an ability to perform laboratory procedures in the medical laboratory where he or she receives the training; or

2. Must:

(a) Complete a course of instruction that qualifies him or her to take an examination for certification in phlebotomy that is administered by:

- (1) The American Medical Technologists;
- (2) The American Society of Clinical Pathologists; or
- (3) The National Certification Agency; and

(b) Pass an examination specified in paragraph (a).

**Sec. 42.7.** NRS 697.173 is hereby amended to read as follows:

697.173 1. Except as otherwise provided in subsection 2, 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 ~~at least~~ :

(1) A high school diploma ~~for a~~ ;

(2) A general equivalency diploma *or an equivalent document*; or ~~has an~~

(3) *An* equivalent education as determined by the Commissioner.

(d) Has 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. 43.** NRS 389.015, 389.016, 389.017, 389.0175 and 389.045 are hereby repealed.

**Sec. 43.5. 1. There is hereby appropriated from the State General Fund to the Department of Education the sum of \$1,500,000 for the costs associated with implementing the end-of-course examinations required by NRS 389.805, as amended by section 33 of this act.**

**2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, 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 18, 2015, 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 18, 2015.**

**Sec. 44. 1.** The Legislature hereby recognizes that to receive federal money under the Elementary and Secondary Education Act of 1965, 20 U.S.C. §§ 6301 et seq., pupils enrolled in public high schools in this State must be administered an assessment at least one time while in high school based upon the State's academic and content standards. To continue to receive federal money under the Act, the State Board of Education may, for the purposes set forth in subsection 2, continue to provide for the administration of the high school proficiency examination.

2. On or before August 1, 2013, the State Board of Education shall:

(a) Prescribe the requirements, in addition to any requirements prescribed by statute, that a pupil enrolled in grade 12 in the 2013-2014 school year, the 2014-2015 school year or the 2015-2016 school year must satisfy to receive a standard high school diploma, which may include, without limitation, passage of the high school proficiency examination pursuant to section 44.3 of this act;

(b) Provide timely notice to the board of trustees of each school district and the governing body of each charter high school of the requirements prescribed pursuant to paragraph (a); and

(c) Post notice of the requirements on the Internet website maintained by the Department of Education.

3. On or before September 1, 2013, the board of trustees of each school district and the governing body of each charter school shall:

(a) Provide timely notice to each pupil and the parent or legal guardian of each pupil enrolled in grade 10, 11 or 12 in the 2013-2014 school year of the requirements the pupil must satisfy to receive a standard high school diploma.

(b) Post notice of the requirements on the Internet website maintained by the board of trustees or the governing body of the charter school, as applicable.



4. If a pupil to whom the provisions of this section apply is retained in grade 10, 11 or 12, the requirements for receipt of a standard high school diploma prescribed by the State Board of Education pursuant to subsection 2 continue to apply to that pupil until he or she exits high school.

**Sec. 44.3.** If the State Board of Education prescribes passage of the high school proficiency examination pursuant to paragraph (a) of subsection 2 of section 44 of this act as a requirement that a pupil must satisfy to receive a standard high school diploma:

1. The board of trustees of each school district shall administer the high school proficiency examination to pupils who have not passed the examination and are required to pass the examination to receive a standard high school diploma. The governing body of a charter school that enrolls pupils at the high school grade levels shall administer the same examination to pupils who have not passed the examination and are required to pass the examination to receive a standard high school diploma. The high school proficiency examination administered by the board of trustees and governing body must determine the achievement and proficiency of those pupils in:

- (a) Reading;
- (b) Mathematics;
- (c) Science; and
- (d) Writing.

2. The high school proficiency examination required by subsection 1 must be:

(a) Administered in each school district and each charter school that enrolls pupils at the high school grade levels who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma at the same time, as prescribed by the State Board, and in accordance with uniform procedures adopted by the State Board. The Department of Education shall monitor the compliance of school districts and individual schools with the uniform procedures.

(b) Administered in accordance with the plan adopted pursuant to NRS 389.616 by the Department and the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the high school proficiency examination is administered. The Department shall monitor the compliance of school districts and individual schools with:

- (1) The plan adopted by the Department; and
- (2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(c) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the high

school proficiency examination shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department of Education by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each applicable charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district at which the high school proficiency examination was administered pursuant to this section. Except as otherwise provided in this subsection, not more than 15 working days after each such school receives the results of the examinations, the principal of each such school and the governing body of each such charter school shall certify that the results for each pupil that took the examination have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or the administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the high school proficiency examination to the last known address of the parent or legal guardian of the pupil.

➡ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. A pupil who transfers during grade 12 to a school in this State from a school outside of this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of subsection 4 if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

5. For the purposes of this section, the State Board shall prescribe the high school proficiency examination, which must include the subjects of reading, mathematics and science and, except for the writing portion, must be developed, printed and scored by a nationally recognized testing company in

accordance with the process established by the testing company. The State Board, in consultation with the Council to Establish Academic Standards for Public Schools created by NRS 389.510, shall prescribe the writing portion of the high school proficiency examination. The questions contained in the high school proficiency examination and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the high school proficiency examination.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch of State Government, to the extent that it is necessary for the performance of his or her duties;

(2) Superintendent of schools of a school district, to the extent that it is necessary for the performance of his or her duties;

(3) Director of curriculum of a school district, to the extent that it is necessary for the performance of his or her duties; and

(4) Director of testing of a school district, to the extent that it is necessary for the performance of his or her duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

6. The administrative regulations adopted by the State Board of Education for purposes of carrying out NRS 389.015 as of June 30, 2013, continue in effect if the high school proficiency examination is administered pursuant to this section.

**Sec. 44.7.** If the State Board of Education prescribes passage of the high school proficiency examination pursuant to paragraph (a) of subsection 2 of section 44 of this act as a requirement that a pupil must satisfy to receive a standard high school diploma:

1. The results of the high school proficiency examination administered pursuant to section 44.3 of this act must be reported for the applicable school year for each school, including, without limitation, each charter school that enrolls pupils at the high school grade levels who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma, each school district and this State, as follows:

(a) The average score, as defined by the Department, of such pupils who took the high school proficiency examination under regular testing conditions; and

(b) The average score, as defined by the Department of Education, of such pupils who took the high school proficiency examination with modifications or accommodations, if such reporting does not violate the confidentiality of the test scores of any individual pupil.

2. The superintendent of schools of each school district and the governing body of each charter school that enrolls pupils at the high school grade levels who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma, through the sponsor of the charter school, shall certify that the number of pupils who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma and who took the high school proficiency examination in the applicable school year is equal to the number of such pupils in each school in the school district or in the charter school who are required to take the high school proficiency examination in that school year.

3. In addition to the information required by subsection 2, the Superintendent of Public Instruction shall, for each applicable school year:

(a) Report the number of pupils who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma and who were absent from school on the day that the high school proficiency examination was administered; and

(b) Reconcile the number of pupils who have not passed the high school proficiency examination and are required to pass the examination to receive a standard high school diploma with the number of such pupils who were absent from school on the day that the examination was administered.

**Sec. 45.** 1. This section and sections ~~{44, 44.3, and} 43.5 to 44.7~~ , **inclusive**, of this act become effective upon passage and approval.

2. Sections 1 to 43, inclusive, of this act become effective on July 1, 2013.

#### LEADLINES OF REPEALED SECTIONS

**389.015 Administration and scoring; transmission of results; effect of failure to pass; certain exceptions for child transferred due to military transfer of parent; confidentiality of examinations.**

**389.016 Postponement of administration of examination in mathematics and science for pupil enrolled in grade 10; revision of pupil's academic plan; annual report by school district.**

**389.017 Reporting of results of examinations; reconciliation of number of pupils taking examinations.**

**389.0175 Establishment of statewide program for preparation of pupils to take examination; compliance with program required of school**

**districts and certain schools; use of additional materials and information.**

**389.045 Course of study designed to assist pupils with passing high school proficiency examination; board of trustees authorized to offer course as elective.**

Assemblyman Elliot Anderson moved that the Assembly concur in the Senate Amendment No. 949 to Assembly Bill No. 288.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

This amendment provides an appropriation to pay for the provisions of the bill and was added by the Senate Committee on Finance in line with the budget.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Benitez-Thompson, Daly, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 139.

#### RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Carrillo moved that the Assembly do not recede from its action on Amendment No. 697 to Senate Bill No. 508, that a conference be requested, and that Madam Speaker appoint a Conference Committee consisting of three members to meet with a like committee of the Senate.

Remarks by Assemblyman Carrillo.

Motion carried.

#### APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Carrillo, Healey, and Wheeler as a Conference Committee to meet with a like committee of the Senate for the further consideration of Senate Bill No. 508.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 9:02 p.m.

#### ASSEMBLY IN SESSION

At 11:21 p.m.

Madam Speaker presiding.

Quorum present.

## MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2013

*To the Honorable the Assembly:*

It is my pleasure to inform your esteemed body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 7, Amendment No. 980; Assembly Bill No. 260, Amendment No. 971; Assembly Bill No. 273, Amendment No. 979; Assembly Bill No. 287, Amendment No. 958; Assembly Bill No. 388, Amendment No. 968; Assembly Bill No. 404, Amendment No. 957; Assembly Bill No. 425, Amendment No. 967, and respectfully requests your honorable body to concur in said amendments.

Also, it is my pleasure to inform your esteemed body that the Senate on this day appointed Senators Kihuen, Parks and Hutchison as a Conference Committee concerning Assembly Bill No. 496.

Also, it is my pleasure to inform your esteemed body that the Senate on this day passed Senate Bill No. 200.

Also, it is my pleasure to inform your esteemed body that the Senate on this day passed, as amended, Senate Bill No. 501.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

## REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 357, 470, 504, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Concurrent Committee on Ways and Means, to which was referred Assembly Bill No. 308, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

## INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 200.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

Senate Bill No. 501.

Assemblywoman Carlton moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

## GENERAL FILE AND THIRD READING

Assembly Bill No. 162.

Bill read third time.

Roll call on Assembly Bill No. 162:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Assembly Bill No. 162 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Senate Bill No. 504 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 504.

Bill read third time.

Roll call on Senate Bill No. 504:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Senate Bill No. 504 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 308.

Bill read third time.

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

Amendment No. 982.

AN ACT relating to economic development; directing the Southern Nevada Enterprise Community Board to develop additional neighborhood revitalization projects; revising the membership of the Board; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law designates certain areas in the urban core of the Las Vegas Valley as the Southern Nevada Enterprise Community. Existing law also establishes the Southern Nevada Enterprise Community Board and requires the Board to prepare, develop and carry out the Southern Nevada Enterprise Community Improvement Project to improve infrastructure in the Community. (Chapter 407, Statutes of Nevada 2007, pp. 1781-86)

**Section 1** of this bill directs the Board, within the limits of available money, to develop additional neighborhood revitalization projects in the Community, which may include various projects relating to economic growth and sustainability, community revitalization and education. **Section 4** of this bill authorizes the Board to accept any gifts, grants or donations for the purpose of preparing, developing and carrying out the additional neighborhood revitalization projects. **Section 3** of this bill revises the

qualifications for certain members of the Board and increases the membership of the Board by adding one member who is a trustee of the Clark County School District and one member who is a member of the Board of Regents of the University of Nevada.

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

**Section 1.** Chapter 407, Statutes of Nevada 2007, at page 1781, is hereby amended by adding thereto a new section to be designated as section 12.5, immediately following section 12, to read as follows:

***Sec. 12.5. The Legislature hereby directs the Board, within the limits of available money, to develop additional neighborhood revitalization projects, which may include, without limitation, projects relating to:***

***1. Economic growth and sustainability within the Community, including, without limitation, projects which encourage and assist:***

***(a) The development of a promise neighborhood within the Community;***

***(b) The use of federal money and federal tax credits and participation in programs and awards available through the Federal Government;***

***(c) Public and private investment in the Community and collaboration among governmental entities, the private sector and nonprofit organizations to support the Community and economic development in the Community; and***

***(d) The development and expansion of job training and job placement programs.***

***2. Revitalization of the Community, including, without limitation:***

***(a) The construction, repair and refurbishment of educational facilities within the Community and the provision of assistance with issues relating to funding or bonding of such projects as necessary to improve access to education in the Community;***

***(b) The provision of assistance to persons applying for participation in revitalization programs and grant programs available through private and governmental entities;***

***(c) The construction and operation of community health centers and federally qualified health centers in the Community;***

***(d) The development of and assistance in the development of prisoner reentry programs;***

***(e) The development and support of programs that encourage community engagement and community leadership; and***



*(f) The development and support of initiatives to support the health and nutrition of the residents of the Community.*

**3. Education within the Community, including, without limitation, oversight and coordination of:**

*(a) Early childhood development programs, English language learner programs, K-12 education programs, programs designed to improve rates of high school graduation and college readiness programs;*

*(b) Programs designed to decrease rates of incarceration for youth in the Community;*

*(c) Programs designed to decrease gang violence;*

*(d) Programs designed to decrease teen pregnancy rates in the Community;*

*(e) Programs of adult care;*

*(f) Programs designed to address childhood obesity; and*

*(g) Programs designed to encourage faith-based and neighborhood partnerships which are dedicated to improving the Community.*

**Sec. 2.** Chapter 407, Statutes of Nevada 2007, at page 1781, is hereby amended by adding thereto a new section to be designated as section 18.5, immediately following section 18, to read as follows:

**Sec. 18.5.** *The Legislature hereby finds and declares that a general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in the Southern Nevada Enterprise Community Infrastructure Improvement Act because of the number of atypical factors and special conditions relating thereto, including the economic and geographic diversity of the local governments of this State, the unique growth patterns occurring in Clark County, the special conditions experienced in the City of Las Vegas related to the need to revitalize specific areas of the City of Las Vegas to ensure that the residents of more densely populated urban areas are provided with a safe environment in which to live and work and the necessity to ameliorate hardships imposed on specific areas of the City of Las Vegas as a consequence of projects undertaken for the general benefit of the people of this State.*

**Sec. 3.** Section 8 of chapter 407, Statutes of Nevada 2007, as amended by chapter 481, Statutes of Nevada 2009, at page 2771, is hereby amended to read as follows:

**Sec. 8. 1.** The Southern Nevada Enterprise Community Board is hereby created.

**2.** The Board consists of ~~nine~~ **11** members, appointed in consultation with residents of the Community, as follows:

(a) One member of the Nevada Congressional Delegation selected from among its membership or his designee;

(b) One member of the Assembly and one member of the Senate who represent the Community selected by the Legislative Commission;

(c) One member of the Clark County Board of County Commissioners selected from among its membership;

(d) One member of the Las Vegas City Council from among its membership;

(e) One member of the North Las Vegas City Council from among its membership;

(f) ***One member of the Board of Trustees of the Clark County School District from among its membership;***

(g) ***One member of the Board of Regents of the University of Nevada;***

(h) Two residents of the Community, ~~recommended and selected by the Stop the F Street Closure, LLC;~~ ***which must include a representative of a local housing agency and a parent of a pupil enrolled in a school located in the Community;*** and

~~[(g)]~~ (i) A representative of the private sector appointed by the Chamber of Commerce established in the Community.

3. Each member of the Board serves for a term of 3 years. A vacancy on the Board must be filled in the same manner as the original appointment. A member may be reappointed to the Board.

4. The members of the Board shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on August 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Board shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.

5. ~~[The City of Las Vegas shall provide administrative support for the Board.]~~ ***Clark County, the City of Las Vegas and the City of North Las Vegas shall each, on an annually rotating basis, provide administrative support for the Board. A member of the Board who is unable to attend a meeting of the Board may select a designee to attend the meeting in place of the member. A designee selected pursuant to this subsection may not vote on any matter before the Board.***

**Sec. 4.** Section 13 of chapter 407, Statutes of Nevada 2007, as amended by chapter 481, Statutes of Nevada 2009, at page 2772, is hereby amended to read as follows:

Sec. 13. The Board may accept any gifts, grants or donations for the purpose of preparing, developing and carrying out the Project ~~H~~ , **or such additional projects as may be directed by the Legislature.**

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

**Sec. 6.** This act becomes effective upon passage and approval.

Assemblywoman Neal moved the adoption of the amendment.

Amendment adopted.

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

Senate Bill No. 357.

Bill read third time.

Roll call on Senate Bill No. 357:

YEAS—40.

NAYS—Daly.

EXCUSED—Pierce.

Senate Bill No. 357 having received a two-thirds majority,

Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 470.

Bill read third time.

Roll call on Senate Bill No. 470:

YEAS—36.

NAYS—Ellison, Fiore, Hambrick, Livermore, Wheeler—5.

EXCUSED—Pierce.

Senate Bill No. 470 having received a two-thirds majority,

Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 308.

Bill read third time.

Roll call on Assembly Bill No. 308:

YEAS—41.

NAYS—None.

EXCUSED—Pierce.

Assembly Bill No. 308 having received a constitutional majority,

Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 428.

The following Senate amendment was read:

Amendment No. 966.

AN ACT relating to energy; revising provisions relating to the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; revising provisions governing the payment of incentives to participants in the Solar Program and the Wind Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations; requiring each electric utility in this State to create a Lower Income Solar Energy Pilot Program; requiring the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to publish certain reports; requiring the Commission to open an investigatory docket relating to the costs and benefits attributable to net metering; extending the prospective expiration of the Solar Program, the Wind Program and the Waterpower Program; establishing the Legislative Committee on Energy; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) **Section 3** of this bill establishes the statewide capacity floor for the Solar Program and the limits on incentives paid for each renewable energy program. **Sections 5, 19 and 26** of this bill remove the concept of a "program year" with respect to the renewable energy programs.

**Sections 5-7** of this bill require the Public Utilities Commission of Nevada to adopt regulations relating to the provision of market-based incentives under the Solar Program. **Section 7** requires the Commission to review the incentives and authorizes the Commission to adjust the incentives not more frequently than annually. **Section 7** also provides for an incentive to be paid to a qualified participant in the Solar Program in one installment upon proof that the participant has installed and energized the solar energy system and for an incentive to be paid to a qualified participant over time which must be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system. **Section 7** also provides for the payment of performance-based incentives to a qualified participant in the Solar Program after December 31, 2021. **Section 9** of this bill requires the Commission to establish the categories for participation in the Solar Program. **Section 9** authorizes the Commission to establish the criteria and capacity limitations for each category. **Section 11** of this bill requires a participant in the Solar Program to participate in net metering.

**Section 13** of this bill requires the Commission to establish the categories for participation in the Wind Program. **Section 14** of this bill requires the Commission to adopt regulations establishing a system of incentives for

participation in the Wind Program. **Section 14** further provides that the total amount of the incentive paid to a participant in the Wind Program with a nameplate capacity of not more than 500 kilowatts must be paid over time and be based on the performance and amount of electricity generated by the wind energy system. **Section 14** also provides for the payment of performance-based incentives to a qualified participant in the Wind Program after December 31, 2021. **Section 17** of this bill requires a participant in the Wind Program to participate in net metering.

**Section 18** of this bill requires the Commission to adopt regulations to provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts, and **section 20** of this bill prescribes certain limitations on such incentives. **Section 21** of this bill requires a participant in the Waterpower Program to participate in net metering.

**Section 21.3** of this bill requires each electric utility in this State to create a Lower Income Solar Energy Pilot Program for the purpose of installing solar distributed generation systems within its service territory for the benefit of low-income customers.

Existing law authorizes certain qualified customers of a utility to participate in net metering. (NRS 704.766-704.775) **Section 24** of this bill authorizes a utility to assess certain charges against certain participants in net metering.

Existing law authorizes the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to represent the public interest in any proceeding, including a proceeding to review a proposed rate of an electric utility. **Section 25.5** of this bill requires the Consumer's Advocate to publish a report containing certain information if the Consumer's Advocate declines to represent the public interest in a proceeding to review a proposed rate of an electric utility.

**Section 26.5** of this bill requires the Commission to open an investigatory docket to evaluate the costs and benefits attributable to net metering in this State.

**Sections 25.6-25.9** of this bill extend the prospective expiration of the Wind Program, the Waterpower Program and the Solar Program from December 31, 2021, to December 31, 2025.

**Sections 25.1-25.45 and 25.55** of this bill establish the Legislative Committee on Energy and set forth the membership, duties, powers and responsibilities of the Committee.

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

**Section 1.** Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 3.5, inclusive, of this act.

**Sec. 1.5. 1.** *As used in this chapter, unless the context otherwise requires, “installed cost” means the actual, documented cost of tangible materials and labor for the installation of a solar energy system, distributed generation system, wind energy system or waterpower energy system.*

**2.** *As used in this section:*

**(a)** *“Distributed generation system” has the meaning ascribed to it in NRS 701B.055.*

**(b)** *“Solar energy system” has the meaning ascribed to it in NRS 701B.150.*

**(c)** *“Waterpower energy system” has the meaning ascribed to it in NRS 701B.800.*

**(d)** *“Wind energy system” has the meaning ascribed to it in NRS 701B.560.*

**Sec. 2.** *The Legislature hereby finds and declares that it is the policy of this State to:*

**1.** *Expand and accelerate the development of solar distributed generation systems in this State; and*

**2.** *Establish a sustainable and self-sufficient solar renewable energy industry in this State in which solar energy systems are a viable mainstream alternative for homes, businesses and other public entities.*

**Sec. 3. 1.** *For the purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, and subject to the limitations prescribed by subsection 2, the Public Utilities Commission of Nevada shall set incentive levels and schedules, with a goal of approving solar energy systems totaling at least 250,000 kilowatts of capacity in this State for the period beginning on July 1, 2010, and ending on December 31, 2021.*

**2.** *The Commission shall not authorize the payment of an incentive pursuant to:*

**(a)** *The Solar Energy Systems Incentive Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems and solar distributed generation systems to exceed \$255,270,000 for the period beginning on July 1, 2010, and ending on December 31, 2025.*

**(b)** *The Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820 if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of wind energy systems and waterpower energy systems to exceed \$40,000,000 for the period beginning on July 1, 2009, and ending*

*on December 31, 2025. The Commission shall by regulation determine the allocation of incentives for each Program.*

*3. The Commission may, subject to the limitations prescribed by subsection 2, authorize the payment of performance-based incentives for the period ending on December 31, 2025.*

*4. A utility may file with the Commission one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and 701B.850. The Commission shall review and approve any plan submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850, as applicable.*

*5. As used in this section:*

*(a) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.*

*(b) "Utility" means a public utility that supplies electricity in this State.*

**Sec. 3.5.** *A person who submits an application to a utility pursuant to this chapter shall not make any false or misleading statement in the application or in any material which is required to be submitted with the application. As used in this section, "utility" means a public utility that supplies electricity or natural gas in this State.*

**Sec. 4.** NRS 701B.040 is hereby amended to read as follows:

701B.040 "Category" means one of the categories of participation in the Solar Program as set forth in ~~[NRS 701B.240.]~~ **regulations adopted by the Commission.**

**Sec. 5.** NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, **and section 2 of this act**, including, without limitation, regulations that:

1. Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives . ~~[except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.]~~ **The incentives must be market-based incentives that:**

*(a) Do not exceed 50 percent of the installed cost of a solar energy system or distributed generation system, as determined by using the average installed cost of the solar energy systems or distributed generation systems, as applicable, installed in the immediately preceding year;*

*(b) Are designed to maximize the number of customer categories participating in the Solar Program based on demographics and location,*

*including, without limitation, categories for public entities, customers of lower socioeconomic status, nonprofit organizations and commercial, industrial and residential customers; and*

*(c) Provide for a sustainable Solar Program that maintains sufficient customer participation and that provides for the measured award of incentives to as many participants as possible on or before December 31, 2021.*

2. Establish the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

(a) A detailed plan for advertising the Solar Program;

(b) A detailed budget and schedule for carrying out and administering the Solar Program;

(c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;

(d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;

(e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; ~~and~~

*(f) Any other information that the Commission requires from the utility as part of the administration of the Solar Program; and*

*(g) Any other information required by the Commission.*

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems. ~~[pursuant to paragraph (b) of subsection 1 of NRS 701B.260.]~~

**Sec. 6.** NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in ~~each applicable category of:~~

~~—(a) School property;~~

~~—(b) Public and other property; and~~

~~—(c) Private residential property and small business property; and} the Solar Program.~~

2. The form and content of the master application.

3. *The process for accepting and approving applications, which must provide that applications are approved based on the order in which complete applications are submitted and not on a lottery process.*



4. *A requirement that an authorized representative of any public entity participating in the Solar Program, including participation through a third-party ownership structure, provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the solar energy system or distributed generation system that the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.*

5. *A process pursuant to which the utility must transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the Commission which includes any redacted personal identifying information of a customer.*

Sec. 7. NRS 701B.220 is hereby amended to read as follows:

701B.220 1. In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing ~~for an incentive~~ *the incentives* for participation in the Solar Program ~~[-]~~ *, shall consider whether such regulations ensure, to the extent practicable, the cost-effective use of such incentives and predictability for participants, rate payers and utilities and shall maximize to the extent practicable the number of customer categories participating in the Solar Program based on demographics and location, including, without limitation, categories for public entities, customers of lower socioeconomic status, nonprofit organizations and commercial, industrial and residential customers. The regulations must:*

(a) *For a solar energy system that has a generating capacity of not more than 25 kilowatts, provide for an incentive that must be paid in one installment to a participant for a solar energy system upon proof that the participant has installed and energized the solar energy system;*

(b) *For a solar energy system that has a generating capacity of more than 25 kilowatts, provide for an incentive that must be paid to a participant over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system;*

(c) *For a solar energy system that has a generating capacity of more than 25 kilowatts, provide for a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:*

(1) *The amount of the incentive the participant will receive from the utility;*

(2) *The period in which the participant will receive an incentive from the utility, which must not exceed 5 years;*

(3) *That the payments of an incentive to the participant must be made not more frequently than quarterly; and*

*(4) That a utility must not be required to issue any new incentive on or after January 1, 2021, or make an incentive payment after December 31, 2025;*

*(d) Establish reporting requirements for each utility that participates in the Solar Program, which must include, without limitation, periodic reports of the average installed cost of the systems, the cost to the utility of carrying out the Solar Program, the effect of the Solar Program on the rates paid by customers of the utility and the annual statistical data related to the amount of incentives granted and the number of participants;*

*(e) Provide for a decline over time in the amount of the incentives for participation in the Solar Program as the installed costs of solar energy systems decrease and as variables, including, without limitation, system size, installation costs, market conditions and access to federal, state and other financial incentives, may require;*

*(f) Provide that the rate at which incentives decline over time will be published by the Commission, including publication on the Internet website maintained by the Commission, annually or on such other schedule as necessary to reflect changes in the market; and*

*(g) Provide that incentives must be made available only to solar energy systems with a nameplate capacity of not more than 500 kilowatts.*

*2. The Commission shall review the incentives for participation in the Solar Program and may adjust the amount of the incentives not more frequently than annually, as determined necessary by the Commission to reflect changes in the market for solar energy systems and demand for incentives.*

*3. A contract that is executed between a utility and a participant on or before December 31, 2021, providing for the payment to the participant of an incentive pursuant to paragraph (b) of subsection 1 may provide for the continued payment of such an incentive after December 31, 2021, in accordance with regulations adopted by the Commission.*

**Sec. 8.** NRS 701B.230 is hereby amended to read as follows:

701B.230 1. Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for carrying out and administering the Solar Program within its service area . ~~for a program year.~~

2. The Commission shall:

(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and

(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.

3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the Commission.

4. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

**Sec. 9.** NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The ~~{Solar Program must have three}~~ **Commission:**

**(a) Shall establish** categories ~~{as follows:~~

~~—(a) School property;~~

~~—(b) Public and other property; and~~

~~—(c) Private residential property and small business property.}~~ **for participation in the Solar Program with the goal of maximizing to the extent practicable the number of customer categories participating in the Solar Program based on demographics and location.**

**(b) May establish the criteria and capacity for each category.**

3. **For the purpose of establishing categories pursuant to subsection 2, the Commission may additionally establish subcategories which may include, without limitation, schools, public property, low-income customers and nonprofit organizations, and may establish the criteria and capacity for each subcategory.**

4. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~{Commission}~~ **utility** for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255; **and**

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board. ~~}; and~~

~~—(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands on experience of the solar energy system by the public.}~~

**Sec. 10.** NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility ~~may~~ **shall** select the applicant for participation in the Solar Program ~~to~~, **subject to the limitations prescribed by section 3 of this act.**

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility ~~may~~ **shall** approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the **installed** cost of the project and a calculation of the expected system output.

5. Upon receipt of the **completed** incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount **and type** of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. ~~{An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the solar energy system.}~~

**Sec. 11.** NRS 701B.280 is hereby amended to read as follows:

701B.280 ~~{If}~~ **To be eligible for an incentive through the Solar Program,** a solar energy system ~~{used by a participant in the Solar Program meets}~~ **must meet** the requirements ~~{of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate}~~ **for participation** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

**Sec. 12.** NRS 701B.440 is hereby amended to read as follows:

701B.440 “Category” means one of the categories of participation in the Wind Demonstration Program ~~as set forth in~~ **established by the Commission pursuant to subsection 2 of** NRS 701B.580.

**Sec. 13.** NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The ~~Program must have four~~ **Commission shall establish** categories ~~as follows:~~

- ~~—(a) School property;~~
- ~~—(b) Other public property;~~
- ~~—(c) Private residential property and small business property; and~~
- ~~—(d) Agricultural property.] for participation in the Program.~~

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590; **and**

(b) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors’ Board pursuant to the regulations adopted by the Board. ~~]; and~~

~~—(c) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.]~~

**Sec. 14.** NRS 701B.590 is hereby amended to read as follows:

701B.590 1. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

~~{1.} (a) The capacity goals for the Program. [, which must be designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.~~

~~—2.} (b) A system of incentives that are based on rebates that decline as the [capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~

~~—3.} installed cost of wind energy systems declines and as variables, including, without limitation, system size, installation costs, market conditions and access to federal, state and other financial incentives, may require. The system of incentives must provide:~~

~~(1) Incentives for wind energy systems with a nameplate capacity of not more than 500 kilowatts;~~

*(2) That the amount of the incentive for a participant must be paid over time and be based on the performance of the wind energy system and the amount of electricity generated by the wind energy system; and*

*(3) For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:*

*(I) The amount of the incentive the participant will receive from the utility;*

*(II) The period in which the participant will receive an incentive from the utility, which must not exceed 5 years;*

*(III) That the payments of an incentive to the participant must be made not more frequently than quarterly; and*

*(IV) That a utility is not required to issue any new incentive on or after January 1, 2021, or make an incentive payment after December 31, 2025.*

*(c) Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the average installed cost of the wind energy system, the cost to the utility of carrying out the Program and the effect of the Program on the rates paid by customers of the utility.*

*(d) The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.*

*(e) The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously approved applicant fails to install and energize a wind energy system within the time allowed by NRS 701B.615.*

*(f) The total incentive paid to a participant in the Program, which must not exceed 50 percent of the total installed cost of the wind energy system of the participant.*

*(g) A requirement that an authorized representative of any public entity participating in the Program, including participation through a third-party ownership structure, must provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the wind energy system that the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.*

*(h) A process pursuant to which the utility shall transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the Commission which includes any redacted personal identifying information of a customer.*

*2. A contract that is executed between a utility and a participant on or before December 31, 2021, providing for the payment to the participant of an incentive pursuant to subparagraph (2) of paragraph (b) of subsection 1*

*may provide for the continued payment of such an incentive after December 31, 2021, subject to the limitations prescribed by section 3 of this act and in accordance with regulations adopted by the Commission.*

**Sec. 15.** NRS 701B.610 is hereby amended to read as follows:

701B.610 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area . ~~for the following program year.~~

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

**Sec. 16.** NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the **installed** cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits eligibility

for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.]~~

**Sec. 17.** NRS 701B.650 is hereby amended to read as follows:

701B.650 ~~[[**To be eligible for an incentive through the Wind Demonstration Program**, a wind energy system {used by a participant in the Wind Demonstration Program meets} must meet the requirements {of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate} for participation in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.~~

**Sec. 18.** NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must ~~{be designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of waterpower energy systems in this State by 2016 and the goals for each category of the Program. The regulations must}~~ provide that not less than 1 megawatt of capacity ~~{must}~~ be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.

2. **A system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts.**

3. A system of incentives that are based on rebates that decline as the capacity goals for the Program ~~{and the goals for each category of the Program}~~ are met. The rebates must be based on predicted energy savings.

~~{3.}~~ 4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

**Sec. 19.** NRS 701B.850 is hereby amended to read as follows:

701B.850 1. ~~{On}~~ **Each year on** or before ~~{February 21, 2008, and on or before February 1 of each subsequent year,}~~ **a date established by the Commission**, each utility shall file with the Commission ~~{for approval and the utility's annual plan for {the administration and delivery of} carrying out and administering the Waterpower Demonstration Program in its service area for the {program year beginning July 1, 2008, and each subsequent year thereafter.}}~~ **immediately following 12-month period prescribed by the Commission.**



2. ~~{On or before July 1, 2008, and on or before each July 1 of each subsequent year, the}~~ **The** Commission shall ~~{review}~~ :

(a) **Review** the annual plan for compliance with the requirements ~~{set forth}~~ **established** by regulation of the Commission ~~{;}~~ **; and**

(b) **Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.**

**Sec. 20.** NRS 701B.865 is hereby amended to read as follows:

701B.865 1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the **installed** cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower Demonstration Program, except that :

(a) **An** applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of the waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program ~~{An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of the waterpower energy system, and the amount of the incentive for which such~~

~~an applicant is eligible must be determined on the date on which the applicant completes the construction of the waterpower energy system.] ; and~~

*(b) No payment may be made by a utility after December 31, 2025, or made if such payment would otherwise cause the utility to exceed the limitations prescribed by section 3 of this act.*

*8. The total incentive paid to a participant in the Waterpower Demonstration Program must not exceed 50 percent of the total installed cost of the waterpower energy system of the participant.*

*9. An authorized representative of any public entity participating in the Waterpower Demonstration Program, including participation through a third-party ownership structure, shall provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the waterpower energy system that the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.*

*10. The Commission shall adopt regulations prescribing a process pursuant to which the utility must transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the Commission with any redacted personal identifying information of a customer.*

**Sec. 21.** NRS 701B.880 is hereby amended to read as follows:

701B.880 ~~[[**To be eligible for an incentive through the Waterpower Demonstration Program,**~~ the waterpower energy system ~~{used by a participant in the Waterpower Demonstration Program meets}]~~ **must meet** the requirements ~~[of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate]~~ **for participation** in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

**Sec. 21.3.** Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Each electric utility in this State shall create a Lower Income Solar Energy Pilot Program for the purpose of installing, before January 1, 2017, distributed generation systems with a cumulative capacity of at least 1 megawatt at locations throughout its service territory which benefit low-income customers, including, without limitation, homeless shelters, low-income housing developments and schools with significant populations of low-income pupils. Each electric utility shall submit the Program as part of its annual plan submitted pursuant to NRS 701B.230. The Commission shall approve the Program with such modifications and upon such terms and conditions as the Commission deems necessary or appropriate to enable the Program to meet the purposes set forth in this subsection.*

**2. The Office of Energy shall advise the Commission and each electric utility regarding grants and other sources of money available to defray the costs of the Program.**

**3. As used in this section, “distributed generation system” has the meaning ascribed to it in NRS 701B.055.**

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

**Sec. 23.** (Deleted by amendment.)

**Sec. 24.** NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all net metering systems operating in this State is equal to ~~2~~ **3** percent of the total peak capacity of all utilities in this State.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 25 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) ~~{Shall}~~ **Except as otherwise provided in subsection 5, shall** not charge a customer-generator any fee or charge that would increase the customer-generator’s minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 25 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c) ~~{}~~ **and subsection 5**, may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

➡ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this

subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. If the net metering system of a customer-generator is a net metering system described in paragraph (b) or (c) of subsection 1 of NRS 704.771 and:

(a) The system is intended primarily to offset part or all of the customer-generator's requirements for electricity on property contiguous to the property on which the net metering system is located; and

(b) The customer-generator sells or transfers his or her interest in the contiguous property,

↪ the net metering system ceases to be eligible to participate in net metering.

5. ***A utility shall assess against a customer-generator:***

(a) ***If applicable, the universal energy charge imposed pursuant to NRS 702.160; and***

(b) ***Any charges imposed pursuant to chapter 701B of NRS or NRS 704.7827 or 704.785 which are assessed against other customers in the same rate class as the customer-generator.***

↪ ***For any such charges calculated on the basis of a kilowatt-hour rate, the customer-generator must only be charged with respect to kilowatt-hours of energy delivered by the utility to the customer-generator.***

6. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

↪ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

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

**Sec. 25.1.** Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 25.2 to 25.45, inclusive, of this act.

**Sec. 25.2.** ***As used in sections 25.2 to 25.45, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Energy.***

Sec. 25.25. 1. *The Legislative Committee on Energy, consisting of ~~eight~~ six legislative members, is hereby created. The membership of the Committee consists of:*

(a) ~~Four~~ Three *members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party.*

(b) ~~Four~~ Three *members appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.*

2. *The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.*

3. *The Legislative Commission shall select the Chair and Vice Chair of the Committee from among the members of the Committee. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. The office of Chair of the Committee must alternate each biennium between the Houses. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.*

4. *A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session convenes.*

5. *A vacancy on the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term.*

Sec. 25.3. 1. *Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than November 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.*

2. *The Director or the Director's designee shall act as the nonvoting recording Secretary of the Committee.*

3. ~~Five~~ Four *members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.*

4. *Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the:*

(a) *Compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;*

(b) *Per diem allowance provided for state officers and employees generally; and*

(c) *Travel expenses provided pursuant to NRS 218A.655.*

5. All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.

Sec. 25.4. 1. The Committee may:

(a) Evaluate, review and comment upon matters related to energy policy within this State, including, without limitation:

(1) Policies, plans or programs relating to the production, consumption or use of energy in this State;

(2) Legislative measures regarding energy policy;

(3) The effect of any policy, plan, program or legislation on rates or rate payers;

(4) The effect of any policy, plan, program or legislation on economic development in this State;

(5) The effect of any policy, plan, program or legislation on the environment;

(6) Any contracts or requests for proposals relating to the purchase of capacity;

(7) The effect of any policy, plan, program or legislation which provides for the construction or acquisition of facilities for the generation of electricity;

(8) The effect of any policy, plan, program or legislation on the development of a market in this State for electricity generated from renewable energy;

(9) The infrastructure and transmission requirements of any policy, plan, program or legislation; and

(10) Any other matters or topics that, in the determination of the Committee, affect energy policy in this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which energy policy may be implemented or improved.

2. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 701.070.

Sec. 25.45. 1. If the Committee conducts investigations or holds hearings pursuant to paragraph (b) of subsection 1 of section 25.4 of this act:

(a) The Secretary of the Committee or, in the Secretary's absence, a member designated by the Committee may administer oaths.

(b) The Secretary or Chair of the Committee may cause the deposition of witnesses, residing either within or without 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 of the Committee may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, accounts, department records and other documents.*

*2. If any witness fails or refuses to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena, the Chair of the Committee may report the failure or refusal to the district court by a petition which:*

*(a) Sets forth that:*

*(1) Due notice has been given of the time and place of the attendance of the witness or the production of the required books, papers, accounts, department records or other documents;*

*(2) The witness has been subpoenaed by the Committee pursuant to this section; and*

*(3) The witness has failed or refused to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena before the Committee named in the subpoena; and*

*(b) Asks for an order of the court compelling the witness to attend and testify or to produce the required books, papers, accounts, department records or other documents before the Committee.*

*3. Upon such a petition, the court shall:*

*(a) Enter an order directing the witness:*

*(1) 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*

*(2) To show cause why the witness has not attended or testified or produced the required books, papers, accounts, department records or other documents before the Committee; and*

*(b) Serve a certified copy of the order upon the witness.*

*4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness:*

*(a) Must appear before the Committee at the time and place fixed in the order;*

*(b) Must testify or produce the required books, papers, accounts, department records or other documents; and*

*(c) Upon failure to obey the order, must be dealt with as for contempt of court.*

**Sec. 25.5.** NRS 228.390 is hereby amended to read as follows:

228.390 **1.** Except as otherwise provided in NRS 704.110 and 704.7561 to 704.7595, inclusive:

~~{1-}~~ (a) The Consumer's Advocate has sole discretion to represent or refrain from representing the public interest and any class of customers in any proceeding.

~~{2-}~~ (b) In exercising such discretion, the Consumer's Advocate shall consider the importance and extent of the public interest or the customers' interests involved and whether those interests would be adequately represented without his or her participation.

~~{3-}~~ (c) If the Consumer's Advocate determines that there would be a conflict between the public interest and any particular class of customers or any inconsistent interests among the classes of customers involved in a particular matter, the Consumer's Advocate may choose to represent one of the interests, to represent no interest, or to represent one interest through his or her office and another or others through outside counsel engaged on a case basis.

*(d) If the Consumer's Advocate declines to represent the public interest in a proceeding to review a proposed rate of an electric utility, the Consumer's Advocate shall publish a report in support of the decision to decline such representation and make the report available to the public at the Bureau of Consumer Protection and on the Internet website maintained by the Bureau of Consumer Protection. The report must:*

*(1) Identify each element of the public interest, as may be applicable to the proceeding to review a proposed rate; and*

*(2) Specify the manner in which each element of the public interest, as identified pursuant to subparagraph (1), is sufficiently represented.*

*2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.*

**Sec. 25.55.** Section 25.4 of this act is hereby amended to read as follows:

Sec. 25.4. 1. The Committee may:

(a) Evaluate, review and comment upon matters related to energy policy within this State, including, without limitation:

(1) Policies, plans or programs relating to the production, consumption or use of energy in this State;

(2) Legislative measures regarding energy policy;

(3) ***The progress made by this State in satisfying the goals and objectives of Senate Bill No. 123 of the 77th Session of the Nevada Legislature;***

(4) The effect of any policy, plan, program or legislation on rates or rate payers;

~~{4-}~~ (5) The effect of any policy, plan, program or legislation on economic development in this State;



~~[(5)]~~ (6) The effect of any policy, plan, program or legislation on the environment;

~~[(6)]~~ (7) Any contracts or requests for proposals relating to the purchase of capacity;

~~[(7)]~~ (8) The effect of any policy, plan, program or legislation which provides for the construction or acquisition of facilities for the generation of electricity;

~~[(8)]~~ (9) The effect of any policy, plan, program or legislation on the development of a market in this State for electricity generated from renewable energy;

~~[(9)]~~ (10) The infrastructure and transmission requirements of any policy, plan, program or legislation; and

~~[(10)]~~ (11) Any other matters or topics that, in the determination of the Committee, affect energy policy in this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which energy policy may be implemented or improved.

2. As used in this section, “renewable energy” has the meaning ascribed to it in NRS 701.070.

**Sec. 25.6.** Section 113 of chapter 509, Statutes of Nevada 2007, as last amended by section 49 of chapter 412, Statutes of Nevada 2011, at page 2562, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections 62 to 75, inclusive, 77 to 82, inclusive, 85 to 94, inclusive, and 95 to 105, inclusive, of this act expire by limitation on December 31, ~~{2021,}~~ **2025.**

**Sec. 25.7.** Section 13 of chapter 246, Statutes of Nevada 2009, as last amended by section 50 of chapter 412, Statutes of Nevada 2011, at page 2563, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on December 31, ~~{2021,}~~ **2025.**

**Sec. 25.8.** Section 21 of chapter 321, Statutes of Nevada 2009, as last amended by section 51 of chapter 412, Statutes of Nevada 2011, at page 2563, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.85, 1.87, 1.92, 1.93, 1.95 and 4.3 to 9, inclusive, of this act expire by limitation on December 31, ~~{2021,}~~ **2025.**

**Sec. 25.9.** Section 54 of chapter 412, Statutes of Nevada 2011, at page 2563, is hereby amended to read as follows:

Sec. 54. 1. This section and sections 1, 3 to 42, inclusive, 44, 45, 46, 48 to 51, inclusive, subsection 2 of section 52 and section 53 of this act become effective upon passage and approval.

2. Sections 2, 43, 47 and subsection 1 of section 52 of this act become effective on January 1, ~~{2022,}~~ **2026.**

**Sec. 26.** NRS 701B.060, 701B.100, 701B.110, 701B.120, 701B.130, 701B.140, 701B.260, 701B.490 and 701B.760 are hereby repealed.

**Sec. 26.5.** 1. As soon as practicable after the effective date of this act, the Public Utilities Commission of Nevada shall open an investigatory docket to examine the comprehensive costs of and benefits from net metering in this State, including, without limitation, the costs and benefits to:

- (a) The State of Nevada;
- (b) Customer-generators who participate in net metering;
- (c) Customers of a utility who do not participate in net metering; and
- (d) Each utility which offers net metering.

2. The investigatory docket shall engage a knowledgeable and independent third party to analyze all factors that the Commission deems necessary to determine the costs and benefits described in subsection 1.

3. The following parties may participate in the investigatory docket:

- (a) Each utility in this State;
- (b) The Regulatory Operations Staff of the Commission;
- (c) The Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General;

(d) Any business operating in the State whose primary business is the installation of distributed generation systems; and

(e) Any other interested parties.

4. On or before October 1, 2014, the Commission shall:

(a) Prepare a written report of its findings and recommendations from the investigatory docket, including, without limitation, a calculation and determination of the total costs of and benefits from net metering.

(b) Submit the written report to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

5. If the report of the Commission concludes that there is a material net benefit or cost attributable to net metering, the Commission shall recommend a methodology for properly allocating and apportioning all of the costs and benefits of net metering among all persons who participate in, benefit from and pay for net metering.

6. As used in this section:

(a) “Distributed generation system” has the meaning ascribed to it in NRS 701B.055.

(b) “Net metering” has the meaning ascribed to it in NRS 704.769.

(c) “Utility” has the meaning ascribed to it in NRS 704.772.

**Sec. 27.** The Public Utilities Commission of Nevada shall adopt regulations to carry out the amendatory provisions of this act on or before April 30, 2014. The regulations must provide for the transition to the performance-based incentive required by NRS 701B.220, as amended by section 7 of this act, NRS 701B.590, as amended by section 14 of this act, and NRS 701B.840, as amended by section 18 of this act, for the applicable participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program.

**Sec. 28.** 1. This section and sections 1 to 25, inclusive, 26 and 27 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations or performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2014, for all other purposes.

2. Sections 25.1 to 25.45, inclusive, of this act become effective on July 1, 2013.

3. Section 25.55 of this act becomes effective at 12:01 a.m. on July 1, 2013, if, and only if, Senate Bill No. 123 of this session is enacted by the Legislature and becomes effective.

4. Sections 1 to 23, inclusive, of this act expire by limitation on December 31, 2025.

## LEADLINES OF REPEALED SECTIONS

**701B.060 “Institution of higher education” defined.**

**701B.100 “Program year” defined.**

**701B.110 “Public and other property” defined.**

**701B.120 “Public entity” defined.**

**701B.130 “School property” defined.**

**701B.140 “Small business” defined.**

**701B.260 Capacity allocated to each category; reallocation of capacity; limitations on incentives.**

**701B.490 “Program year” defined.**

**701B.760 “Program year” defined.**

Assemblyman Bobzien moved that the Assembly concur in the Senate Amendment No. 966 to Assembly Bill No. 428.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 388.

The following Senate amendment was read:

Amendment No. 968.

AN ACT relating to renewable energy; revising provisions governing certain energy-related tax incentives; revising provisions governing portfolio energy systems; revising provisions governing jurisdiction of the courts of this State with respect to certain claims or actions relating to certain renewable energy projects; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law provides for the partial abatement of certain taxes for certain renewable energy facilities. (NRS 701A.300-701A.390) **Section 3** of this bill ~~removes the requirement that an application for a partial abatement of certain taxes for certain geothermal facilities be approved by the board of county commissioners before the application can be approved by the Director of the Office of Energy.~~ **It revises the authority of a board of county commissioners relating to the approval of an application for a partial abatement of certain taxes submitted by a person who operates a facility for the generation of electricity from renewable energy.**

Under existing law, a provider of electric service is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure for the purpose of satisfying the renewable portfolio standard of the provider. (NRS 704.78215) **Section 4** of this bill revises provisions governing the calculation of the portfolio energy credits attributable to certain portfolio energy systems.

**Section 5** of this bill clarifies that a court of this State has jurisdiction over a claim or action relating to a renewable energy project located upon certain Indian tribal land under certain circumstances.

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

**Section 1.** NRS 701A.340 is hereby amended to read as follows:

701A.340 1. “Renewable energy” means:

- (a) Biomass;
- (b) Fuel cells;
- (c) **Geothermal energy**;
- (d) Solar energy;
- ~~[(d)]~~ (e) Waterpower; or
- ~~[(e)]~~ (f) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel ~~[, geothermal energy]~~ or nuclear energy.

**Sec. 2.** NRS 701A.360 is hereby amended to read as follows:

701A.360 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy ~~[, a facility for the generation of electricity from geothermal resources]~~ or a facility for the transmission of electricity produced from renewable energy ~~[or geothermal resources]~~ in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS.

2. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to NRS 701A.300 to 701A.390, inclusive.

3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall forward a copy of the application to:

- (a) The Chief of the Budget Division of the Department of Administration;
- (b) The Department of Taxation;
- (c) The board of county commissioners;
- (d) The county assessor;
- (e) The county treasurer; and
- (f) The Office of Economic Development.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application.

5. The Director shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in subsection 3 have received a copy of the application.

**Sec. 3.** NRS 701A.365 is hereby amended to read as follows:

701A.365 1. ~~{Except as otherwise provided in subsection 2, the}~~ **The** Director, in consultation with the Office of Economic Development, shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if the Director, in consultation with the Office of Economic Development, makes the following determinations:

(a) The applicant has executed an agreement with the Director which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to NRS 701A.370, continue in operation in this State for a period specified by the Director, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the

Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

(g) The facility is consistent with the State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053.

2. The Director shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by **a facility for the generation of process heat from solar renewable energy or a wholesale** facility for the generation of electricity from ~~geothermal resources~~ **renewable energy** unless the application is approved **or deemed approved** pursuant to this subsection. The board of county commissioners of a county must **provide notice to the Director that the board intends to consider an application and, if such notice is given, must** approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners ~~must~~:

(a) **Shall, in considering an application pursuant to this subsection, make a recommendation to the Director regarding the application;**

(b) **May, in considering an application pursuant to this subsection, deny an application only if the board of county commissioners determines, based on relevant information, that:**

(1) **The projected cost of the services that the local government is required to provide to the facility will exceed the amount of tax revenue that the local government is projected to receive as a result of the abatement; or**

(2) **The projected financial benefits that will result to the county from the employment by the facility of the residents of this State and from capital investments by the facility in the county will not exceed the projected loss of tax revenue that will result from the abatement;**

(c) **Must not condition the approval of the application on a requirement that the facility ~~for the generation of electricity from geothermal resources~~ agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility ~~for~~; and**

(d) **May, without regard to whether the board has provided notice to the Director of its intent to consider the application, make a recommendation to the Director regarding the application.**

➡ If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed ~~denied~~ **approved**.

3. Notwithstanding the provisions of subsection 1, the Director, in consultation with the Office of Economic Development, may, if the Director, in consultation with the Office, determines that such action is necessary:



(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

~~4. 3.1~~ The Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section.

~~5. 4.1~~ The Director shall submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted pursuant to this section.

**Sec. 4.** NRS 704.78215 is hereby amended to read as follows:

704.78215 1. Except as otherwise provided in this section or by specific statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure.

2. The Commission may adopt regulations that give a provider more than one portfolio energy credit for each kilowatt-hour of electricity saved by the provider during its peak load period from energy efficiency measures.

3. *Except as otherwise provided in this subsection, for portfolio energy systems placed into operation on or after January 1, 2016, the amount of electricity generated or acquired from a portfolio energy system does not include the amount of any electricity used by the portfolio energy system for its basic operations that reduce the amount of renewable energy delivered to the transmission grid for distribution and sale to customers of the provider. The provisions of this subsection do not apply to a portfolio energy system placed into operation on or after January 1, 2016, if a provider entered into a contract for the purchase of electricity generated by the portfolio energy system on or before December 31, 2012. For the purposes of this subsection, the amount of any electricity used by a portfolio energy system for its basic operations ~~does~~:*

*(a) Except as otherwise provided in paragraph (b), includes electricity used for the heating, lighting, air-conditioning and equipment of a building located on the site of the portfolio energy system, and for operating any other equipment located on such site.*

*(b) Does not include the electricity used by a portfolio energy system that generates electricity from geothermal energy for the extraction and transportation of geothermal brine ~~for~~ or used to pump or compress geothermal brine.*

**Sec. 5.** Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. A court of this State has jurisdiction pursuant to subsection 1 of NRS 14.065 with respect to any claim or action relating to a renewable energy project located upon Indian tribal land if:**

**(a) The Indian tribe occupying the tribal land has a reservation of not less than 60,000 acres;**

**(b) The Indian tribal land is located in a county whose population is 700,000 or more; and**

**(c) The governing body of the Indian tribe has expressly waived its sovereign immunity with respect to such claim or action in a written agreement, contract or other instrument which expressly states that the terms of the agreement, contract or other instrument must be governed by the applicable laws of this State.**

**2. As used in this section, “renewable energy project” means a project for the construction or installation of a facility for the generation of renewable energy, as defined in NRS 701.070.**

Assemblyman Bobzien moved that the Assembly concur in the Senate Amendment No. 968 to Assembly Bill No. 388.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2013

*To the Honorable the Assembly:*

It is my pleasure to inform your esteemed body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 150, Amendment No. 906, and respectfully requests your honorable body to concur in said amendment.

Also, it is my pleasure to inform your esteemed body that the Senate on this day passed, as amended, Senate Bills Nos. 34, 385.

SHERRY L. RODRIGUEZ

*Assistant Secretary of the Senate*

#### UNFINISHED BUSINESS

#### REPORTS OF CONFERENCE COMMITTEES

*Madam Speaker:*

The Conference Committee concerning Senate Bill No. 425, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 751 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.

WILLIAM HORNE  
TYRONE THOMPSON  
IRA HANSEN

*Assembly Conference Committee*

TICK SEGERBLOM  
AARON FORD

*Senate Conference Committee*

Conference Amendment No. CA11.

SUMMARY—Authorizes the Nevada Gaming Commission to establish a study group relating to pari-mutuel wagering. (BDR ~~41-1111~~) **S-1111)**

AN ACT relating to gaming; ~~authorizing~~ **requiring** the Nevada Gaming Commission to ~~establish a~~ study ~~group~~ **and review certain issues** relating to pari-mutuel wagering; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prohibits a person who is licensed to engage in off-track pari-mutuel wagering from: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. (NRS 464.075) This bill ~~authorizes~~ **requires** the Nevada Gaming Commission to ~~establish a~~ study ~~group to~~ **and** review issues relating to the offering of rebates ~~for~~ **on** pari-mutuel wagers, including the feasibility of: (1) accepting less than the full face value of an off-track pari-mutuel wager; (2) agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; and (3) increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager. **This bill further requires the Commission to adopt regulations exempting certain bets, refunds, rebates, payoffs or bonuses relating to off-track pari-mutuel wagering from the current prohibition under state law if, after studying and reviewing the issue, the Commission determines that it is in the best interests of this State and licensed gaming in this State.**

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** (Deleted by amendment.)

**Sec. 3.** ~~NRS 464.075 is hereby amended to read as follows:~~

~~464.075 1. Except as otherwise provided in subsection 4, a person who is licensed to engage in off track pari mutuel wagering shall not:~~

~~(a) Accept from a patron less than the full face value of an off track pari mutuel wager;~~

~~(b) Agree to refund or rebate to a patron any portion or percentage of the full face value of an off track pari mutuel wager; or~~

~~(c) Increase the payoff of, or pay a bonus on, a winning off track pari mutuel wager.~~

~~2. A person who is licensed to engage in off track pari mutuel wagering and who~~

~~— (a) Attempts to evade the provisions of subsection 1 by offering to a patron a wager that is not posted and offered to all patrons; or~~

~~— (b) Otherwise violates the provisions of subsection 1,~~

~~→ is subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.~~

~~— 3. The Nevada Gaming Commission shall adopt regulations to carry out the provisions of subsections 1 and 2. [of this section.]~~

~~— 4. The Nevada Gaming Commission may, by regulation, exempt certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 if the Commission determines that such exemptions are in the best interests of the State of Nevada and licensed gaming in this state. Any bets, refunds, rebates, payoffs or bonuses that would result in the amount of such bets, refunds, rebates, payoffs or bonuses being directly or indirectly deductible from gross revenue may not be exempt.~~

~~— 5. The Commission may establish and appoint a study group to review issues relating to the offering of rebates on pari-mutuel wagers. The study group may:~~

~~— (a) Be comprised of the members of the Off-Track Pari-Mutuel Wagering Committee established pursuant to NRS 464.020 and any other operators of a race book;~~

~~— (b) Evaluate the feasibility of:~~

~~— (1) Accepting less than the full face value of an off-track pari-mutuel wager;~~

~~— (2) Agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or~~

~~— (3) Increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager.~~

~~— 6. The Commission may consider any findings by the study group appointed pursuant to subsection 5 in determining whether to adopt regulations to exempt bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1.] (Deleted by amendment.)~~

Sec. 3.5. 1. Not later than January 1, 2014, the Nevada Gaming Commission shall study and review issues relating to the offering of rebates on pari-mutuel wagers. The Commission shall evaluate the feasibility of:

(a) Accepting less than the full value of an off-track pari-mutuel wager;

(b) Agreeing to refund or rebate a portion or percentage of the full face value of an off-track pari-mutuel wager; or

(c) Increasing the payoff of or paying a bonus on a winning off-track pari-mutuel wager.

2. If the Commission determines that exempting certain bets, refunds, rebates, payoffs or bonuses from the provisions of subsection 1 of NRS 464.075:

(a) Is in the best interests of the State and licensed gaming in this State, the Commission shall adopt regulations pursuant to subsection 4 of NRS 464.075 not later than April 1, 2014.

(b) Is not in the best interests of the State and licensed gaming in this State, the Commission shall, following the conclusion of the Commission's study and review, report its findings at the next regularly scheduled meeting of the Legislative Commission.

Sec. 4. This act becomes effective upon passage and approval.

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 425.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 7.

The following Senate amendment was read:

Amendment No. 980.

SUMMARY—Revises provisions relating to ~~the Gaming Policy Committee~~ gaming. (BDR 41-333)

AN ACT relating to gaming; revising the definition of “resort hotel”; revising provisions relating to the Gaming Policy Committee; making appropriations; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law generally provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county whose population is 100,000 or more (currently Clark and Washoe Counties) unless the establishment is a resort hotel. (NRS 463.1605) Existing law defines “resort hotel” as any building or group of buildings that is maintained as and held out to the public to be a hotel where sleeping accommodations are furnished to the transient public and that has: (1) more than 200 rooms available for sleeping accommodations; (2) at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises; (3) at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and (4) a gaming area within the building or group of buildings. (NRS 463.01865) Section 1 of this bill revises the definition of “resort hotel” to provide that in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County), an establishment must have more than 300

**rooms available for sleeping accommodations. Under section 3.5 of this bill, the revised definition of “resort hotel” does not apply to an establishment that holds a nonrestricted license on July 1, 2013, unless the establishment ceases gaming operations for 24 or more consecutive months.**

Existing law establishes the Gaming Policy Committee and provides for the composition and duties of the Committee. (NRS 463.021) **Section 1.5** of this bill: (1) adds to the Committee a representative of academia who possesses knowledge of matters related to gaming; (2) authorizes the Governor, as Chair of the Committee, to appoint an advisory committee on gaming education; and (3) specifies the duties of the advisory committee.

**Sections 2 and 3** of this bill make appropriations to the State Gaming Control Board and the Nevada Gaming Commission for various travel, staffing and operating costs.

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

**Section 1. NRS 463.01865 is hereby amended to read as follows:**

463.01865 “Resort hotel” means any building or group of buildings that is maintained as and held out to the public to be a hotel where sleeping accommodations are furnished to the transient public and that has:

1. ~~More~~ **In a county whose population:**

**(a) Is 700,000 or more, more** than 200 rooms available for sleeping accommodations; **or**

**(b) Is 100,000 or more and less than 700,000, more than 300 rooms available for sleeping accommodations;**

2. At least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

3. At least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

4. A gaming area within the building or group of buildings.

~~Section 1.1~~ **Sec. 1.5.** NRS 463.021 is hereby amended to read as follows:

463.021 1. The Gaming Policy Committee, consisting of the Governor as Chair and ~~10~~ **11** members, is hereby created.

2. The Committee must be composed of:

(a) One member of the Commission, designated by the Chair of the Commission;

(b) One member of the Board, designated by the Chair of the Board;

(c) One member of the Senate appointed by the Legislative Commission;

(d) One member of the Assembly appointed by the Legislative Commission;

(e) One enrolled member of a Nevada Indian tribe appointed by the Inter-Tribal Council of Nevada, Inc.; and

(f) ~~Five~~ **Six** members appointed by the Governor for terms of 2 years as follows:

(1) Two representatives of the general public;

(2) Two representatives of nonrestricted gaming licensees; ~~and~~

(3) One representative of restricted gaming licensees ~~1~~; **and**

**(4) One representative of academia who possesses knowledge of matters related to gaming.**

3. Members who are appointed by the Governor serve at the pleasure of the Governor.

4. Members who are Legislators serve terms beginning when the Legislature convenes and continuing until the next regular session of the Legislature is convened.

5. Except as otherwise provided in subsection 6, the Governor may call meetings of the Gaming Policy Committee for the exclusive purpose of discussing matters of gaming policy. The recommendations concerning gaming policy made by the Committee pursuant to this subsection are advisory and not binding on the Board or the Commission in the performance of their duties and functions.

6. An appeal filed pursuant to NRS 463.3088 may be considered only by a Review Panel of the Committee. The Review Panel must consist of the members of the Committee who are identified in paragraphs (a), (b) and (e) of subsection 2 and subparagraph (1) of paragraph (f) of subsection 2.

**7. The Governor, as Chair of the Committee, may appoint an advisory committee on gaming education. An advisory committee appointed pursuant to this subsection must:**

**(a) Contain not more than five members who serve at the pleasure of the Governor; and**

**(b) Be chaired by the person selected as chair by the Governor.**

**8. An advisory committee created pursuant to subsection 7 shall:**

**(a) Review and evaluate all gaming-related educational entities in this State, including, without limitation, the Culinary Academy of Las Vegas, the Institute for the Study of Gambling and Commercial Gaming of the University of Nevada, Reno, and the UNLV International Gaming Institute of the William F. Harrah College of Hotel Administration of the University of Nevada, Las Vegas, to determine how to align such entities with the needs of the gaming industry;**

*(b) Study and analyze the workforce and technology needs of the gaming industry to determine how the gaming-related educational entities may satisfy those needs;*

*(c) Study the potential for leveraging gaming-related competencies and technologies developed by gaming-related educational entities into other industries; and*

*(d) Report any findings and recommendations to the Committee.*

**Sec. 2.** 1. There is hereby appropriated from the State General Fund to the State Gaming Control Board the following sums for travel and operating costs:

For the Fiscal Year 2013-2014..... \$15,208

For the Fiscal Year 2014-2015..... \$15,208

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 State Gaming Control Board 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 19, 2014, and September 18, 2015, respectively, by either the State Gaming Control Board 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 19, 2014, and September 18, 2015, respectively.

**Sec. 3.** 1. There is hereby appropriated from the State General Fund to the Nevada Gaming Commission the following sums for staffing and operating costs:

For the Fiscal Year 2013-2014..... \$54,673

For the Fiscal Year 2014-2015..... \$55,083

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 Nevada Gaming Commission 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 19, 2014, and September 18, 2015, respectively, by either the Nevada Gaming Commission 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 19, 2014, and September 18, 2015, respectively.

**Sec. 3.5. The amendatory provisions of section 1 of this act do not apply to an establishment that holds a nonrestricted license on July 1, 2013, unless the establishment ceases gaming operations for 24 or more consecutive months.**



**Sec. 4.** 1. This section and sections 1, 2, ~~and~~ 3 and 3.5 of this act become effective on July 1, 2013.

2. Section ~~4~~ 1.5 of this act becomes effective on October 1, 2013.

Assemblyman Frierson moved that the Assembly concur in the Senate Amendment No. 980 to Assembly Bill No. 7.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### REPORTS OF CONFERENCE COMMITTEES

##### *Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 139, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 916 of the Senate be concurred in.

TERESA BENITEZ-THOMPSON

SKIP DALY

LYNN STEWART

*Assembly Conference Committee*

DAVID PARKS

PAT SPEARMAN

PETE GOICOECHEA

*Senate Conference Committee*

Assemblywoman Benitez-Thompson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 139.

Motion carried by a constitutional majority.

#### CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 435.

The following Senate amendment was read:

Amendment No. 927.

AN ACT relating to insurance; revising the manner in which an assessment imposed on insurers in this State is calculated; revising requirements concerning reinsurance; exempting certain domestic insurers and prepaid limited health service organizations from a requirement to submit certain information to the Commissioner of Insurance; revising provisions governing the Nevada Life and Health Insurance Guaranty Association, the Interstate Insurance Product Regulation Compact, insurance holding companies and requirements that certain groups submit information to the Commissioner; **authorizing the Commissioner to approve a person who is not an insurer, a reinsurer or a captive insurer as a sponsor of a captive insurer;** and providing other matters properly relating thereto.

##### **Legislative Counsel's Digest:**

Existing law provides for the regulation of the business of insurance in this State, including, without limitation, kinds of insurance, assets and liabilities of insurers, holding companies, captive insurers and liability risk retention. (Chapters 681A, 681B, 686C, 687C, 692C, 694C, 695E of NRS) This bill makes various changes to those provisions.

Existing law requires insurers authorized to transact business in this State to pay an assessment to fund a program to investigate unfair or fraudulent insurance practices. (NRS 679B.630, 679B.700) **Section 1** of this bill revises the way in which this assessment is calculated.

**Sections 2-5** of this bill revise the requirements certain insurers must meet in order to be allowed credit when assuming reinsurance. **Section 6** of this bill authorizes the Commissioner of Insurance to exempt certain domestic insurers and prepaid limited health service organizations from the requirement to prepare and submit to the Commissioner a report of the level of risk-based capital of the insurer at the end of the immediately preceding calendar year.

Existing law requires all insurers who provide life and health insurance in this State to maintain membership in the Nevada Life and Health Insurance Guaranty Association and requires the Association to cover the policies and contracts of an insolvent insurer. (NRS 686C.130, 686C.152) **Section 7** of this bill provides that the Association is not required to cover certain policies and contracts for health care benefits pursuant to Medicare. **Section 8** of this bill revises the amounts of certain benefits the Association is required to cover.

Under existing law, this State prospectively opts out of all uniform standards adopted by the Interstate Insurance Product Regulation Commission involving long-term care insurance products. (NRS 687C.030) **Section 9** of this bill deletes the prospective opt-out of this State. **Section 12** of this bill enacts certain requirements concerning the corporate governance of a domestic insurer.

**Section 13** of this bill authorizes the Commissioner to convene a supervisory college, which is a forum for communication and cooperation between regulators, to ascertain the financial condition or legality of the conduct of certain insurers. **Sections 15 and 16** of this bill revise provisions relating to the investments of a domestic insurer. **Sections 17-21** of this bill revise provisions governing the acquisition of an insurer. **Sections 22 and 23** of this bill require an insurer to submit certain information to the Commissioner concerning the insurer's general financial condition and corporate governance. **Sections 24 and 25** of this bill revise provisions governing transactions by registered insurers with their affiliates.

**Section 27** of this bill revises the method used to determine whether a dividend or distribution may be paid without requesting approval from the Commissioner. **Section 28** of this bill revises provisions governing the authority of the Commissioner to examine an insurer. **Sections 28.5 and 28.6 of this bill authorize the Commissioner to approve a person who is not an insurer, a reinsurer or a captive insurer as a sponsor of a captive insurer.** **Section 29** of this bill changes the date by which certain insurers are

required to submit to the Commissioner a report of the financial condition of the insurer. **Sections 30-34** of this bill revise information which certain groups that conduct business concerning insurance are required to submit to the Commissioner.

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

**Section 1.** NRS 679B.700 is hereby amended to read as follows:

679B.700 1. The Special Investigative Account is hereby established in the Fund for Insurance Administration and Enforcement created by NRS 680C.100 for use by the Commissioner. The Commissioner shall deposit all money received pursuant to this section with the State Treasurer for credit to the Account. Money remaining in the Account at the end of a fiscal year does not lapse to the State General Fund and may be used by the Commissioner in any subsequent fiscal year for the purposes of this section.

2. The Commissioner shall:

(a) In cooperation with the Attorney General, biennially prepare and submit to the Governor, for inclusion in the executive budget, a proposed budget for the program established pursuant to NRS 679B.630; and

(b) Authorize expenditures from the Special Investigative Account to pay the expenses of the program established pursuant to NRS 679B.630 and of any unit established in the Office of the Attorney General that investigates and prosecutes insurance fraud.

3. The money authorized for expenditure pursuant to paragraph (b) of subsection 2 must be distributed in the following manner:

(a) Fifteen percent of the money authorized for expenditure must be paid to the Commissioner to oversee and enforce the program established pursuant to NRS 679B.630; and

(b) Eighty-five percent of the money authorized for expenditure must be paid to the Attorney General to pay the expenses of the unit established in the Office of the Attorney General that investigates and prosecutes insurance fraud.

4. Except as otherwise provided in ~~subsections~~ **subsection 5**, ~~and 6,~~ costs of the program established pursuant to NRS 679B.630 must be paid by the insurers authorized to transact insurance in this State. The Commissioner shall ~~annually determine the total cost of the program and divide that amount among the insurers pro rata based upon the total amount of premiums charged to the insureds in this State by the insurer.~~

~~5. The annual amount so assessed on each reinsurer that has the authority to assume only reinsurance must not exceed \$500. For all other insurers subject to the annual assessment, the~~ **collect an annual assessment from**

*each insurer authorized to transact insurance in this State. The* annual amount so assessed to each insurer:

(a) ~~Must not exceed~~ *Is* \$500, if the total amount of the premiums charged to insureds in this State by the insurer is less than \$100,000 ~~or if the insurer is a reinsurer that has the authority to assume only reinsurance;~~

(b) ~~Must not exceed~~ *Is* \$750, if the total amount of the premiums charged to insureds in this State by the insurer is \$100,000 or more, but less than \$1,000,000;

(c) ~~Must not exceed~~ *Is* \$1,000, if the total amount of the premiums charged to insureds in this State by the insurer is \$1,000,000 or more, but less than \$10,000,000;

(d) ~~Must not exceed~~ *Is* \$1,500, if the total amount of the premiums charged to insureds in this State by the insurer is \$10,000,000 or more, but less than \$50,000,000; and

(e) ~~Must not exceed~~ *Is* \$2,000, if the total amount of the premiums charged to insureds in this State by the insurer is \$50,000,000 or more.

~~6.~~ 5. The provisions of this section do not apply to an insurer who provides only workers' compensation insurance and pays the assessment provided in NRS 232.680.

~~7.~~ 6. The Commissioner shall adopt regulations to carry out the provisions of this section, including, without limitation, the ~~calculation and~~ collection of the assessment.

~~8.~~ 7. As used in this section, "reinsurer" has the meaning ascribed to it in NRS 681A.370.

**Sec. 2.** NRS 681A.140 is hereby amended to read as follows:

681A.140 As used in NRS 681A.140 to 681A.240, inclusive, "qualified financial institution in the United States" means an institution that:

1. Is organized, or in the case of a branch or agency of a foreign banking organization in the United States licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; ~~and~~

2. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies ~~or~~ ;

3. *Is determined:*

(a) *By the Commissioner to meet the standards of financial condition and standing prescribed by the Commissioner; or*

(b) *By the National Association of Insurance Commissioners to meet the standards of financial condition and standing prescribed by the National Association of Insurance Commissioners; and*

4. *Is determined by the Commissioner to be otherwise acceptable.*

**Sec. 3.** NRS 681A.160 is hereby amended to read as follows:

681A.160 1. Except as otherwise provided in subsection 2, credit must be allowed if reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which:

(a) Files with the Commissioner an executed form approved by the Commissioner as evidence of its submission to this state's jurisdiction;

(b) Submits to this state's authority to examine its books and records;

(c) Files with the Commissioner a certified copy of a certificate of authority or other evidence approved by the Commissioner indicating that it is licensed to transact insurance or reinsurance in at least one state, or in the case of a branch in the United States of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) Files annually with the Commissioner a copy of its annual statement filed with the Division of its state of domicile or entry and a copy of its most recent audited financial statement;

(e) Maintains a surplus as regards policyholders in an amount which is ~~not~~:

(1) **Not** less than \$20,000,000 and whose accreditation ~~is~~

~~—(1) Has~~ **has** not been denied by the Commissioner within 90 days after its submission; or

(2) ~~Has~~ **Less than \$20,000,000 and whose accreditation has** been approved by the Commissioner; and

(f) Pays all applicable fees, including, without limitation, all applicable fees required pursuant to NRS 680C.110.

2. No credit may be allowed for a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after notice and a hearing.

**Sec. 4.** NRS 681A.180 is hereby amended to read as follows:

681A.180 1. Except as otherwise provided in subsection 4, credit must be allowed if reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified financial institution in the United States for the payment of the valid claims of its policyholders and ceding insurers in the United States, their assigns and successors in interest. The assuming insurer shall ~~report~~:

(a) **Report** annually to the Commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners' form of annual statement by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund ~~is~~; and

(b) **Submit to the authority of the Commissioner to examine its books and records.**

2. In the case of a single assuming insurer, the trust must consist of an account in trust equal to the assuming insurer's liabilities attributable to

business written in the United States and the assuming insurer shall maintain a surplus in trust of not less than \$20,000,000.

3. In the case of a group of incorporated and individual unincorporated underwriters ~~[-the]~~ :

(a) **The** trust must consist of an account in trust equal to the group's liabilities attributable to business written in the United States . ~~[and the]~~

(b) **The** group shall ~~[maintain]~~ :

(1) **Maintain** a surplus in trust of which \$100,000,000 must be held jointly for the benefit of ceding insurers in the United States to any member of the group ; ~~[-]~~ and ~~[the group shall make]~~

(2) **Make** available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(c) **The incorporated members of the group:**

(1) **Shall not engage in any business other than underwriting as a member of the group; and**

(2) **Must be subject to the same level of regulation and solvency control by the applicable regulatory agency of the state in which the group is domiciled as the individual unincorporated members of the group.**

4. If the assuming insurer does not meet the requirements of NRS 681A.110, 681A.160 or 681A.170, credit must not be allowed unless the assuming insurer has agreed to the following conditions set forth in the trust agreement:

(a) Notwithstanding any provision to the contrary in the trust instrument, if the trust fund consists of an amount that is less than the amount required pursuant to this section, or if the grantor of the trust fund is declared to be insolvent or placed into receivership, rehabilitation, liquidation or a similar proceeding in accordance with the laws of the grantor's state or country of domicile, the trustee of the trust fund must comply with an order of the commissioner of insurance or other appropriate person with regulatory authority over the trust fund in that state or country or a court of competent jurisdiction requiring the trustee to transfer to that commissioner or person all the assets of the trust fund;

(b) The assets of the trust fund must be distributed by and claims filed with and valued by the commissioner of insurance or other appropriate person with regulatory authority over the trust fund in accordance with the laws of the state in which the trust fund is domiciled that are applicable to the liquidation of domestic insurers in that state;

(c) If the commissioner of insurance or other appropriate person with regulatory authority over the trust fund determines that the assets of the trust fund or any portion of the trust fund are not required to satisfy any claim of any ceding insurer of the grantor of the trust fund in the United States, the

assets must be returned by that commissioner or person to the trustee of the trust fund for distribution in accordance with the trust agreement; and

(d) The grantor of the trust must waive any right that:

(1) Is otherwise available to the grantor under the laws of the United States; and

(2) Is inconsistent with the provisions of this subsection.

**Sec. 5.** NRS 681A.240 is hereby amended to read as follows:

681A.240 A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of NRS 681A.110 or the regulations of the Commissioner concerning risk-based capital must be allowed in an amount not exceeding the liabilities carried by the ceding insurer and the reduction must be in the amount of assets held by or on behalf of the ceding insurer, including assets held in trust for the ceding insurer, under a contract of reinsurance with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified financial institution in the United States. The security may be in any of the following forms:

1. Cash.

2. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets.

3. Irrevocable, unconditional letters of credit, each issued or confirmed by a qualified financial institution in the United States ~~which has been determined by the Commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet such standards of financial condition and standing as are considered necessary or appropriate to regulate the quality of financial institutions~~ whose letters of credit are acceptable to the Commissioner, no later than December 31 of the year for which filing is made, and in the possession of the ceding company on or before the date of filing its annual statement. A letter of credit meeting applicable standards of acceptability of its issuer as of the date of its issuance or confirmation, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of acceptability, continues to be acceptable as security until its expiration, extension, renewal, modification or amendment, whichever first occurs.

4. Any other form of security acceptable to the Commissioner.

**Sec. 6.** NRS 681B.290 is hereby amended to read as follows:

681B.290 1. Except as otherwise provided in subsection 3, on or before March 1 of each year, each domestic insurer, and each foreign insurer domiciled in a state which does not have requirements for reporting risk-based capital, that transacts property, casualty, life or health insurance in this

state shall prepare and submit to the Commissioner, and to each person designated by the Commissioner, a report of the level of the risk-based capital of the insurer as of the end of the immediately preceding calendar year. The report must be in such form and contain such information as required by the regulations adopted by the Commissioner pursuant to this section.

2. The Commissioner shall adopt regulations concerning the amount of risk-based capital required to be maintained by each insurer licensed to do business in this state that is transacting property, casualty, life or health insurance in this state. The regulations must be consistent with the instructions for reporting risk-based capital adopted by the National Association of Insurance Commissioners, as those instructions existed on January 1, 1997. If the instructions are amended, the Commissioner may amend the regulations to maintain consistency with the instructions if the Commissioner determines that the amended instructions are appropriate for use in this state.

3. The Commissioner may exempt from the provisions of this section ~~the~~ :

(a) A domestic insurer who:

~~the~~ (1) Does not transact insurance in any other state; ~~and~~

~~the~~ (2) Does not assume reinsurance that is more than 5 percent of the direct premiums written by the insurer ~~the~~ ; and

(3) ***Writes annual premiums of not more than \$2,000,000.***

(b) ***A prepaid limited health service organization that provides or arranges for the provision of limited health services to fewer than 1,000 enrollees.***

4. ***As used in this section, "prepaid limited health service organization" has the meaning ascribed to it in NRS 695F.050.***

Sec. 7. 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~~; **1002(40)**;

(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.

***(l) A policy or contract providing any hospital, medical, prescription drug or other health care benefits pursuant to 42 U.S.C. §§ 1395w-21 et seq. and 1395w-101 et seq., and any regulations adopted pursuant thereto.***

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. 8.** 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~~ **Two** hundred ~~fifty~~ 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;~~ **life:**

(1) One hundred thousand dollars for coverages other than disability insurance, **long-term care 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 long-term care** insurance; or

(3) Five hundred thousand dollars for basic hospital, medical and surgical insurance or major medical insurance;

(d) With respect to each payee of a structured settlement annuity, or beneficiary or beneficiaries of the payee if deceased, ~~[\$100,000]~~ **\$250,000** 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,]~~ **\$250,000 in present-value annuity benefits, including the value of net cash for surrender and net cash for withdrawal,** 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)]~~ **(e), inclusive,** 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. 9.** NRS 687C.030 is hereby amended to read as follows:

687C.030 1. It is the policy of this State to opt out of and the Commissioner of Insurance shall by regulation opt out of any uniform standard adopted by the Interstate Insurance Product Regulation Commission which provides less protection than a law of this State or otherwise diminishes the rights of policyholders and persons applying for a policy of insurance in this State.

2. Upon determining, or upon becoming aware of a finding of a court of competent jurisdiction which found, that this State must opt out of a uniform standard pursuant to subsection 1, the Commissioner shall provide to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature notice of such determination or finding.

~~{3. This State prospectively opts out of all uniform standards adopted by the Interstate Insurance Product Regulation Commission involving long-term care insurance products.}~~

**Sec. 10.** Chapter 692C of NRS is hereby amended by adding thereto the provisions set forth as sections 11, 12 and 13 of this act.

**Sec. 11.** *“Enterprise risk” means any activity, circumstance, event or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect on the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including, without limitation, any activity, circumstance, event or series of events that may cause:*

1. *The risk-based capital of the insurer to fall below the minimum amount of risk-based capital required by regulations adopted pursuant to NRS 681B.290; or*

2. *The insurer to be in a hazardous financial condition as set forth in regulations adopted pursuant to NRS 680A.205.*

**Sec. 12.** 1. *If a domestic insurer is under the control of a foreign person, the officers and directors of the domestic insurer are not relieved of any obligations or liabilities to which they are subject by law. The domestic insurer must be managed in a manner that ensures its separate operating identity.*

2. *The provisions of this section do not prohibit a registered domestic insurer and one or more other persons from having or sharing common management, participating as a cooperative or sharing employees, property or services in a manner authorized under NRS 692C.360.*

3. *Except as otherwise provided in subsections 6 and 7, at least one person in any quorum for the transaction of business at any meeting of the board of directors of a registered domestic insurer or any committee thereof must be a person who is not:*

*(a) An officer or employee of the domestic insurer or of any entity controlling, controlled by or under common control with the domestic insurer; or*

*(b) A beneficial owner of a controlling interest in the voting stock of the domestic insurer or entity.*

*4. Except as otherwise provided in subsections 6 and 7, not less than one-third of the members of the board of directors of a registered domestic insurer and not less than one-third of the members of each committee of the board of directors of any registered domestic insurer must be persons described in subsection 3.*

*5. Except as otherwise provided in subsections 6 and 7, the board of directors of a registered domestic insurer shall establish one or more committees consisting solely of persons described in subsection 3. Each committee shall:*

*(a) Nominate candidates for director for election by shareholders or policyholders;*

*(b) Evaluate the performance of each principal officer of the registered domestic insurer; and*

*(c) Make recommendations to the board of directors concerning the selection and compensation of each of those principal officers.*

*6. The provisions of subsections 3, 4 and 5 do not apply to a registered domestic insurer if the registered domestic insurer is controlled by an entity and the board of directors of the controlling entity and the committees thereof meet the requirements of subsections 3, 4 and 5.*

*7. A registered domestic insurer may apply to the Commissioner for a waiver of the provisions of this section if the registered domestic insurer has:*

*(a) Annual direct written and assumed premiums of less than \$300,000,000, excluding any premiums reinsured with:*

*(1) The Federal Crop Insurance Corporation of the Risk Management Agency of the United States Department of Agriculture; and*

*(2) The National Flood Insurance Program of the Federal Emergency Management Agency of the United States Department of Homeland Security; or*

*(b) In any other circumstances determined by the Commissioner to warrant a waiver.*

*8. In considering whether or not to grant a waiver pursuant to subsection 7, the Commissioner may consider any relevant factors, including, without limitation:*

*(a) The type of business entity applying for the waiver;*

*(b) The volume of business written;*

*(c) The availability of persons specified in subsection 3 to serve on the board of directors; and*

*(d) The ownership or organizational structure of the registered domestic insurer or controlling person thereof.*

Sec. 13. 1. *The Commissioner may, for any registered insurer who is part of an insurance holding company system with international operations, convene a supervisory college or participate in a supervisory college convened by a state, federal or international regulatory agency with authority over any insurer who is part of the insurance holding company system:*

*(a) To determine whether or not the registered insurer is in compliance with the provisions of this chapter;*

*(b) To assess the business strategy, financial position, legal and regulatory compliance, risk exposure, risk management and governance procedures of the registered insurer; or*

*(c) As part of an examination of the registered insurer pursuant to NRS 692C.410.*

2. *In convening a supervisory college pursuant to subsection 1, the Commissioner may, without limitation:*

*(a) Establish:*

*(1) The membership of the supervisory college;*

*(2) The functions of the supervisory college; and*

*(3) The role of each regulatory agency participating in the supervisory college;*

*(b) Designate a regulatory agency as supervisor of the supervisory college; and*

*(c) Coordinate the activities of the supervisory college, including, without limitation:*

*(1) Meetings;*

*(2) Supervisory activities; and*

*(3) The sharing of information among members of the supervisory college.*

3. *In convening or participating in a supervisory college pursuant to this section, the Commissioner may enter into agreements with other state, federal or international regulatory agencies concerning the governance of a supervisory college. Such an agreement must meet the confidentiality requirements of NRS 692C.420.*

4. *The provisions of this section must not be construed to:*

*(a) Limit the authority of the Commissioner; or*

*(b) Delegate to any supervisory college the authority of the Commissioner to regulate a registered insurer or any affiliate of a registered insurer pursuant to this title.*

5. *As used in this section, “supervisory college” means a temporary or permanent forum for communication and cooperation between regulators, including, without limitation, state, federal and international regulatory agencies which are charged with regulating and supervising an insurer.*

**Sec. 14.** NRS 692C.020 is hereby amended to read as follows:

692C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 692C.025 to 692C.110, inclusive, **and section 11 of this act** have the meanings ascribed to them in those sections.

**Sec. 15.** NRS 692C.140 is hereby amended to read as follows:

692C.140 In addition to making investments in common stock, preferred stock, debt obligations and other securities permitted under chapter 682A of NRS, a domestic insurer may invest:

1. In common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, amounts which do not exceed the lesser of 10 percent of the insurer’s assets or 50 percent of its surplus as regards policyholders, if the insurer’s surplus as regards policyholders remains at a reasonable level in relation to the insurer’s outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments ~~to the~~:

*(a) Any investment in a domestic or foreign insurance subsidiary or health maintenance organization must be excluded.*

*(b) The following must be included:*

~~[(a)]~~ (1) Total **net** money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

~~[(b)]~~ (2) All amounts expended in acquiring additional common stock, preferred stock, debt obligations and other securities and all contributions to the capital or surplus of a subsidiary after its acquisition or formation.

2. Any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries ~~that~~ **that are engaged exclusively in or organized to engage exclusively in the ownership and management of assets which are authorized as investments of the domestic insurer**, if each subsidiary agrees to limit its investments in any asset so that those investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in subsection 1 or in chapter 682A of NRS. For the purpose of this subsection, “total investment of the insurer” includes any direct investment by the insurer in an asset and the insurer’s proportionate share of any investment in an asset by any subsidiary of the insurer, which must be calculated by multiplying the

amount of the subsidiary's investment by the percentage of the insurer's ownership of the subsidiary.

3. Any amount in common stock, preferred stock, debt obligations or other securities of one or more subsidiaries, with the approval of the Commissioner, if the insurer's surplus as regards policyholders remains at a reasonable level in relation to the insurer's outstanding liabilities and adequate to its financial needs.

**Sec. 16.** NRS 692C.160 is hereby amended to read as follows:

692C.160 Whether or not any investment made pursuant to NRS 692C.140 meets the applicable requirements thereof is to be determined ~~immediately after~~ **before** such investment is made ~~[-]~~ **by calculating the applicable investment limitations as though the investment has already been made**, taking into account the then outstanding principal balance on all previous investments in debt obligations, ~~and~~ the value of all previous investments in equity securities as of the date they were made ~~[-]~~ **and the net of any return of capital invested, not including dividends.**

**Sec. 17.** NRS 692C.180 is hereby amended to read as follows:

692C.180 1. No person other than the issuer may make a tender for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire or acquire in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, the person would directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer, nor may any person enter into an agreement to merge with or otherwise acquire control of a domestic insurer, unless, at the time any such offer, request or invitation is made or any such agreement is entered into, or before the acquisition of those securities if no offer or agreement is involved, the person has filed with the Commissioner and has sent to the insurer, and the insurer has sent to its shareholders, a statement containing the information required by NRS 692C.180 to 692C.250, inclusive, and , **except as otherwise provided in subsection 4**, the offer, request, invitation, agreement or acquisition has been approved by the Commissioner in the manner prescribed in this chapter.

2. **The statement required by subsection 1 must be filed with the Commissioner at least 60 days before the proposed date of the acquisition. The statement must set forth, without limitation, the information required by NRS 692C.254. A person who fails to comply with this subsection is subject to the penalties set forth in subsections 6 and 7 of NRS 692C.258.**

3. **A person controlling a domestic insurer who is seeking to divest his or her controlling interest in the domestic insurer shall file with the Commissioner, and send to the insurer, notice of the proposed divestiture at least 30 days before the proposed divestiture, unless a statement has been filed pursuant to subsection 1 concerning the proposed transaction. Notice**



*filed pursuant to this subsection is confidential until the conclusion, if any, of the divestiture unless the Commissioner determines that such confidentiality will interfere with the enforcement of this section.*

**4.** *Upon receiving a statement or notice pursuant to this section by a person seeking to acquire a controlling interest in a domestic insurer or divest a controlling interest in a domestic insurer, the Commissioner shall determine whether or not the person will be required to file for and obtain the approval of the Commissioner for the acquisition or divestiture. As soon as practicable after making that determination, the Commissioner shall notify the person of the results of the determination.*

**5.** For purposes of this section, a domestic insurer includes any other person controlling a domestic insurer unless the other person is directly or through affiliates primarily engaged in a business other than the business of insurance. If a person is directly or through affiliates primarily engaged in a business other than the business of insurance, the person shall, at least 60 days before the proposed effective date of the acquisition, file a notice of intent to acquire with the Commissioner setting forth the information required by NRS 692C.254.

**6.** *As used in this section, “person” does not include a securities broker who, in the regular course of business as a broker, holds less than 20 percent of the voting securities of an insurer or of any person who controls an insurer.*

**Sec. 18.** NRS 692C.190 is hereby amended to read as follows:

692C.190 The statement to be filed with the Commissioner hereunder shall be made under oath or affirmation and shall contain the following:

1. The name and address of each person (hereinafter called the “acquiring party”) by whom or on whose behalf the merger or other acquisition of control referred to in **subsection 1 of** NRS 692C.180 is to be effected and, if such person is:

(a) An individual, the individual’s principal occupation and all offices and positions held by the individual during the past 5 years, and any conviction of crimes other than for minor traffic violations during the past 10 years.

(b) Not an individual, a report of the nature of its business operations during the past 5 years or for such lesser period as such person and any predecessors thereof shall have been in existence, together with an informative description of the business intended to be done by such person and such person’s subsidiaries, and a list of all individuals who are or who have been selected to become directors or executive officers of such person or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by paragraph (a).

2. The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration, but where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

3. Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding 5 fiscal years of each such acquiring party (or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement.

4. Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

5. The number of shares of any security referred to in **subsection 1 of NRS 692C.180** which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in **subsection 1 of NRS 692C.180** and a statement as to the method by which the fairness of the proposal was determined.

6. The amount of each class of any security referred to in **subsection 1 of NRS 692C.180** which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

7. A full description of any contracts, arrangements or understandings with respect to any security referred to in **subsection 1 of NRS 692C.180** in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been made.

8. A description of the purchase of any security referred to in **subsection 1 of NRS 692C.180** during the 12 calendar months preceding the filing of the statement by any acquiring party, including the dates of purchase, names of the purchasers and consideration paid or agreed to be paid therefor.

9. A description of any recommendations to purchase any security referred to in **subsection 1 of NRS 692C.180** made during the 12 calendar months preceding the filing of the statement by any acquiring party, or by anyone based upon interviews with or at the suggestion of such acquiring party.

10. Copies of all tenders, offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection 1, and, if distributed, additional soliciting material relating thereto.

11. The terms of any agreement, contract or understanding made with any broker-dealer, as to solicitation of securities referred to in **subsection 1 of** NRS 692C.180, for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

12. Such additional information as the Commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policy holders and security holders of the insurer or for the protection of the public interest.

➤ If the person required to file the statement referred to in this section is a partnership, limited partnership, syndicate or other group, the Commissioner may require that the information required by ~~subsections 1 to 12, inclusive, of~~ this section, be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in **subsection 1 of** NRS 692C.180 is a corporation, the Commissioner may require that the information required by ~~subsections 1 to 12, inclusive, of~~ this section, be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than 10 percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the Commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commissioner and sent to such insurer within 2 business days after the person learns of such change. Such insurer shall send each such amendment to its shareholders.

**Sec. 19.** NRS 692C.200 is hereby amended to read as follows:

692C.200 If any offer, request, invitation, agreement or acquisition referred to in **subsection 1 of** NRS 692C.180 is proposed to be made by means of a registration statement under the Securities Act of 1933, 15 U.S.C. §§ 77a to 77aa, inclusive, or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, 15 U.S.C. §§ ~~77b~~ **78a** et seq., or under any state law requiring similar registration or disclosure, the person required to file the statement referred to in **subsection 1 of** NRS 692C.180 may utilize such documents in furnishing the information called for by that statement.

**Sec. 20.** NRS 692C.210 is hereby amended to read as follows:

692C.210 1. Except as otherwise provided in ~~subsection~~ **subsections 5 ~~1~~ and 7**, the Commissioner shall approve any merger or other acquisition of control referred to in **subsection 1 of** NRS 692C.180 unless, after a public hearing thereon, the Commissioner finds that:

(a) After the change of control, the domestic insurer specified in **subsection 1 of** NRS 692C.180 would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(b) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly;

(c) The financial condition of any acquiring party may jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining security holders who are unaffiliated with the acquiring party;

(d) The terms of the offer, request, invitation, agreement or acquisition referred to in **subsection 1 of** NRS 692C.180 are unfair and unreasonable to the security holders of the insurer;

(e) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer or not in the public interest;

(f) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer or of the public to permit the merger or other acquisition of control;

(g) If approved, the merger or acquisition of control would likely be harmful or prejudicial to the members of the public who purchase insurance; or

(h) The practices of the applicant in managing claims have evidenced a pattern in which the applicant has knowingly committed, or performed with such frequency as to indicate a general business practice of:

(1) Misrepresentation of pertinent facts or provisions of policies of insurance as they relate to coverages at issue;

(2) Failure to affirm or deny coverage of claims within a reasonable time after written proofs of loss have been furnished; or

(3) Failure to pay claims in a timely manner.

2. ~~The~~ **Except as otherwise provided in subsection 7, the** public hearing specified in subsection 1 must be held within ~~60~~ **30** days after the statement required by **subsection 1 of** NRS 692C.180 has been filed, and at

least 20 days' notice thereof must be given by the Commissioner to the person filing the statement. Not less than 7 days' notice of the public hearing must be given by the person filing the statement to the insurer and to any other person designated by the Commissioner. The insurer shall give such notice to its security holders. The Commissioner shall make a determination within 60 days after the conclusion of the hearing. If the Commissioner determines that an infusion of capital to restore capital in connection with the change in control is required, the requirement must be met within 60 days after notification is given of the determination. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent and any other person whose interests may be affected thereby may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and, in connection therewith, may conduct discovery proceedings in the same manner as is presently allowed in the district court of this state. All discovery proceedings must be concluded not later than 3 days before the commencement of the public hearing.

3. The Commissioner may retain at the acquiring party's expense attorneys, actuaries, accountants and other experts not otherwise a part of the staff of the Commissioner as may be reasonably necessary to assist the Commissioner in reviewing the proposed acquisition of control.

4. The period for review by the Commissioner must not exceed the 60 days allowed between the filing of the notice of intent to acquire required pursuant to subsection ~~{2}~~ 5 of NRS 692C.180 and the date of the proposed acquisition if the proposed affiliation or change of control involves a financial institution, or an affiliate of a financial institution, and an insured.

5. When making a determination pursuant to paragraph (b) of subsection 1, the Commissioner:

(a) Shall require the submission of the information specified in subsection 2 of NRS 692C.254; ~~and~~

(b) ***Shall consider:***

***(1) The standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the statement required pursuant to subsection 1 of NRS 692C.180; and***

***(2) The factors described in subsection 3 of NRS 692C.256; and***

***(c) May condition approval of the merger or acquisition of control in the manner provided in subsection 4 of NRS 692C.258.***

6. If, in connection with a change of control of a domestic insurer, the Commissioner determines that the person who is acquiring control of the domestic insurer must maintain or restore the capital of the domestic insurer in an amount that is required by the laws and regulations of this state, the Commissioner shall make the determination not later than 60 days after the

notice of intent to acquire required pursuant to subsection ~~{2}~~ 5 of NRS 692C.180 is filed with the Commissioner.

***7. If the proposed merger or other acquisition of control referred to in subsection 1 of NRS 692C.180 requires the approval of the commissioner of more than one state, the public hearing required pursuant to subsection 1 may, upon the request of the person who filed the statement required pursuant to subsection 1 of NRS 692C.180, be consolidated with the hearings required in other states. Not more than 5 days after receiving such a request, the Commissioner shall file with the National Association of Insurance Commissioners a copy of the statement that was filed with the Commissioner pursuant to subsection 1 of NRS 692C.180 by the person requesting a consolidated hearing. The Commissioner may opt out of a consolidated hearing and, if the Commissioner elects to do so, he or she shall provide notice to the person requesting the consolidated hearing not more than 10 days after receiving the statement filed pursuant to subsection 1 of NRS 692C.180. A consolidated hearing must be public and must be held within the United States before participating commissioners of the states in which the insurers are domiciled. Participating commissioners may hear and receive evidence at the hearing.***

**Sec. 21.** NRS 692C.256 is hereby amended to read as follows:

692C.256 1. The Commissioner may issue an order pursuant to NRS 692C.258 relating to an acquisition if:

(a) The effect of the acquisition may substantially lessen competition in any line of insurance in this state or tend to create a monopoly; or

(b) The acquiring person fails to file sufficient materials or information pursuant to NRS 692C.254.

2. In determining whether to issue an order pursuant to subsection 1, the Commissioner shall consider the standards set forth in the Horizontal Merger Guidelines issued by the United States Department of Justice and the Federal Trade Commission and in effect at the time the Commissioner receives the notice required pursuant to NRS 692C.254.

3. The Commissioner shall, before issuing an order specified in subsection 1, consider:

(a) If:

(1) The acquisition creates substantial economies of scale or economies in the use of resources that may not be created in any other manner; and

(2) The public benefit received from those economies exceeds the public benefit received from not lessening competition; or

(b) If:

(1) The acquisition substantially increases the availability of insurance; and

(2) The public benefit received by that increase exceeds the public benefit received from not lessening competition.

4. The public benefits set forth in subparagraph 2 of paragraphs (a) and (b) of subsection 3 may be considered together, as applicable, in assessing whether the public benefits received from the acquisition exceed any benefit to competition that would arise from disapproving the acquisition.

5. The ~~acquiring person~~ **Commissioner** has the burden of establishing that the acquisition will ~~not~~ result in a violation of the competitive standard set forth in subsection 1.

**Sec. 22.** NRS 692C.270 is hereby amended to read as follows:

692C.270 Every insurer subject to registration shall file ~~fa~~:

**1.** A registration statement on a form provided by the Commissioner, which must contain current information about:

~~1-1~~ **(a)** The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer.

~~1-2~~ **(b)** The identity of every member of the insurance holding company system.

~~1-3~~ **(c)** The following agreements in force, relationships subsisting and transactions currently outstanding between the insurer and its affiliates:

~~1(a)~~ **(1)** Loans, other investments or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates.

~~1(b)~~ **(2)** Purchases, sales or exchanges of assets.

~~1(c)~~ **(3)** Transactions not in the ordinary course of business.

~~1(d)~~ **(4)** Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business.

~~1(e)~~ **(5)** All management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles.

~~1(f)~~ **(6)** Reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

~~1(g)~~ **(7)** Any dividend or other distribution made to a shareholder.

~~1(h)~~ **(8)** Any consolidated agreement to allocate taxes.

~~1-4~~ **(d)** Any pledge of the insurer's stock, including the stock of any subsidiary or controlling affiliate of the insurer, for a loan made to any member of the insurance holding company system.

~~1-5~~ **(e)** Any other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

**2. A statement verifying that:**

*(a) The board of directors of the insurer oversees the corporate governance and internal controls of the insurer; and*

*(b) Officers or senior management of the insurer have approved, implemented and continue to maintain and monitor the corporate governance and internal controls of the insurer.*

*3. Financial statements of the insurance holding company system and all affiliates, if requested by the Commissioner. This requirement may be satisfied by providing the most recent statement filed with the United States Securities and Exchange Commissioner pursuant to the Securities Act of 1933, 15 U.S.C. §§ 78a et seq., by the insurance holding company system or its parent corporation.*

**Sec. 23.** NRS 692C.290 is hereby amended to read as follows:

692C.290 **1.** Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on forms provided by the Commissioner within 15 days after the end of the month in which it learns of each such change or addition, and not less often than annually, except that, subject to the provisions of NRS 692C.390, each registered insurer shall report all dividends and other distributions to shareholders within 5 business days following the declaration and 10 days before payment.

*2. If the principal of a registered insurer does not file a report of enterprise risk with the commissioner of the lead state of the insurance company system, as determined by the most recent edition of the Financial Analysis Handbook, published by the National Association of Insurance Commissioners, in a calendar year, the principal shall file a report of enterprise risk with the Commissioner. The principal shall include in the report the material risks within the insurance holding company system that, to the best of his or her knowledge and belief, may pose enterprise risk to the registered insurer.*

**Sec. 24.** NRS 692C.360 is hereby amended to read as follows:

692C.360 **1.** Material transactions by registered insurers with their affiliates are subject to all of the following standards:

~~{1-}~~ **(a)** The terms must be fair and reasonable.

~~{2-}~~ **(b)** Charges or fees for services performed must be reasonable.

~~{3-}~~ **(c)** Expenses incurred and payment received must be allocated to the insurer in conformity with customary accounting practices concerning insurance consistently applied.

~~{4-}~~ **(d)** The books, accounts and records of each party must be so maintained as to disclose clearly and accurately the precise nature and details of the transactions ~~+~~

~~—5-}~~ *and must include any accounting information required to support the reasonableness of any charges or fees.*



(e) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

**2. The Commissioner may adopt regulations governing agreements for sharing the cost of services or management between registered insurers and their affiliates.**

**Sec. 25.** NRS 692C.363 is hereby amended to read as follows:

692C.363 1. ~~1A~~ **Except as otherwise provided in subsection 2,** a domestic insurer shall not enter into any of the following transactions with an affiliate unless the insurer has notified the Commissioner in writing of its intention to enter into the transaction at least ~~60~~ **30** days previously, or such shorter period as the Commissioner may permit, and the Commissioner has not disapproved it within that period:

(a) A sale, purchase, exchange, loan or extension of credit, guaranty or investment if the transaction equals at least:

(1) With respect to an insurer other than a life insurer, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders; or

(2) With respect to a life insurer, 3 percent of the insurer's admitted assets,

↪ computed as of December 31 next preceding the transaction.

(b) A loan or extension of credit to any person who is not an affiliate, if the insurer makes the loan or extension of credit with the agreement or understanding that the proceeds of the transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer if the transaction equals at least:

(1) With respect to insurers other than life insurers, the lesser of 3 percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders; or

(2) With respect to life insurers, 3 percent of the insurer's admitted assets,

↪ computed as of December 31 next preceding the transaction.

(c) ~~1A~~ **A pooling agreement or other** agreement for reinsurance or a modification thereto in which the premium for reinsurance or a change in the insurer's liabilities equals at least 5 percent of the insurer's surplus as regards policyholders as of December 31 next preceding the transaction, including an agreement which requires as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of those assets will be transferred to an affiliate of the insurer.

(d) An agreement for management, ***agreement to allocate taxes***, contract for service, guarantee or arrangement to share costs.

(e) A guaranty made by a domestic insurer, ***regardless of whether the guaranty is quantifiable as to amount***, except that a guaranty that is quantifiable as to amount is not subject to the provisions of this subsection unless the guaranty exceeds the lesser of one-half of 1 percent of the admitted assets of the domestic insurer or 10 percent of its surplus as regards policyholders as of December 31 next preceding the guaranty.

(f) Except as otherwise provided in subsection ~~13.1~~ **4**, a direct or indirect acquisition of or investment in a person who controls the domestic insurer or an affiliate of the domestic insurer in an amount that, when added to its present holdings, exceeds 2.5 percent of the domestic insurer's surplus to policyholders.

(g) A material transaction, specified by regulation, which the Commissioner determines may adversely affect the interest of the insurer's policyholders.

**2. A domestic insurer shall not amend or modify any agreement with an affiliate to enter into a transaction subject to the provisions of subsection 1 unless the insurer notifies the Commissioner. The notice must be given not less than 30 days before the effective date of the amendment or modification and must include, without limitation, the reasons for the amendment or modification and the financial impact, if any, of the amendment or modification on the domestic insurer. Upon receipt of a notice pursuant to this subsection, the Commissioner shall determine whether the amendment or modification is subject to the provisions of subsection 1 and notify the domestic insurer of the Commissioner's determination within 30 days. If the Commissioner does not give such notice within 30 days after receiving the notice from the domestic insurer, the amendment or modification shall be deemed to be approved.**

**3.** This section does not authorize or permit any transaction which, in the case of an insurer not an affiliate, would be contrary to law.

~~13.1~~ **4.** The provisions of paragraph (f) of subsection 1 do not apply to a direct or indirect acquisition of or investment in:

(a) A subsidiary acquired in accordance with this section or NRS 692C.140; or

(b) A nonsubsidiary insurance affiliate that is subject to the provisions of this chapter.

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

**Sec. 27.** NRS 692C.390 is hereby amended to read as follows:

692C.390 1. An insurer subject to registration under NRS 692C.260 to 692C.350, inclusive, shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(a) Thirty days after the Commissioner has received notice of the declaration thereof and has not within that period disapproved the payment; or

(b) The Commissioner approves the payment within the 30-day period.

2. A request for approval of an extraordinary dividend or any other extraordinary distribution pursuant to subsection 1 must include:

(a) A statement indicating the amount of the proposed dividend or distribution;

(b) The date established for the payment of the proposed dividend or distribution;

(c) A statement indicating whether the proposed dividend or distribution is to be paid in the form of cash or property and, if it is to be paid in the form of property, a description of the property, its cost and its fair market value together with an explanation setting forth the basis for determining its fair market value;

(d) A copy of a work paper or other document setting forth the calculations used to determine that the proposed dividend or distribution is extraordinary, including:

(1) The amount, date and form of payment of each regular dividend or distribution paid by the insurer, other than any distribution of a security of the insurer, within the 12 consecutive months immediately preceding the date established for the payment of the proposed dividend or distribution;

(2) The amount of surplus, if any, as regards policyholders, including total capital and surplus, as of December 31 next preceding;

(3) If the insurer is a life insurer, the amount of any net gains obtained from the operations of the insurer for the 12-month period ending December 31 next preceding;

(4) If the insurer is not a life insurer, the amount of net income of the insurer less any realized capital gains for the 12-month period ending on the December 31 of the year next preceding and the two consecutive 12-month periods immediately preceding that period; and

(5) If the insurer is not a life insurer, the amount of each dividend paid by the insurer to shareholders, other than a distribution of any securities of the insurer, during the preceding 2 calendar years;

(e) A balance sheet and statement of income for the period beginning on the date of the last annual statement filed by the insurer with the Commissioner and ending on the last day of the month immediately preceding the month in which the insurer files the request for approval; and

(f) A brief statement setting forth:

(1) The effect of the proposed dividend or distribution upon the insurer's surplus;

(2) The reasonableness of the insurer's surplus in relation to the insurer's outstanding liabilities; and

(3) The adequacy of the insurer's surplus in relation to the insurer's financial requirements.

3. *In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous 2 calendar years that has not already been paid out as dividends. The amount the insurer may carry forward must be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediately preceding calendar years.*

4. Each insurer specified in subsection 1 that pays an extraordinary dividend or makes any other extraordinary distribution to its shareholders shall, within 15 days after declaring the dividend or making the distribution, report that fact to the Commissioner. The report must include the information specified in paragraph (d) of subsection 2.

**Sec. 28.** NRS 692C.410 is hereby amended to read as follows:

692C.410 1. Subject to the limitation contained in this section and in addition to the powers which the Commissioner has under NRS 679B.230 to 679B.287, inclusive, relating to the examination of insurers, the Commissioner may ~~order~~ **examine** any insurer registered under NRS 692C.260 to 692C.350, inclusive, ~~to produce such records, books or other information papers in its possession or in the possession of its affiliates as may be necessary to ascertain the financial condition or legality of conduct of such insurer.~~ **and any affiliate of the insurer to ascertain the financial condition of the insurer, including, without limitation, the enterprise risk posed to the insurer by a person controlling the insurer, any entity or combination of entities within the insurance holding company system or by the insurance holding company system. The Commissioner may order any insurer registered under NRS 692C.260 to 692C.350, inclusive, to produce any information not in the possession of the insurer if the insurer is able to obtain the information pursuant to any contractual or statutory requirement or any other method. If the insurer is unable to obtain any information requested by the Commissioner pursuant to this section, the insurer shall provide to the Commissioner a statement setting forth the reasons the insurer is unable to obtain the information and the identity of the holder of the information, if known to the insurer. Whenever it appears to the Commissioner that the detailed explanation is without merit, the Commissioner may require, after notice and hearing, the insurer to pay a penalty of \$100 for each day the requested information is not produced or may suspend or revoke the license of the insurer.** In the event such insurer

fails to comply with such order, the Commissioner may examine such affiliates to obtain such information.

2. The Commissioner shall exercise his or her power under ~~subsection~~ **subsections 1 and 5** only if the examination of the insurer under NRS 679B.230 to 679B.287, inclusive, is inadequate or the interests of the policyholders of such insurer may be adversely affected.

3. The Commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist in the conduct of the examination under ~~subsection~~ **subsections 1 ~~4~~ and 5**. Any persons so retained shall be under the direction and control of the Commissioner and shall act in a purely advisory capacity.

4. Each ~~registered~~ insurer producing for examination **any information pursuant to subsection 1 or any** records, books and papers pursuant to subsection ~~4~~ **5** shall be liable for and shall pay the expense of such examination in accordance with NRS 679B.290.

5. *To carry out the provisions of this section and except as otherwise provided in subsection 2, the Commissioner may subpoena witnesses, compel their attendance, administer oaths, examine any person under oath concerning the subject of the examination and require the production of any books, papers, records, correspondence or any other documents which the Commissioner deems relevant to the examination. If any person fails to obey a subpoena or refuses to testify as to any matter relating to the subject of the examination, the Commissioner may file a written report describing the refusal and proof of service of the subpoena in any court of competent jurisdiction in the county in which the examination is being conducted, for such action as the court may determine. Failure by the person to obey an order of the court pursuant to this section is punishable as contempt of court.*

6. *A person subpoenaed under subsection 5 is entitled to witness fees and mileage as allowed for testimony in a court of record. The insurer or affiliate being examined must pay the witness fees and mileage, as well as any other expense incurred in securing the attendance of witnesses for the examination in accordance with NRS 679B.290.*

**Sec. 28.5. NRS 694C.143 is hereby amended to read as follows:**

694C.143 "Sponsor" means an insurer licensed pursuant to the laws of any state, a reinsurer authorized or approved under the laws of any state, ~~for~~ a captive insurer formed or licensed pursuant to this chapter **or a person** that:

1. Meets the requirements of subsection 3 of NRS 694C.180 ~~4~~ **or is approved as a sponsor by the Commissioner;** and

2. Is approved by the Commissioner to provide all or part of the capital and surplus required by applicable law and to organize and operate a sponsored captive insurer.

**Sec. 28.6. NRS 694C.195 is hereby amended to read as follows:**

694C.195 1. One or more sponsors may form a sponsored captive insurer pursuant to this chapter.

2. A sponsored captive insurer formed or licensed pursuant to this chapter may establish and maintain one or more protected cells to insure the risks of one or more participants, subject to the following conditions:

(a) The shareholders of a sponsored captive insurer must be limited to its participants and sponsors, provided that the sponsored captive insurer may issue nonvoting securities to other persons on terms approved by the Commissioner;

(b) Each protected cell must be accounted for separately on the books and records of the sponsored captive insurer to reflect the financial condition and results of operations of that protected cell, including, but not limited to, the net income or loss, dividends, or other distributions to participants, and such other factors as may be set forth in the participant contract or required by the Commissioner;

(c) The assets of a protected cell must not be chargeable with liabilities arising out of any other insurance business which the sponsored captive insurer may conduct;

(d) A sponsored captive insurer shall not make a sale, exchange, transfer of assets, dividend or distribution between or among any of its protected cells without the consent of any participant for which the protected cells are maintained;

(e) A sponsored captive insurer shall not make a sale, exchange, transfer of assets, dividend or distribution from a protected cell to a sponsor or participant without the prior written approval of the Commissioner, and the Commissioner shall not give written approval if the sale, exchange, transfer, dividend or distribution would result in the insolvency or impairment of the protected cell;

(f) On or before March 1 of each year, a sponsored captive insurer must file with the Commissioner a report of its financial condition, including, but not limited to, accounting statements detailing the financial experience of each protected cell and any other information required by the Commissioner;

(g) A sponsored captive insurer must notify the Commissioner not more than 10 business days after a protected cell becomes insolvent or otherwise unable to meet its claims or expense obligations;

(h) A participant contract must not become effective without the prior written approval of the Commissioner;

(i) The addition of each new protected cell, the withdrawal of any participant of a protected cell or the termination of any existing protected cell constitutes a change in the business plan and requires the prior written approval of the Commissioner; and

(j) The business written by a sponsored captive insurer with respect to each protected cell must be:

(1) Fronted by an insurer licensed pursuant to the laws of any state;

(2) Reinsured by a reinsurer authorized or approved by the Commissioner; or

(3) Secured by a trust fund in the United States for the benefit of policyholders and claimants or funded by an irrevocable letter of credit or other arrangement that is acceptable to the Commissioner. The amount of security provided must not be less than the reserves associated with those liabilities, which are not fronted or reinsured pursuant to subparagraph (1) or (2), including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums for business written through the protected cell maintained for the participant. The Commissioner may require the sponsored captive insurer to increase the funding of any security arrangement established under this subsection. If the form of security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State, a member of the Federal Reserve System or a bank chartered in another state if the bank is deemed acceptable by the Commissioner. A trust maintained pursuant to this subparagraph must be established in a form and under such terms that are approved by the Commissioner.

3. A sponsor of a sponsored captive insurer must:

(a) Be an insurer licensed pursuant to the laws of any state, a reinsurer authorized or approved under the laws of any state, ~~or~~ a captive insurer formed or licensed pursuant to this chapter ~~or~~ **or a person approved as a sponsor by the Commissioner;** and

(b) Not be a risk retention group.

4. A participant in a sponsored captive insurer need not be a shareholder of the sponsored captive insurer or an affiliate of the sponsored captive insurer and:

(a) May be an association, corporation, limited-liability company, partnership, trust or other form of business organization;

(b) May be a sponsor of the sponsored captive insurer; and

(c) Must not be a risk retention group.

5. A participant in a sponsored captive insurer shall insure only its own risks through a sponsored captive insurer.

**Sec. 29.** NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before ~~June 30~~ **March 1** 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.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 ~~to~~:

~~—(a) The~~ , **the** annual report is due not later than ~~[180]~~ **60** days after the end of each such fiscal year . ~~to and~~

~~—(b) The~~

3. A 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.]~~ 4. 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.]~~ 5. 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. 30.** NRS 695E.080 is hereby amended to read as follows:

695E.080 “Plan of operation” means an analysis of the expected activities and results of a risk retention group, including:

1. The coverages, deductibles, limits of coverage, rates and systems of rating classification for each line of insurance the group intends to offer;

2. Historical and expected loss experience of the proposed members, and national experience of similar exposures to the extent that this experience is reasonably available;



3. Pro forma financial statements and projections;
4. Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition;
5. Identification of management, underwriting procedures, policies for investment and methods for managerial oversight; ~~and~~
6. ***Identification of each state in which the group has obtained, or sought to obtain, a charter and a license, and a description of the status of the group in each of those states;***
7. ***Information that is deemed sufficient by the Commissioner to verify that members of the group are engaged in business activities similar or related with respect to the liability to which they are exposed because of any related, similar or common business, trade, product, service, premise or operation; and***
8. Such other matters as are prescribed by the Commissioner for liability insurers authorized by the insurance laws of the state in which the risk retention group is chartered.

**Sec. 31.** NRS 695E.120 is hereby amended to read as follows:

695E.120 A purchasing group that intends to conduct business in this state shall register with the Commissioner and:

1. Furnish notice to the Commissioner that:
  - (a) Identifies the state in which the group is domiciled;
  - (b) Specifies the lines and classifications of liability insurance that the purchasing group intends to purchase;
  - (c) Identifies the insurer from which the group intends to purchase its insurance and the domicile of the insurer;
  - (d) Identifies the principal place of business of the group;
  - (e) Identifies all other states in which the group intends to do business;
  - ~~and~~
  - (f) ***Specifies the method by which insurance will be offered to its members whose risks are resident, located or to be performed in this State;***
  - (g) ***Provides the name, address and telephone number of each person, if any, through whom insurance will be offered to its members whose risks are resident, located or to be performed in this State; and***
  - (h) Provides such other information as the Commissioner requires to verify and determine:

- (1) Its qualification as a purchasing group;
- (2) Where the purchasing group is located; and
- (3) The appropriate tax treatment of the purchasing group; and

2. Appoint the Commissioner as its agent solely to receive service of legal process, and pay the fee for filing a power of attorney required by

subsection 4 of NRS 680B.010, except that this subsection does not apply to a purchasing group that:

(a) Was domiciled before April 1, 1986, and on and after October 27, 1986, in any state;

(b) Before and after October 27, 1986, purchased its insurance from an insurer licensed in any state;

(c) Was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 before October 27, 1986; and

(d) Does not purchase insurance that was not authorized for an exemption under that act, as in effect before October 27, 1986.

**Sec. 32.** NRS 695E.140 is hereby amended to read as follows:

695E.140 1. A risk retention group seeking to be chartered in this State must obtain a certificate of authority pursuant to chapter 694C of NRS to transact liability insurance and, except as otherwise provided in this chapter, must comply with:

(a) All of the laws, regulations and requirements applicable to liability insurers in this State ~~and~~, ***unless otherwise approved by the Commissioner;*** and

(b) The provisions of NRS 695E.150 to 695E.210, inclusive, to the extent that those provisions do not limit or conflict with the provisions with which the group is required to comply pursuant to paragraph (a).

2. ***A risk retention group applying to be chartered in this State must submit to the Commissioner in summary form:***

***(a) The identities of:***

***(1) All members of the group;***

***(2) All organizers of the group;***

***(3) Those persons who will provide administrative services to the group; and***

***(4) Any person who will influence or control the activities of the group;***

***(b) The amount and nature of initial capitalization of the group;***

***(c) The coverages to be offered by the group; and***

***(d) Each state in which the group intends to operate.***

3. Before it may transact insurance in any state, the risk retention group must submit to the Commissioner for approval by the Commissioner a plan of operation. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in any item of the plan of operation within 10 days after the change. The group shall not offer any additional kinds of liability insurance, in this State or in any other state, until a revision of the plan is approved by the Commissioner.

~~{3-}~~ 4. A risk retention group chartered in this State must file with the Commissioner on or before February 1 of each year a statement containing information concerning the immediately preceding year, which must be:

(a) Submitted in a form prescribed by the National Association of Insurance Commissioners;

(b) Prepared in accordance with the Accounting Practices and Procedures Manual adopted by the National Association of Insurance Commissioners and effective on January 1, 2001, and as amended by the National Association of Insurance Commissioners after that date; and

(c) Submitted on a diskette, if required by the Commissioner.

5. The Commissioner shall transmit to the National Association of Insurance Commissioners a copy of:

(a) All information submitted by a risk retention group to the Commissioner pursuant to subsections 2 and 4; and

(b) Any revisions to a plan of operation submitted to the Commissioner pursuant to subsection 3.

6. A risk retention group chartered in a state other than Nevada that is seeking to transact insurance as a risk retention group in this State must comply with the provisions of NRS 695E.150 to 695E.210, inclusive.

**Sec. 33.** NRS 695E.150 is hereby amended to read as follows:

695E.150 1. Before transacting insurance in this state, a risk retention group must submit to the Commissioner:

~~{1-}~~ (a) A statement of registration identifying:

~~{(a)}~~ (1) Each state in which the risk retention group is chartered or licensed as a liability insurer;

~~{(b)}~~ (2) The date of its charter;

~~{(c)}~~ (3) Its principal place of business; and

~~{(d)}~~ (4) Such other information, including information concerning its membership, as the Commissioner requires to verify its qualification as a risk retention group;

~~{2-}~~ (b) A copy of its plan of operation and any revisions of the plan submitted to its state of domicile, except with respect to any line or classification of liability that was:

~~{(a)}~~ (1) Defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986; and

~~{(b)}~~ (2) Offered before that date by a risk retention group that had been chartered and operating for not less than 3 years before that date; and

~~{3-}~~ (c) A statement appointing the Commissioner as its agent for service of process pursuant to NRS 680A.250, together with the fee for filing a power of attorney required by subsection 4 of NRS 680B.010.

2. The Commissioner shall, upon receipt of any revisions of a plan of operation provided by a risk retention group pursuant to paragraph (b) of

**subsection 1, transmit a copy of those revisions to the National Association of Insurance Commissioners.**

**Sec. 34.** NRS 695E.170 is hereby amended to read as follows:

695E.170 1. A risk retention group and its agents and representatives are subject to the provisions of NRS 686A.010 to 686A.310, inclusive. Any injunction obtained pursuant to those sections must be obtained from a court of competent jurisdiction.

2. All premiums paid for coverages within this state to a risk retention group are subject to the provisions of chapter 680B of NRS. Each risk retention group shall report all premiums paid to it and shall pay the taxes on premiums and any related fines or penalties for risks resident, located or to be performed in the state.

**3. Any person acting as an agent or a broker for a risk retention group pursuant to NRS 695E.210 shall:**

**(a) Report to the Commissioner each premium for direct business for risks resident, located or to be performed in this State which the person has placed with or on behalf of a risk retention group that is not chartered in this State.**

**(b) Maintain a complete and separate record of each policy obtained from each risk retention group. Each record maintained pursuant to this subsection must be made available upon request by the Commissioner for examination pursuant to NRS 679B.240, and must include, for each policy and each kind of insurance provided therein:**

- (1) The limit of liability;**
- (2) The period covered;**
- (3) The effective date;**
- (4) The name of the risk retention group which issued the policy;**
- (5) The gross annual premium charged; and**
- (6) The amount of return premiums, if any.**

**4. As used in this section, "premiums for direct business" means any premium written in this State for a policy of insurance. The term does not include any premium for reinsurance or for a contract between members of a risk retention group.**

Assemblyman Bobzien moved that the Assembly concur in the Senate Amendment No. 927 to Assembly Bill No. 435.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 287.

The following Senate amendment was read:

Amendment No. 958.

AN ACT relating to mental health; authorizing the involuntary court-ordered admission of certain persons with mental illness to programs of community-based or outpatient services under certain circumstances; requiring a peace officer to take into custody and deliver a person to the appropriate location for an evaluation by an evaluation team from the Division of Mental Health and Developmental Services of the Department of Health and Human Services in certain circumstances; ~~removing the provision which generally requires a person and his or her responsible relatives to pay for certain costs relating to the person's involuntary admission to such a program;~~ providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law prescribes the process for initiating a petition for the involuntary court-ordered admission to a mental health facility of a person who is alleged to have a mental illness. Additionally, existing law specifies that if a court finds that a person has a mental illness and is likely to harm himself or herself or others if not treated, the court must place the person in the most appropriate course of treatment. (NRS 433A.115-433A.330) This bill authorizes the court to order the involuntary admission of such a person to a program of community-based or outpatient services if such a program is an appropriate course of treatment for that person.

**Section 3** of this bill requires that: (1) a plan of treatment be developed by persons who are qualified in the field of psychiatric mental health, in consultation with the person who will receive the treatment; (2) the plan contain certain information relating to the course of treatment; and (3) the developers of the plan submit the plan to the court in writing.

**Section 3.5 of this bill sets forth the manner in which to address a person who has been involuntarily admitted to a program of community-based or outpatient services and who fails to participate in the program or otherwise fails to carry out the written plan of treatment developed for the person and submitted to the court.**

**Section 4** of this bill authorizes under certain circumstances both the conditional release of a person involuntarily admitted to a program of community-based or outpatient services and the revocation of such release, and **section 19** of this bill authorizes the unconditional release of such a person under certain circumstances.

**Section 12 of this bill requires the counsel for a person who is judicially admitted to a program of community-based or outpatient services to represent the person until the person is released from the program. Section 12 also requires the court to serve notice upon such counsel of any action taken involving the person.**

**Section 13** of this bill sets forth the requirements for participation in a program of community-based or outpatient services, including that: (1) the person who is admitted to the program must be 18 years of age or older and have a history of noncompliance with treatment for mental illness; and (2) the court must approve the written plan of treatment which has been developed for the person and submitted to the court.

~~[ Section 18 of this bill sets forth the process by which a professional responsible for providing or coordinating a program of community-based or outpatient services may petition the court to order a peace officer to take into custody and deliver a person who is involuntarily admitted to the program to the appropriate location for an evaluation by an evaluation team from the Division of Mental Health and Developmental Services of the Department of Health and Human Services if the person fails to participate in the program or otherwise fails to carry out the written plan of treatment developed for the person and submitted to the court.]~~

**Section 23** of this bill revises existing law which generally requires a person and his or her responsible relatives to pay for the actual cost of the treatment and services rendered during the person's involuntary admission to a division facility to require the same for an involuntary admission to a program of community-based or outpatient services. (NRS 433A.640) Responsible relatives include only the parent or legal guardian of a minor or the husband or wife of a person. (NRS 433A.610)

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

**Section 1.** Chapter 433A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, ~~3 and~~ to 4, inclusive, of this act.

**Sec. 2.** *“Program of community-based or outpatient services” means care, treatment and training provided to persons with mental illness, including, without limitation:*

- 1. A program or service for the treatment of abuse of alcohol;*
- 2. A program or service for the treatment of abuse of drugs;*
- 3. A program of general education or vocational training;*
- 4. A program or service that assists in the dispensing or monitoring of medication;*
- 5. A program or service that provides counseling or therapy;*
- 6. A service which provides screening tests to detect the presence of alcohol or drugs;*
- 7. A program of supervised living; or*
- 8. Any combination of programs and services for persons with mental illness.*

↪ *The term does not include care, treatment and training provided to residents of a mental health facility.*

*Sec. 3. If a court determines pursuant to NRS 433A.310 that a person should be involuntarily admitted to a program of community-based or outpatient services, the court shall promptly cause two or more persons professionally qualified in the field of psychiatric mental health, which may include the person who filed the petition for involuntary court-ordered admission pursuant to NRS 433A.200 if he or she is so qualified, in consultation with the person to be involuntarily admitted, to develop and submit to the court a written plan prescribing a course of treatment and enumerating the program of community-based or outpatient services for the person. The plan must include, without limitation:*

*1. A description of the types of services in which the person will participate;*

*2. The medications, if any, which the person must take and the manner in which those medications will be administered;*

*3. The name of the person professionally qualified in the field of psychiatric mental health who is responsible for providing or coordinating the program of community-based or outpatient services; and*

*4. Any other requirements which the court deems necessary.*

*Sec. 3.5. 1. When a person who is involuntarily admitted to a program of community-based or outpatient services fails to participate in the program or otherwise fails to carry out the plan of treatment developed pursuant to section 3 of this act, despite efforts by the professional responsible for providing or coordinating the program of community-based or outpatient services for the person to solicit the person's compliance, the professional may petition the court to issue an order requiring a peace officer to take into custody and deliver the person to the appropriate location for an evaluation by an evaluation team from the Division pursuant to NRS 433A.240. The petition must be accompanied by:*

*(a) A copy of the order for involuntary admission;*

*(b) A copy of the plan of treatment submitted to the court pursuant to section 3 of this act;*

*(c) A list that sets forth the specific provisions of the plan of treatment which the person has failed to carry out; and*

*(d) A statement by the petitioner which explains how the person's failure to participate in the program of community-based or outpatient services or failure to carry out the plan of treatment will likely cause the person to harm himself or herself or others.*

*2. If the court determines that there is probable cause to believe that the person is likely to harm himself or herself or others if the person does not comply with the plan of treatment, the court may issue an order*

requiring a peace officer to take into custody and deliver the person to an appropriate location for an evaluation by an evaluation team from the Division pursuant to NRS 433A.240.

3. As used in this section, "appropriate location" does not include a jail or prison.

Sec. 4. 1. Except as otherwise provided in subsection 3, any person involuntarily admitted to a program of community-based or outpatient services may be conditionally released from the program when, in the judgment of the professional responsible for providing or coordinating the program of community-based or outpatient services, ~~the conditional release is in the best interest of the person and will not be detrimental to the public welfare.~~ person does not present a danger of harm to himself or herself or others. The professional responsible for providing or coordinating the program of community-based or outpatient services shall prescribe the period for which the conditional release is effective. The period must not extend beyond the last day of the court-ordered period of admission to a program of community-based or outpatient services pursuant to NRS 433A.310.

2. When a person is conditionally released pursuant to subsection 1, the State of Nevada, the agents and employees of the State or a mental health facility, the professionals responsible for providing or coordinating programs of community-based or outpatient services and any other professionals providing mental health services are not liable for any debts or contractual obligations incurred, medical or otherwise, or damages caused by the actions of the person who is released.

3. A person who is involuntarily admitted to a program of community-based or outpatient services may be conditionally released only if, at the time of the release, written notice is given to the court which ordered the person to participate in the program, ~~to the attorney of the person and to the district attorney of the county in which the proceedings for admission were held.~~

4. Except as otherwise provided in subsection 6, the professional responsible for providing or coordinating the program of community-based or outpatient services shall order a person who is conditionally released pursuant to subsection 1 to resume participation in the program if the professional determines that the conditional release is no longer appropriate because that person presents a clear and present danger of harm to himself or herself or others. Except as otherwise provided in this subsection, the professional responsible for providing or coordinating the program of community-based or outpatient services shall, at least 3 days before the issuance of the order to resume participation, give written notice of the order to the court that admitted the person to the program. If an



*emergency exists in which the person presents an imminent threat of danger of harm to himself or herself or others, the order must be submitted to the court not later than 1 business day after the order is issued.*

5. *The court shall review an order submitted pursuant to subsection 4 and the current condition of the person who was ordered to resume participation in a program of community-based or outpatient services at the next regularly scheduled hearing for the review of petitions for involuntary admissions, but in no event later than 5 judicial days after participation in the program is resumed. The ~~professional responsible for providing or coordinating the program of community-based or outpatient services to~~ court shall serve notice on the person who was ordered to resume participation in the program ~~shall give written notice to that person~~ and to his or her attorney ~~if the person is represented by legal counsel~~, of the time, date and place of the hearing and of the facts necessitating that the person resume participation in the program.*

6. *The provisions of subsection 4 do not apply if the period of conditional release has expired.*

Sec. 5. NRS 433A.011 is hereby amended to read as follows:

433A.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 433A.012 to 433A.018, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 433A.115 is hereby amended to read as follows:

433A.115 1. As used in NRS 433A.115 to 433A.330, inclusive, **and sections 3, 3.5 and 4 of this act**, unless the context otherwise requires, “person with mental illness” means any person whose capacity to exercise self-control, judgment and discretion in the conduct of the person’s affairs and social relations or to care for his or her personal needs is diminished, as a result of a mental illness, to the extent that the person presents a clear and present danger of harm to himself or herself or others, but does not include any person in whom that capacity is diminished by epilepsy, mental retardation, dementia, delirium, brief periods of intoxication caused by alcohol or drugs, or dependence upon or addiction to alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

2. A person presents a clear and present danger of harm to himself or herself if, within the immediately preceding 30 days, the person has, as a result of a mental illness:

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, the person will be unable to satisfy his or her need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that the person’s death, serious bodily injury or physical

debilitation will occur within the next following 30 days unless he or she is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, **and sections 3, 3.5 and 4 of this act** and adequate treatment is provided to the person;

(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that the person will commit suicide unless he or she is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, **and sections 3, 3.5 and 4 of this act** and adequate treatment is provided to the person; or

(c) Mutilated himself or herself, attempted or threatened to mutilate himself or herself or committed acts in furtherance of a threat to mutilate himself or herself, and if there exists a reasonable probability that he or she will mutilate himself or herself unless the person is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, **and sections 3, 3.5 and 4 of this act** and adequate treatment is provided to the person.

3. A person presents a clear and present danger of harm to others if, within the immediately preceding 30 days, the person has, as a result of a mental illness, inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that he or she will do so again unless the person is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, **and sections 3, 3.5 and 4 of this act** and adequate treatment is provided to him or her.

**Sec. 7.** NRS 433A.130 is hereby amended to read as follows:

433A.130 All applications and certificates for the admission of any person in the State of Nevada to a mental health facility **or to a program of community-based or outpatient services** under the provisions of this chapter shall be made on forms approved by the Division and the Office of the Attorney General and furnished by the clerks of the district courts in each county.

**Sec. 8.** NRS 433A.150 is hereby amended to read as follows:

433A.150 1. Any person alleged to be a person with mental illness may, upon application pursuant to NRS 433A.160 and subject to the provisions of subsection 2, be detained in a public or private mental health facility or hospital under an emergency admission for evaluation, observation and treatment.

2. Except as otherwise provided in subsection 3, a person detained pursuant to subsection 1 must be released within 72 hours, including weekends and holidays, after the certificate required pursuant to

NRS 433A.170 and the examination required by paragraph (a) of subsection 1 of NRS 433A.165 have been completed, if such an examination is required, or within 72 hours, including weekends and holidays, after the person arrives at the mental health facility or hospital, if an examination is not required by paragraph (a) of subsection 1 of NRS 433A.165, unless, before the close of the business day on which the 72 hours expires, a written petition for an involuntary court-ordered admission **to a mental health facility** is filed with the clerk of the district court pursuant to NRS 433A.200, including, without limitation, the documents required pursuant to NRS 433A.210, or the status of the person is changed to a voluntary admission.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

**Sec. 9.** NRS 433A.200 is hereby amended to read as follows:

433A.200 1. Except as otherwise provided in NRS 432B.6075, a proceeding for an involuntary court-ordered admission of any person in the State of Nevada may be commenced by the filing of a petition **for the involuntary admission to a mental health facility or to a program of community-based or outpatient services** with the clerk of the district court of the county where the person who is to be treated resides. The petition may be filed by the spouse, parent, adult children or legal guardian of the person to be treated or by any physician, psychologist, social worker or registered nurse, by an accredited agent of the Department or by any officer authorized to make arrests in the State of Nevada. The petition must be accompanied:

(a) By a certificate of a physician, psychiatrist or licensed psychologist stating that he or she has examined the person alleged to be a person with mental illness and has concluded that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty ~~to~~ **or if not required to participate in a program of community-based or outpatient services;** or

(b) By a sworn written statement by the petitioner that:

(1) The petitioner has, based upon the petitioner's personal observation of the person alleged to be a person with mental illness, probable cause to believe that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty ~~to~~ **or if not required to participate in a program of community-based or outpatient services;** and

(2) The person alleged to be a person with mental illness has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. Except as otherwise provided in NRS 432B.6075, if the person to be treated is a minor and the petitioner is a person other than a parent or guardian of the minor, the petition must, in addition to the certificate or statement required by subsection 1, include a statement signed by a parent or guardian of the minor that the parent or guardian does not object to the filing of the petition.

**Sec. 10.** NRS 433A.240 is hereby amended to read as follows:

433A.240 1. After the filing of a petition to commence proceedings for the involuntary court-ordered admission of a person pursuant to NRS 433A.200 or 433A.210, the court shall promptly cause two or more physicians or licensed psychologists, one of whom must always be a physician, to examine the person alleged to be a person with mental illness, or request an evaluation by an evaluation team from the Division of the person alleged to be a person with mental illness.

2. To conduct the examination of a person who is not being detained at a mental health facility or hospital under emergency admission pursuant to an application made pursuant to NRS 433A.160, the court may order a peace officer to take the person into protective custody and transport the person to a mental health facility or hospital where the person may be detained until a hearing is had upon the petition.

3. If the person is not being detained under an emergency admission pursuant to an application made pursuant to NRS 433A.160, the person may be allowed to remain in his or her home or other place of residence pending an ordered examination or examinations and to return to his or her home or other place of residence upon completion of the examination or examinations. The person may be accompanied by one or more of his or her relations or friends to the place of examination.

4. ***Each physician and licensed psychologist who examines a person pursuant to subsection 1 shall, in conducting such an examination, consider the least restrictive treatment appropriate for the person.***

5. Except as otherwise provided in this subsection, each physician and licensed psychologist who examines a person pursuant to subsection 1 shall, not later than 48 hours before the hearing set pursuant to NRS 433A.220, submit to the court in writing a summary of his or her findings and evaluation regarding the person alleged to be a person with mental illness. If the person alleged to be a person with mental illness is admitted under an emergency admission pursuant to an application made pursuant to NRS 433A.160, the written findings and evaluation must be submitted to the court not later than 24 hours before the hearing set pursuant to subsection 1 of NRS 433A.220.

**Sec. 11.** NRS 433A.250 is hereby amended to read as follows:

433A.250 1. The Administrator shall establish such evaluation teams as are necessary to aid the courts under NRS 433A.240 and 433A.310 ~~and~~ **sections 3 and 3.5 of this act.**

2. Each team must be composed of a psychiatrist and other persons professionally qualified in the field of psychiatric mental health who are representative of the Division, selected from personnel in the Division.

3. Fees for the evaluations must be established and collected as set forth in NRS 433.414 or 433B.260, as appropriate.

**Sec. 12.** NRS 433A.270 is hereby amended to read as follows:

433A.270 1. The person alleged to be a person with mental illness or any relative or friend on the person's behalf is entitled to retain counsel to represent the person in any proceeding before the district court relating to involuntary court-ordered admission, and if he or she fails or refuses to obtain counsel, the court shall advise the person and the person's guardian or next of kin, if known, of such right to counsel and shall appoint counsel, who may be the public defender or his or her deputy.

2. Any counsel appointed pursuant to subsection 1 must be awarded compensation by the court for his or her services in an amount determined by it to be fair and reasonable. The compensation must be charged against the estate of the person for whom the counsel was appointed or, if the person is indigent, against the county where the person alleged to be a person with mental illness last resided.

3. The court shall, at the request of counsel representing the person alleged to be a person with mental illness in proceedings before the court relating to involuntary court-ordered admission, grant a recess in the proceedings for the shortest time possible, but for not more than 5 days, to give the counsel an opportunity to prepare his or her case.

4. **If the person alleged to be a person with a mental illness is involuntarily admitted to a program of community-based or outpatient services, counsel shall continue to represent the person until the person is released from the program. The court shall serve notice upon such counsel of any action that is taken involving the person while the person is admitted to the program of community-based or outpatient services.**

5. Each district attorney or his or her deputy shall appear and represent the State in all involuntary court-ordered admission proceedings in the district attorney's county. The district attorney is responsible for the presentation of evidence, if any, in support of the involuntary court-ordered admission of a person to a mental health facility ***or to a program of community-based or outpatient services*** in proceedings held pursuant to NRS 433A.200 or 433A.210.

**Sec. 13.** NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person : ~~{to a public or private mental health facility;}~~

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that the person is likely to harm himself or herself or others if allowed his or her liberty ~~{}~~ **or if not required to participate in a program of community-based or outpatient services**, the court shall enter its finding to that effect and the person must not be involuntarily ~~{detained in such a facility;}~~ **admitted to a public or private mental health facility or to a program of community-based or outpatient services.**

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty ~~{}~~ **or if not required to participate in a program of community-based or outpatient services**, the court may order the involuntary admission of the person for the most appropriate course of treatment ~~{}~~ **, including, without limitation, admission to a public or private mental health facility or participation in a program of community-based or outpatient services.** The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. **A court shall not admit a person to a program of community-based or outpatient services unless:**

(a) **A program of community-based or outpatient services is available in the community in which the person resides or is otherwise made available to the person;**

(b) **The person is 18 years of age or older;**

(c) **The person has a history of noncompliance with treatment for mental illness;**

(d) **The person is capable of surviving safely in the community in which he or she resides with available supervision;**

(e) **The court determines that, based on the person's history of treatment for mental illness, the person needs to be admitted to a program of community-based or outpatient services to prevent further disability or deterioration of the person which is likely to result in harm to himself or herself or others;**

(f) **The current mental status of the person or the nature of the person's illness limits or negates his or her ability to make an informed decision to**

*seek treatment for mental illness voluntarily or to comply with recommended treatment for mental illness;*

*(g) The program of community-based or outpatient services is the least restrictive treatment which is in the best interest of the person; and*

*(h) The court has approved a plan of treatment developed for the person pursuant to section 3 of this act.*

3. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390 ~~or by the professional responsible for providing or coordinating the program of community-based or outpatient services as provided for in subsection 3 of NRS 433A.390.~~ Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division, ~~for~~ any mental health facility that is not operated by the Division *or a program of community-based or outpatient services* may petition to renew the ~~detention~~ *involuntary admission* of the person for additional periods not to exceed 6 months each. For each renewal, the petition must ~~set forth to the court specific reasons why further treatment would be in the person's own best interests.~~

~~{3.}~~ *include evidence which meets the same standard set forth in subsection 1 that was required for the initial period of admission of the person to a public or private mental health facility or to a program of community-based or outpatient services.*

~~4.~~ Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment, *including involuntary admission to a program of community-based or outpatient services*, as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

~~{4.}~~ 5. If the court issues an order involuntarily admitting a person to a public or private mental health facility *or to a program of community-based or outpatient services* pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

~~{5.}~~ 6. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

**Sec. 14.** NRS 433A.320 is hereby amended to read as follows:

433A.320 The order for involuntary court admission of any person to a **public or private** mental health facility ~~[- public or private, shall]~~ **or to a program of community-based or outpatient services must** be accompanied by a clinical abstract, including a history of illness, diagnosis, treatment and the names of relatives or correspondents.

**Sec. 15.** NRS 433A.330 is hereby amended to read as follows:

433A.330 1. When ~~any~~ **an** involuntary court admission **to a mental health facility** is ordered under the provisions of this chapter, the involuntarily admitted person, together with the court orders and certificates of the physicians, certified psychologists or evaluation team and a full and complete transcript of the notes of the official reporter made at the examination of such person before the court, must be delivered to the sheriff of the county who shall:

(a) Transport the person; or

(b) Arrange for the person to be transported by:

(1) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority; or

(2) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,  
➡ to the appropriate public or private mental health facility.

2. No person with mental illness may be transported to the mental health facility without at least one attendant of the same sex or a relative in the first degree of consanguinity or affinity being in attendance.

**Sec. 16.** NRS 433A.350 is hereby amended to read as follows:

433A.350 1. Upon admission to any public or private mental health facility ~~[-]~~ **or to a program of community-based or outpatient services**, each consumer ~~[of the facility]~~ and the consumer's spouse and legal guardian, if any, must receive a written statement outlining in simple, nontechnical language all procedures for release provided by this chapter, setting out all rights accorded to such a consumer by this chapter and chapters 433 and 433B of NRS and, if the consumer has no legal guardian, describing procedures provided by law for adjudication of incompetency and appointment of a guardian for the consumer.

2. Written information regarding the services provided by and means of contacting the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of persons with mental illnesses must be posted in each public and private mental health facility and **in each location in which a program of community-based or outpatient services is provided and must be** provided to each consumer ~~[of such a facility]~~ upon admission.



**Sec. 17.** NRS 433A.360 is hereby amended to read as follows:

433A.360 1. A clinical record for each consumer must be diligently maintained by any division facility , ~~for~~ private institution , ~~for~~ facility offering mental health services ~~for~~ **or program of community-based or outpatient services**. The record must include information pertaining to the consumer's admission, legal status, treatment and individualized plan for habilitation. The clinical record is not a public record and no part of it may be released, except:

(a) If the release is authorized or required pursuant to NRS 439.538.

(b) The record must be released to physicians, attorneys and social agencies as specifically authorized in writing by the consumer, the consumer's parent, guardian or attorney.

(c) The record must be released to persons authorized by the order of a court of competent jurisdiction.

(d) The record or any part thereof may be disclosed to a qualified member of the staff of a division facility, an employee of the Division or a member of the staff of an agency in Nevada which has been established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq., or the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 U.S.C. §§ 10801 et seq., when the Administrator deems it necessary for the proper care of the consumer.

(e) Information from the clinical records may be used for statistical and evaluative purposes if the information is abstracted in such a way as to protect the identity of individual consumers.

(f) To the extent necessary for a consumer to make a claim, or for a claim to be made on behalf of a consumer for aid, insurance or medical assistance to which the consumer may be entitled, information from the records may be released with the written authorization of the consumer or the consumer's guardian.

(g) The record must be released without charge to any member of the staff of an agency in Nevada which has been established pursuant to 42 U.S.C. §§ 15001 et seq. or 42 U.S.C. §§ 10801 et seq. if:

(1) The consumer is a consumer of that office and the consumer or the consumer's legal representative or guardian authorizes the release of the record; or

(2) A complaint regarding a consumer was received by the office or there is probable cause to believe that the consumer has been abused or neglected and the consumer:

(I) Is unable to authorize the release of the record because of the consumer's mental or physical condition; and

(II) Does not have a guardian or other legal representative or is a ward of the State.

(h) The record must be released as provided in NRS 433.332 or 433B.200 and in chapter 629 of NRS.

2. As used in this section, “consumer” includes any person who seeks, on the person’s own or others’ initiative, and can benefit from, care, treatment and training in a private institution or facility offering mental health services, ~~for~~ from treatment to competency in a private institution or facility offering mental health services ~~to~~, **or from a program of community-based or outpatient services.**

**Sec. 18. ~~NRS 433A.370 is hereby amended to read as follows:~~**

~~433A.370 1. When a consumer committed by a court to a division facility on or before June 30, 1975, or a consumer who is judicially admitted on or after July 1, 1975, or a person who is involuntarily detained pursuant to NRS 433A.145 to 433A.300, inclusive, escapes from any division facility, or when a judicially admitted consumer has not returned to a division facility from conditional release after the administrative officer of the facility has ordered the consumer to do so, any peace officer shall, upon written request of the administrative officer or the administrative officer’s designee and without the necessity of a warrant or court order, apprehend, take into custody and deliver the person to such division facility or another state facility.~~

~~2. When a consumer who is judicially admitted to a program of community-based or outpatient services fails to participate in the program or otherwise fails to carry out the plan of treatment developed pursuant to section 3 of this act, despite efforts by the professional responsible for providing or coordinating the program of community-based or outpatient services for the consumer to solicit the consumer’s compliance, the professional may petition the court to issue an order requiring a peace officer to take into custody and deliver the consumer to the appropriate location for an evaluation by an evaluation team from the Division pursuant to NRS 433A.240. The petition must be accompanied by:~~

~~(a) A copy of the order for involuntary admission;~~

~~(b) A copy of the plan of treatment submitted to the court pursuant to section 3 of this act;~~

~~(c) A list that sets forth the specific provisions of the plan of treatment which the consumer has failed to carry out; and~~

~~(d) A statement by the petitioner which explains how the consumer’s failure to participate in the program of community-based or outpatient services or failure to carry out the plan of treatment will likely cause the consumer to harm himself or herself or others.~~

~~3. If the court determines that there is probable cause to believe that the consumer is likely to harm himself or herself or others if the consumer does not comply with the plan of treatment, the court may issue an order~~

~~requiring a peace officer to take into custody and deliver the consumer to the appropriate location for an evaluation by an evaluation team from the Division pursuant to NRS 433A.240.~~

~~4. Any person appointed or designated by the Director of the Department to take into custody and transport [to a division facility] persons who have escaped , [or] failed to return or failed to participate in a program of treatment as described in [subsection 1] this section may participate in the apprehension and delivery of any such person, but may not take the person into custody without a warrant. (Deleted by amendment.)~~

**Sec. 19.** NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a consumer, involuntarily admitted to a mental health facility **or to a program of community-based or outpatient services** by court order, is released at the end of the ~~time~~ **period** specified pursuant to NRS 433A.310, written notice must be given to the admitting court and to the consumer's legal guardian at least 10 days before the release of the consumer. The consumer may then be released without requiring further orders of the court. If the consumer has a legal guardian, the facility **or the professional responsible for providing or coordinating the program of community-based or outpatient services** shall notify the guardian before discharging the consumer from the facility ~~[-] or program~~. The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team ~~[-] or the professional responsible for providing or coordinating the program of community-based or outpatient services~~. If the legal guardian does not inform the facility **or professional** as to where the consumer will be released within 3 days after the date of notification, the facility **or professional** shall discharge the consumer according to its proposed discharge plan.

2. ~~[An involuntarily court-admitted]~~ A consumer **who is involuntarily admitted to a mental health facility** may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the consumer has recovered from his or her mental illness or has improved to such an extent that the consumer is no longer considered to present a clear and present danger of harm to himself or herself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the mental health facility authorizes the release and gives written notice to the admitting court and to the consumer's legal guardian at least 10 days before the release of the

consumer. If the consumer has a legal guardian, the facility shall notify the guardian before discharging the consumer from the facility. The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the consumer will be released within 3 days after the date of notification, the facility shall discharge the consumer according to its proposed discharge plan.

**3. A consumer who is involuntarily admitted to a program of community-based or outpatient services may be unconditionally released before the period specified in NRS 433A.310 when:**

**(a) The professional responsible for providing or coordinating the program of community-based or outpatient services for the consumer determines that the consumer has recovered from his or her mental illness or has improved to such an extent that the consumer is no longer considered to present a clear and present danger of harm to himself or herself or others; and**

**(b) Under advisement from an evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the professional responsible for providing or coordinating the program of community-based or outpatient services for the consumer authorizes the release and gives written notice to the admitting court at least 10 days before the release of the consumer from the program.**

**Sec. 20.** NRS 433A.460 is hereby amended to read as follows:

433A.460 ~~{1.}~~ No person admitted to a public or private mental health facility **or to a program of community-based or outpatient services** pursuant to this chapter shall, by reason of such admission, be denied the right to dispose of property, marry, execute instruments, make purchases, enter into contractual relationships, vote and hold a driver's license, unless such person has been specifically adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

~~{2. If the responsible physician of the mental health facility in which any person is detained or the professional responsible for providing or coordinating the program of community-based or outpatient services for a person is of the opinion that such person is unable to exercise any of the aforementioned rights, the responsible physician or other responsible professional, as applicable, shall immediately notify the person and the person's attorney, legal guardian, spouse, parents or other nearest known adult relative, and the district court of that fact.}~~

**Sec. 21.** NRS 433A.580 is hereby amended to read as follows:

433A.580 No person may be admitted to a private hospital ~~for~~, a division mental health facility **or a program of community-based or outpatient services** pursuant to the provisions of this chapter unless mutually agreeable financial arrangements relating to the costs of treatment are made between the private hospital, ~~for~~ division facility **or professional responsible for providing or coordinating a program of community-based or outpatient services** and the consumer or person requesting his or her admission.

**Sec. 22.** NRS 433A.600 is hereby amended to read as follows:

433A.600 1. A person who is admitted to a **division** facility **or to a program of community-based or outpatient services** operated by the Division and not determined to be indigent and every responsible relative pursuant to NRS 433A.610 of the person shall be charged for the cost of treatment and is liable for that cost. If after demand is made for payment the person or his or her responsible relative fails to pay that cost, the administrative officer **or professional responsible for providing or coordinating the program of community-based or outpatient services, as applicable**, may recover the amount due by civil action.

2. All sums received ~~by the administrative officer of a facility operated by the Division~~ pursuant to subsection 1 must be deposited in the State Treasury and may be expended by the Division for the support of that facility **or program** in accordance with the allotment, transfer, work program and budget provisions of NRS 353.150 to 353.245, inclusive.

**Sec. 23.** NRS 433A.640 is hereby amended to read as follows:

433A.640 1. Once a court has ordered the admission of a person to a division facility, the administrative officer shall make an investigation, pursuant to the provisions of this chapter, to determine whether the person or his or her responsible relatives pursuant to NRS 433A.610 are capable of paying for all or a portion of the costs that will be incurred during the period of admission.

2. If a person is admitted to a division facility **or program of community-based or outpatient services** pursuant to a court order, that person and his or her responsible relatives are responsible for the payment of the actual cost of the treatment and services rendered during his or her admission to the division facility **or program** unless the investigation reveals that the person and his or her **responsible** relatives are not capable of paying the full amount of the costs.

3. **Once a court has ordered the admission of a person to a program of community-based or outpatient services operated by the Division, the professional responsible for providing or coordinating the program shall make an investigation, pursuant to the provisions of this chapter, to**

**determine whether the person or his or her responsible relatives pursuant to NRS 433A.610 are capable of paying for all or a portion of the costs that will be incurred during the period of admission.**

**Sec. 24.** NRS 433A.650 is hereby amended to read as follows:

433A.650 Determination of ability to pay pursuant to NRS 433A.640 shall include investigation of whether the consumer has benefits due and owing to the consumer for the cost of his or her treatment from third-party sources, such as Medicare, Medicaid, social security, medical insurance benefits, retirement programs, annuity plans, government benefits or any other financially responsible third parties. The administrative officer of a division mental health facility **or professional responsible for providing or coordinating a program of community-based or outpatient services** may accept payment for the cost of a consumer's treatment from the consumer's insurance company, Medicare or Medicaid and other similar third parties.

**Sec. 25.** NRS 433A.660 is hereby amended to read as follows:

433A.660 1. If the consumer, his or her responsible relative pursuant to NRS 433A.610, guardian or the estate neglects or refuses to pay the cost of treatment to the division facility **or to the program of community-based or outpatient services operated by the Division** rendering service pursuant to the fee schedule established under NRS 433.404 or 433B.250, as appropriate, the State is entitled to recover by appropriate legal action all sums due, plus interest.

2. Before initiating such legal action, the division facility **or program, as applicable**, shall demonstrate efforts at collection, which may include contractual arrangements for collection through a private collection agency.

**Sec. 26.** NRS 433A.715 is hereby amended to read as follows:

433A.715 1. A court shall seal all court records relating to the admission and treatment of any person who was admitted, voluntarily or as the result of a noncriminal proceeding, to a public or private hospital ~~for~~, a mental health facility **or a program of community-based or outpatient services** in this State for the purpose of obtaining mental health treatment.

2. Except as otherwise provided in subsections 4 and 5, a person or governmental entity that wishes to inspect records that are sealed pursuant to this section must file a petition with the court that sealed the records. Upon the filing of a petition, the court shall fix a time for a hearing on the matter. The petitioner must provide notice of the hearing and a copy of the petition to the person who is the subject of the records. If the person who is the subject of the records wishes to oppose the petition, the person must appear before the court at the hearing. If the person appears before the court at the hearing, the court must provide the person an opportunity to be heard on the matter.

3. After the hearing described in subsection 2, the court may order the inspection of records that are sealed pursuant to this section if:

(a) A law enforcement agency must obtain or maintain information concerning persons who have been admitted to a public or private hospital ~~or~~ , a mental health facility **or a program of community-based or outpatient services** in this State pursuant to state or federal law;

(b) A prosecuting attorney or an attorney who is representing the person who is the subject of the records in a criminal action requests to inspect the records; or

(c) The person who is the subject of the records petitions the court to permit the inspection of the records by a person named in the petition.

4. A governmental entity is entitled to inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if:

(a) The governmental entity has made a conditional offer of employment to the person who is the subject of the records;

(b) The position of employment conditionally offered to the person concerns public safety, including, without limitation, employment as a firefighter or peace officer;

(c) The governmental entity is required by law, rule, regulation or policy to obtain the mental health records of each individual conditionally offered the position of employment; and

(d) An authorized representative of the governmental entity presents to the court a written authorization signed by the person who is the subject of the records and notarized by a notary public or judicial officer in which the person who is the subject of the records consents to the inspection of the records.

5. Upon its own order, any court of this State may inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if the records are necessary and relevant for the disposition of a matter pending before the court. The court may allow a party in the matter to inspect the records without following the procedure described in subsection 2 if the court deems such inspection necessary and appropriate.

6. Following the sealing of records pursuant to this section, the admission of the person who is the subject of the records to the public or private hospital , ~~or~~ mental health facility **or program of community-based or outpatient services**, is deemed never to have occurred, and the person may answer accordingly any question related to its occurrence, except in connection with:

(a) An application for a permit to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive;

(b) A transfer of a firearm; or

(c) An application for a position of employment described in subsection 4.

7. As used in this section:

(a) "Firefighter" means a person who is a salaried employee of a fire-fighting agency and whose principal duties are to control, extinguish, prevent and suppress fires. As used in this paragraph, "fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.

(b) "Peace officer" has the meaning ascribed to it in NRS 289.010.

(c) "Seal" means placing records in a separate file or other repository not accessible to the general public.

**Sec. 27.** NRS 433A.750 is hereby amended to read as follows:

433A.750 1. A person who:

(a) Without probable cause for believing a person to be mentally ill causes or conspires with or assists another to cause the involuntary court-ordered admission of the person under this chapter; or

(b) Causes or conspires with or assists another to cause the denial to any person of any right accorded to the person under this chapter,

↪ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. Unless a greater penalty is provided in subsection 1, a person who knowingly and willfully violates any provision of this chapter regarding the admission of a person to, or discharge of a person from, a public or private mental health facility **or a program of community-based or outpatient services** is guilty of a gross misdemeanor.

3. A person who, without probable cause for believing another person to be mentally ill, executes a petition, application or certificate pursuant to this chapter, by which the person secures or attempts to secure the apprehension, hospitalization, detention, **admission** or restraint of the person alleged to be mentally ill, or any physician, psychiatrist, ~~for~~ licensed psychologist **or other person professionally qualified in the field of psychiatric mental health** who knowingly makes any false certificate or application pursuant to this chapter as to the mental condition of any person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

**Sec. 28.** This act becomes effective on July 1, 2013.

Assemblywoman Dondero Loop moved that the Assembly concur in the Senate Amendment No. 958 to Assembly Bill No. 287.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 260.

The following Senate amendment was read:



Amendment No. 971.

AN ACT relating to the Nevada System of Higher Education; clarifying provisions governing tuition charges assessed against certain students; ~~providing that~~ **revising provisions relating to exemptions from** tuition charges ~~must not be assessed against~~ **for** veterans of the Armed Forces of the United States who were honorably discharged ; ~~within a certain period;~~ and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Board of Regents of the University of Nevada to assess tuition charges against students who are not residents of Nevada at all campuses of the Nevada System of Higher Education. The tuition charges are in addition to registration fees and other fees assessed against students who are residents of Nevada. Existing law also provides that tuition must be free for certain students and veterans. (NRS 396.540) This bill clarifies the statutory provisions governing the assessment of tuition charges. Additionally, this bill revises the group of veterans against whom tuition charges must not be assessed by: (1) removing the requirement that such veterans were, at some point, on active duty while stationed at a military installation in the State of Nevada or a military installation in another state which has a specific nexus to this State; and (2) requiring that such veterans were honorably discharged within the 2 years immediately preceding the date of matriculation of the veteran at a university, state college or community college within the System. **However, this bill authorizes the Board of Regents to grant more favorable exemptions from tuition charges for veterans who were honorably discharged if required for the receipt of federal money.**

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

**Section 1.** NRS 396.540 is hereby amended to read as follows:

396.540 1. For the purposes of this section:

(a) "Bona fide resident" shall be construed in accordance with the provisions of NRS 10.155 and policies established by the Board of Regents, to the extent that those policies do not conflict with any statute. The qualification "bona fide" is intended to ensure that the residence is genuine and established for purposes other than the avoidance of tuition.

(b) "Matriculation" has the meaning ascribed to it in regulations adopted by the Board of Regents.

(c) "Tuition charge" means a charge assessed against students who are not residents of Nevada and which is in addition to registration fees or other fees assessed against students who are residents of Nevada.

2. The Board of Regents may fix a tuition charge for students at all campuses of the System, but tuition **charges** must **not** be ~~free to~~ **assessed against:**

(a) All students whose families have been bona fide residents of the State of Nevada for at least 12 months before the matriculation of the student at a university, state college or community college within the System;

(b) All students whose families reside outside of the State of Nevada, providing such students have themselves been bona fide residents of the State of Nevada for at least 12 months before their matriculation at a university, state college or community college within the System;

(c) All public school teachers who are employed full-time by school districts in the State of Nevada;

(d) All full-time teachers in private elementary, secondary and postsecondary educational institutions in the State of Nevada whose curricula meet the requirements of chapter 394 of NRS;

(e) Employees of the System who take classes other than during their regular working hours;

(f) Members of the Armed Forces of the United States who are on active duty and stationed at a military installation in the State of Nevada; and

(g) ~~Veterans~~ **Except as otherwise provided in subsection 3, veterans** of the Armed Forces of the United States who were honorably discharged ~~and who were on active duty while stationed at a military installation in the State of Nevada or a military installation in another state which has a specific nexus to this State, including, without limitation, the Marine Corps Mountain Warfare Training Center located at Pickel Meadow, California, on the date of discharge.~~ **within the 2 years immediately preceding the date of matriculation of the veteran at a university, state college or community college within the System.**

3. **The Board of Regents may grant more favorable exemptions from tuition charges for veterans of the Armed Forces of the United States who were honorably discharged than the exemption provided pursuant to paragraph (g) of subsection 2, if required for the receipt of federal money.**

4. The Board of Regents may grant ~~tuitions free~~ **exemptions from tuition charges** each semester to other worthwhile and deserving students from other states and foreign countries, in a number not to exceed a number equal to 3 percent of the total matriculated enrollment of students for the last preceding fall semester.

**Sec. 1.5. NRS 396.543 is hereby amended to read as follows:**

396.543 1. The Board of Regents may enter into an agreement with another state for the granting of full or partial waivers of the nonresident tuition to residents of the other state who are students at or are eligible for admission to any branch of the System if the agreement provides that, under

substantially the same circumstances, the other state will grant reciprocal waivers to residents of Nevada who are students at or are eligible for admission to universities or colleges in the other state.

2. Each agreement must specify:

(a) The criteria for granting the waivers; and

(b) The specific universities, state colleges and community colleges for which the waivers will be granted.

3. The Board of Regents shall provide by regulation for the administration of any waivers for which an agreement is entered into pursuant to subsection 1.

4. The waivers granted pursuant to this section must not be included in the number of waivers determined for the purpose of applying the limitation in subsection ~~3~~ 4 of NRS 396.540.

**Sec. 2.** This act becomes effective on July 1, 2013.

Assemblyman Elliot Anderson moved that the Assembly concur in the Senate Amendment No. 971 to Assembly Bill No. 260.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Ohrenschall moved to reconsider the action whereby the Assembly did not concur to Senate Amendment No. 924 to Assembly Bill No. 412.

Motion carried.

Assemblyman Ohrenschall moved to reconsider the action whereby the Assembly did not concur to Senate Amendment No. 942 to Assembly Bill No. 412.

Motion carried.

#### UNFINISHED BUSINESS

##### CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 412.

The following Senate amendment was read:

Amendment No. 924.

AN ACT relating to the Legislature; revising provisions relating to the training required for newly elected Legislators; changing certain deadlines applicable to the submission and drafting of legislative measures; revising the number of legislative measures that certain persons and entities may request for drafting; restricting Legislators from requesting the drafting of legislative measures under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires newly elected Legislators to attend certain training before the beginning of their first legislative session. (NRS 218A.285)

**Section 1** of this bill requires such training to include discussion of major policy issues that are likely to be considered during the ensuing regular session of the Legislature. **Section 1** also requires the Director of the Legislative Counsel Bureau to communicate in writing the dates for training to candidates for election to the Assembly and the Senate for the ensuing regular session of the Legislature.

Existing law requires the Director to provide an electronic copy of a training session to any Legislator who was unable to attend the training session. (NRS 218A.285) **Section 1** authorizes the Director to provide an alternate means of recording the information provided during certain training sessions and requires a Legislator who was unable to attend a training session to complete that session in the manner prescribed by the Director.

Existing law contains provisions governing requests for the drafting of legislative measures for a regular session. (NRS 218D.100-218D.215) This bill revises the number of legislative measures that various persons and entities may request for drafting and also revises the deadlines for making such requests.

**Section 6** of this bill changes the number of legislative measures that Legislators and the chair of each standing committee may request by certain deadlines. **Section 6** also changes the deadlines for providing sufficient detail to allow complete drafting of a legislative measure. **Section 6** further: (1) prohibits a Legislator who has filed a declaration or an acceptance of candidacy for election to the House in which he or she is not currently sitting from requesting the drafting of legislative measures; and (2) provides that, if the Legislator is elected to the other House, any request that he or she submits before filing a declaration or an acceptance of candidacy for election counts against the applicable limitation for the House to which the Legislator was elected to serve. (NRS 218D.150)

Existing law allows each statutory legislative committee and interim study committee to request a certain number of legislative measures preceding a regular session. (NRS 218D.160) **Section 7** of this bill reduces the number of legislative measures that may be requested by the Chair of the Legislative Commission and moves up the deadline for statutory legislative committees and interim study committees to provide sufficient detail to allow complete drafting of their legislative measures.

**Section 8** of this bill revises the deadlines by which the Governor or the Governor's designated representative must submit requests for the drafting of legislative measures and increases the number of legislative measures that the

Lieutenant Governor, Secretary of State, State Treasurer, State Controller and Attorney General may request for drafting. (NRS 218D.175)

**Section 9** of this bill reduces the number of legislative measures that may be requested by the city council of a city whose population is 150,000 or more but less than 500,000 (currently the cities of Henderson, North Las Vegas and Reno). (NRS 218D.205)

Existing law authorizes the following entities to submit their own requests for the drafting of legislative measures for each regular session: (1) a mental health consortium established to develop strategic plans for the provision of mental health services to children with emotional disturbance and their families (NRS 218D.215, 433B.333); and (2) an interagency committee created by the Director of the Department of Health and Human Services to evaluate the child welfare system in this State. (NRS 432B.178) **Sections 11 and 12** of this bill eliminate the authority of these entities to submit their own requests, but such entities still would be authorized by existing law to ask Legislators or legislative committees to submit and sponsor requests on behalf of the entities. (NRS 218D.150, 218D.155, 218D.160)

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

**Section 1.** NRS 218A.285 is hereby amended to read as follows:

218A.285 1. A Legislator who is elected to the Assembly or the Senate and who has not previously served in either House shall attend the training required pursuant to this section unless his or her attendance is excused pursuant to subsection 6.

2. A member of the Assembly who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Speaker of the Assembly. A member of the Senate who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Majority Leader of the Senate.

3. The training required pursuant to this section must ~~be recorded electronically and~~ include:

(a) Legislative procedure and protocol;  
(b) Overviews of the state budget and the budgetary process;  
(c) ~~Briefings on~~ **Discussion of major** policy issues ~~relevant to the State;~~ **that are likely to be considered during the ensuing regular session;**  
and

(d) Such other matters as are deemed appropriate by the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly and the Minority Leader of the Senate for their respective Houses.

4. The Director shall provide staff support for the training required pursuant to this section.

5. The training required pursuant to this section must not exceed a total of 10 days and must be conducted between the day next after the general election and the commencement of the ensuing regular session. The dates for the training must be ~~{determined}~~ :

(a) **Determined** by the Speaker of the Assembly and the Majority Leader of the Senate ~~{and posted}~~ ;

(b) **Posted** on the public website of the Legislature on ~~{an}~~ **the** Internet ~~{website}~~ ; and

(c) **Communicated in writing by the Director to the candidates for election to the Assembly and the Senate for the ensuing regular session,**

↪ not later than 90 days before the first day on which training will be conducted.

6. The Speaker of the Assembly or the Majority Leader of the Senate may excuse a Legislator from attending a training session otherwise required pursuant to this section in case of illness, injury, emergency, employment or other good cause as determined by the Speaker or Majority Leader.

7. ~~{The}~~ **Except as otherwise provided in this subsection, the** Director shall provide an electronic copy of a training session and a form for attesting completion of the training session to any Legislator who was unable to attend the training session. **If any training session is conducted in a manner that the Director determines cannot reasonably be recorded in an electronic format, the Director may provide for an alternate means of recording the information provided during that training session.** To successfully complete the training required pursuant to this section, ~~{such}~~ a Legislator ~~{must view the}~~ **who was unable to attend a training session {electronically} shall complete that session in the manner prescribed by the Director** and submit the attestation to the Director.

8. The Director shall issue a “Certificate of Graduation from the Legislative Training Academy” to each Legislator who successfully completes the training required pursuant to this section.

**Sec. 2.** NRS 218D.050 is hereby amended to read as follows:

218D.050 1. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a regular session unless:

(a) Authorized by NRS 218D.100 to ~~{218D.215,}~~ **218D.210**, inclusive, another specific statute, a joint rule or a concurrent resolution; or

(b) Directed by the Legislature or the Legislative Commission.

2. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a special session unless:

(a) Authorized by a joint rule or concurrent resolution; or

(b) Directed by the Legislature or the Legislative Commission.

3. During a regular or special session, the Legislative Counsel and the Legal Division shall provide the Legislature with legal, technical and other appropriate services concerning any legislative measure properly before the Legislature or any committee of the Legislature for consideration.

**Sec. 3.** NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to ~~{218D.215,}~~ **218D.210**, inclusive, apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to ~~{218D.215,}~~ **218D.210**, inclusive, for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to ~~{218D.215,}~~ **218D.210**, inclusive, but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Except as otherwise provided in NRS 218D.150, 218D.155 and 218D.160, assign a number to a request for the drafting of a legislative measure to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(c) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

**Sec. 4.** NRS 218D.105 is hereby amended to read as follows:

218D.105 1. Upon a finding that exceptional circumstances so warrant, the Legislative Commission when the Legislature is not in a regular session, or a standing committee which has jurisdiction of the subject matter when the Legislature is in a regular session, may grant a waiver to an authorized nonlegislative requester to submit a request for the drafting of a legislative measure after the time limits in NRS 218D.175 to ~~{218D.215,}~~ **218D.210**, inclusive.

2. The request for the waiver must be submitted in writing to the Legislative Commission or standing committee, as appropriate, explaining the exceptional circumstances.

**Sec. 5.** NRS 218D.115 is hereby amended to read as follows:

218D.115 1. The Legislative Counsel shall assist authorized nonlegislative requesters in the drafting of the legislative measures which they are authorized to request pursuant to NRS 218D.175 to ~~{218D.215,}~~ **218D.210**, inclusive.

2. To ensure the greatest possible equity in the handling of such requests, drafting must proceed as follows:

(a) Requests from each agency or officer of the Executive Department or from a county, school district or city must, insofar as is possible, be acted upon in the order in which they are received, unless a different priority is designated by the requester.

(b) As soon as an agency or officer of the Executive Department has requested 10 legislative measures for a regular session, the Legislative Counsel may request the agency or officer to designate the priority for each succeeding request.

3. The priority designated pursuant to this section must guide the Legislative Counsel in acting upon the requests of the respective agencies and officers of the Executive Department and the counties, school districts and cities to ensure each agency and officer, and each county, school district and city, as nearly as is possible, an equal rank.

**Sec. 6.** NRS 218D.150 is hereby amended to read as follows:

218D.150 1. Except as otherwise provided in ~~subsection 2,~~ **this section,** each:

(a) Incumbent member of the Assembly may request the drafting of ~~not~~ :

**(1) Not** more than ~~16~~ **4** legislative measures submitted to the Legislative Counsel on or before ~~September~~ **August** 1 preceding a regular session ~~and not~~ ;

**(2) Not** more than 5 legislative measures submitted to the Legislative Counsel after ~~September~~ **August** 1 but on or before December 10 preceding a regular session ~~;~~ **and**

**(3) Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(b) Incumbent member of the Senate may request the drafting of ~~not~~ :

**(1) Not** more than ~~12~~ **8** legislative measures submitted to the Legislative Counsel on or before ~~September~~ **August** 1 preceding a regular session ~~and not~~ ;

**(2) Not** more than 10 legislative measures submitted to the Legislative Counsel after ~~September~~ **August** 1 but on or before December 10 preceding a regular session ~~;~~ **and**

**(3) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(c) Newly elected member of the Assembly may request the drafting of ~~not~~ :

**(1) Not** more than 5 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~;~~ **and**



**(2) Not more than ~~{2}~~ 1 legislative ~~measures~~ measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(d) Newly elected member of the Senate may request the drafting of ~~{not}~~ :

**(1) Not more than 10 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~{1}~~ ; and**

**(2) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

2. A Legislator may not request the drafting of a legislative measure pursuant to subsection 1 on or after the date on which the Legislator becomes a nonreturning Legislator. For the purposes of this subsection, “nonreturning Legislator” means a Legislator who, in the year that the Legislator’s term of office expires:

(a) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly;

(b) Has failed to win nomination as a candidate for the Senate or the Assembly at the primary election; or

(c) Has withdrawn as a candidate for the Senate or the Assembly.

3. **A Legislator may not request the drafting of a legislative measure pursuant to paragraph (a) or (b) of subsection 1 on or after the date on which the Legislator files a declaration or an acceptance of candidacy for election to the House in which he or she is not currently a member. If the Legislator is elected to the other House, any request that he or she submitted pursuant to paragraph (a) or (b) of subsection 1 before filing his or her declaration or acceptance of candidacy for election counts against the applicable limitation set forth in paragraph (c) or (d) of subsection 1 for the House in which the Legislator is a newly elected member.**

4. If a request made pursuant to subsection 1 is submitted:

(a) On or before ~~{September}~~ **August** 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~{December}~~ **November** 1 preceding the regular session.

(b) After ~~{September}~~ **August** 1 but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~{15}~~ **1** preceding the regular session.

~~{4-}~~ (c) **After a regular session has convened but on or before the 8th day of the regular session at 5 p.m., sufficient detail to allow complete drafting**

*of the legislative measure must be submitted on or before the 15th day of the regular session.*

5. In addition to the number of requests authorized pursuant to subsection 1:

(a) The chair of each standing committee of the immediately preceding regular session, or a person designated in the place of the chair by the Speaker of the Assembly or the Majority Leader of the Senate, may request before the date of the general election preceding a regular session the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every ~~15~~ 18 legislative measures that were referred to the respective standing committee during the immediately preceding regular session.

(b) A person designated after the general election as a chair of a standing committee for the next regular session, or a person designated in the place of a chair by the person designated as the Speaker of the Assembly or the Majority Leader of the Senate for the next regular session, may request on or before December 10 preceding that regular session the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chair or designee.

~~5~~ 6. If a request made pursuant to subsection ~~4~~ 5 is submitted:

(a) Before the date of the general election preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the regular session.

(b) After the date of the general election but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~15~~ 1 preceding the regular session.

~~6~~ 7. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

**Sec. 7.** NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than ~~15~~ 10 legislative measures before the first day of a regular session, with the approval of the Legislative Commission, which relate to the affairs of the Legislature or its employees, including legislative measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the first day of a regular session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. If a request made pursuant to subsection 1 or 2 is submitted before the first day of a regular session, sufficient detail to allow complete drafting of

the legislative measure must be submitted on or before March 1 of the regular session.

4. Except as otherwise provided by a specific statute, joint rule or concurrent resolution:

(a) Any legislative committee created by a statute, other than an interim legislative committee, may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

(b) Any committee or subcommittee established by an order of the Legislative Commission pursuant to NRS 218E.200 may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee or subcommittee may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

(c) Any other committee established by the Legislature which conducts an interim legislative study or investigation may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation.

➡ The requests authorized pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding a regular session unless the Legislative Commission authorizes submitting a request after that date.

5. If a request made pursuant to subsection 4 is submitted on or before September 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~December~~ **November** 1 preceding the regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

**Sec. 8.** NRS 218D.175 is hereby amended to read as follows:

218D.175 1. For a regular session, the Governor or the Governor's designated representative may request the drafting of ~~not~~ :

(a) *Not more than ~~100~~ 50 legislative measures submitted to the Legislative Counsel on or before July 1 preceding the regular session; and*

(b) *Not more than 50 legislative measures submitted to the Legislative Counsel after July 1 but on or before September 1 preceding the regular session,*

➡ which have been approved by the Governor or the Governor's designated representative on behalf of the officers, agencies, boards, commissions, departments and other units of the Executive Department. ~~{The requests must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.}~~

2. The Department of Administration may request on or before the 19th day of a regular session, without limitation, the drafting of as many legislative measures as are necessary to implement the budget proposed by the Governor and to provide for the fiscal management of the State. In addition to the requests otherwise authorized pursuant to this section, the Governor may request the drafting of not more than 5 legislative measures on or before the 19th day of a regular session to propose the Governor's legislative agenda.

3. For a regular session, the following constitutional officers may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than the following numbers of legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session:

|                           |                                |
|---------------------------|--------------------------------|
| Lieutenant Governor ..... | <del>{1}</del> 3               |
| Secretary of State .....  | <del>{5}</del> <del>10</del> 6 |
| State Treasurer.....      | <del>{2}</del> 5               |
| State Controller .....    | <del>{2}</del> 5               |
| Attorney General .....    | <del>{15}</del> 20             |

4. **In addition to the requests authorized by subsection 3, the Secretary of State may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than 2 legislative measures, which must be submitted to the Legislative Counsel on or before December 1 preceding the regular session. Sufficient detail to allow complete drafting of the legislative measures requested pursuant to this subsection must be submitted on or before December 31 preceding the regular session.**

5. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to subsections 1 and 3 must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

**Sec. 9.** NRS 218D.205 is hereby amended to read as follows:

218D.205 1. For a regular session, each board of county commissioners, board of trustees of a school district and city council may request the drafting of not more than the numbers of legislative measures set forth in this section if the requests are:

- (a) Approved by the governing body of the county, school district or city at a public hearing before their submission to the Legislative Counsel; and
- (b) Submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. The Legislative Counsel shall notify the requesting county, school district or city if its request substantially duplicates a request previously submitted by another county, school district or city.

3. The board of county commissioners of a county whose population:

(a) Is 700,000 or more may request the drafting of not more than 4 legislative measures for a regular session.

(b) Is 100,000 or more but less than 700,000 may request the drafting of not more than 2 legislative measures for a regular session.

(c) Is less than 100,000 may request the drafting of not more than 1 legislative measure for a regular session.

4. The board of trustees of a school district in a county whose population:

(a) Is 700,000 or more may request the drafting of not more than 2 legislative measures for a regular session.

(b) Is less than 700,000 may request the drafting of not more than 1 legislative measure for a regular session.

5. The city council of a city whose population:

(a) Is ~~150,000~~ 500,000 or more may request the drafting of not more than 3 legislative measures for a regular session.

(b) ***Is 150,000 or more but less than 500,000 may request the drafting of not more than 2 legislative measures for a regular session.***

(c) Is less than 150,000 may request the drafting of not more than 1 legislative measure for a regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

7. As used in this section, “population” means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

**Sec. 10.** NRS 218D.575 is hereby amended to read as follows:

218D.575 1. A Legislator who will be a member of the next regular session may request the Legislative Counsel to prefile any bill or joint resolution that was requested by that Legislator for introduction in the next regular session.

2. A Legislator designated as a chair of a standing committee for the next regular session may request the Legislative Counsel to prefile on behalf of the committee any bill or joint resolution within the jurisdiction of the committee for introduction in the next regular session.

3. ~~{The}~~ **All** bills and joint resolutions **requested by authorized nonlegislative requesters and** submitted for prefiling pursuant to NRS 218D.175 to ~~{218D.215,}~~ **218D.210**, inclusive, must be ~~+~~

~~—(a) Randomly}~~ **randomly** divided in equal amounts between the Senate and the Assembly and prefiled on behalf of the appropriate standing committee.

~~{(b) Prepared}~~

**4. The Legislative Counsel shall prepare all bills and joint resolutions submitted for prefiling** in final and correct form for introduction in the Legislature as required by the Nevada Constitution and this chapter.

~~{4.}~~ **5.** The Legislative Counsel shall not prefile a bill or joint resolution requested by:

(a) A Legislator who is not a candidate for reelection until after the general election immediately preceding the regular session.

(b) A Legislator who is elected or reelected to legislative office at the general election immediately preceding the regular session until the Legislator is determined to have received the highest number of votes pursuant to the canvass of votes required by NRS 293.395.

**Sec. 11.** NRS 432B.178 is hereby amended to read as follows:

432B.178 1. The Director of the Department of Health and Human Services may create an interagency committee to evaluate the child welfare system in this State. Any such evaluation must include, without limitation, a review of state laws to ensure that the state laws comply with federal law and to ensure that the state laws reflect the current practices of each agency which provides child welfare services and others involved in the child welfare system.

2. The Director may appoint as many members to the interagency committee as the Director deems appropriate except that the members of such a committee must include, without limitation, at least one person to represent:

(a) Each agency which provides child welfare services;

(b) The Department of Education;

(c) The juvenile justice system;

(d) Law enforcement; and

(e) Providers of treatment or services for persons in the child welfare system.

3. ~~{The interagency committee created pursuant to subsection 1 may directly request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare one legislative measure for a regular legislative session if it determines that changes in legislation are necessary. Any such request must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the~~

~~Legislature. Upon completion of the proposed legislation, the Legislative Counsel shall transmit any legislative measure prepared pursuant to this subsection to the appropriate standing committee of the Assembly or Senate within the first week of the next regular legislative session for introduction.~~

~~—4.1~~ The interagency committee created pursuant to subsection 1 shall, on or before January 1 of each odd-numbered year after it is created, submit to the Director of the Legislative Counsel Bureau a written report for transmittal to the Chairs of the Assembly and Senate Standing Committees on Judiciary, the Chair of the Assembly Committee on Health and Human Services and the Chair of the Senate Committee on Health and Education.

**Sec. 12.** NRS 218D.215 is hereby repealed.

**Sec. 13.** This act becomes effective upon passage and approval.

#### TEXT OF REPEALED SECTION

##### **218D.215 Requests from mental health consortium.**

1. For a regular session, each mental health consortium established pursuant to NRS 433B.333 may request the drafting of not more than 1 legislative measure. The request must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

Assemblyman Ohrenschall moved that the Assembly concur in the Senate Amendment No. 924 to Assembly Bill No. 412.

Motion carried.

The following Senate amendment was read:

Amendment No. 942.

AN ACT relating to the Legislature; revising provisions relating to the training required for newly elected Legislators; changing certain deadlines applicable to the submission and drafting of legislative measures; revising the number of legislative measures that certain persons and entities may request for drafting; restricting Legislators from requesting the drafting of legislative measures under certain circumstances; and providing other matters properly relating thereto.

##### **Legislative Counsel's Digest:**

Existing law requires newly elected Legislators to attend certain training before the beginning of their first legislative session. (NRS 218A.285)

**Section 1** of this bill requires such training to include discussion of major policy issues that are likely to be considered during the ensuing regular session of the Legislature. **Section 1** also requires the Director of the

Legislative Counsel Bureau to communicate in writing the dates for training to candidates for election to the Assembly and the Senate for the ensuing regular session of the Legislature.

Existing law requires the Director to provide an electronic copy of a training session to any Legislator who was unable to attend the training session. (NRS 218A.285) **Section 1** authorizes the Director to provide an alternate means of recording the information provided during certain training sessions and requires a Legislator who was unable to attend a training session to complete that session in the manner prescribed by the Director.

Existing law contains provisions governing requests for the drafting of legislative measures for a regular session. (NRS 218D.100-218D.215) This bill revises the number of legislative measures that various persons and entities may request for drafting and also revises the deadlines for making such requests.

**Section 6** of this bill changes the number of legislative measures that Legislators and the chair of each standing committee may request by certain deadlines. **Section 6** also changes the deadlines for providing sufficient detail to allow complete drafting of a legislative measure. **Section 6** further: (1) prohibits a Legislator who has filed a declaration or an acceptance of candidacy for election to the House in which he or she is not currently sitting from requesting the drafting of legislative measures; and (2) provides that, if the Legislator is elected to the other House, any request that he or she submits before filing a declaration or an acceptance of candidacy for election counts against the applicable limitation for the House to which the Legislator was elected to serve. (NRS 218D.150)

Existing law allows each statutory legislative committee and interim study committee to request a certain number of legislative measures preceding a regular session. (NRS 218D.160) **Section 7** of this bill reduces the number of legislative measures that may be requested by the Chair of the Legislative Commission and moves up the deadline for statutory legislative committees and interim study committees to provide sufficient detail to allow complete drafting of their legislative measures.

**Section 8** of this bill revises the deadlines by which the Governor or the Governor's designated representative must submit requests for the drafting of legislative measures and increases the number of legislative measures that the **Governor**, Lieutenant Governor, Secretary of State, State Treasurer, State Controller and Attorney General may request for drafting. (NRS 218D.175)

**Section 9** of this bill reduces the number of legislative measures that may be requested by the city council of a city whose population is 150,000 or more but less than 500,000 (currently the cities of Henderson, North Las Vegas and Reno). (NRS 218D.205)



Existing law authorizes the following entities to submit their own requests for the drafting of legislative measures for each regular session: (1) a mental health consortium established to develop strategic plans for the provision of mental health services to children with emotional disturbance and their families (NRS 218D.215, 433B.333); and (2) an interagency committee created by the Director of the Department of Health and Human Services to evaluate the child welfare system in this State. (NRS 432B.178) **Sections 11 and 12** of this bill eliminate the authority of these entities to submit their own requests, but such entities still would be authorized by existing law to ask Legislators or legislative committees to submit and sponsor requests on behalf of the entities. (NRS 218D.150, 218D.155, 218D.160)

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

**Section 1.** NRS 218A.285 is hereby amended to read as follows:

218A.285 1. A Legislator who is elected to the Assembly or the Senate and who has not previously served in either House shall attend the training required pursuant to this section unless his or her attendance is excused pursuant to subsection 6.

2. A member of the Assembly who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Speaker of the Assembly. A member of the Senate who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Majority Leader of the Senate.

3. The training required pursuant to this section must ~~be recorded electronically and~~ include:

(a) Legislative procedure and protocol;  
(b) Overviews of the state budget and the budgetary process;  
(c) ~~Briefings on~~ **Discussion of major** policy issues ~~relevant to the State;~~ **that are likely to be considered during the ensuing regular session;**  
and

(d) Such other matters as are deemed appropriate by the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly and the Minority Leader of the Senate for their respective Houses.

4. The Director shall provide staff support for the training required pursuant to this section.

5. The training required pursuant to this section must not exceed a total of 10 days and must be conducted between the day next after the general election and the commencement of the ensuing regular session. The dates for the training must be ~~determined~~ :

(a) **Determined** by the Speaker of the Assembly and the Majority Leader of the Senate ~~and posted~~ ;

(b) *Posted* on the public website of the Legislature on ~~an~~ **the** Internet ~~website~~; and

(c) *Communicated in writing by the Director to the candidates for election to the Assembly and the Senate for the ensuing regular session,*

↪ not later than 90 days before the first day on which training will be conducted.

6. The Speaker of the Assembly or the Majority Leader of the Senate may excuse a Legislator from attending a training session otherwise required pursuant to this section in case of illness, injury, emergency, employment or other good cause as determined by the Speaker or Majority Leader.

7. ~~The~~ **Except as otherwise provided in this subsection, the** Director shall provide an electronic copy of a training session and a form for attesting completion of the training session to any Legislator who was unable to attend the training session. **If any training session is conducted in a manner that the Director determines cannot reasonably be recorded in an electronic format, the Director may provide for an alternate means of recording the information provided during that training session.** To successfully complete the training required pursuant to this section, ~~such~~ a Legislator ~~must view the~~ **who was unable to attend a** training session ~~electronically~~ **shall complete that session in the manner prescribed by the Director** and submit the attestation to the Director.

8. The Director shall issue a “Certificate of Graduation from the Legislative Training Academy” to each Legislator who successfully completes the training required pursuant to this section.

**Sec. 2.** NRS 218D.050 is hereby amended to read as follows:

218D.050 1. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a regular session unless:

(a) Authorized by NRS 218D.100 to ~~218D.215,~~ **218D.210**, inclusive, another specific statute, a joint rule or a concurrent resolution; or

(b) Directed by the Legislature or the Legislative Commission.

2. The Legislative Counsel and the Legal Division shall not prepare or assist in the preparation of legislative measures for or during a special session unless:

(a) Authorized by a joint rule or concurrent resolution; or

(b) Directed by the Legislature or the Legislative Commission.

3. During a regular or special session, the Legislative Counsel and the Legal Division shall provide the Legislature with legal, technical and other appropriate services concerning any legislative measure properly before the Legislature or any committee of the Legislature for consideration.

**Sec. 3.** NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to ~~[218D.215,]~~ **218D.210**, inclusive, apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to ~~[218D.215,]~~ **218D.210**, inclusive, for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to ~~[218D.215,]~~ **218D.210**, inclusive, but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Except as otherwise provided in NRS 218D.150, 218D.155 and 218D.160, assign a number to a request for the drafting of a legislative measure to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(c) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

**Sec. 4.** NRS 218D.105 is hereby amended to read as follows:

218D.105 1. Upon a finding that exceptional circumstances so warrant, the Legislative Commission when the Legislature is not in a regular session, or a standing committee which has jurisdiction of the subject matter when the Legislature is in a regular session, may grant a waiver to an authorized nonlegislative requester to submit a request for the drafting of a legislative measure after the time limits in NRS 218D.175 to ~~[218D.215,]~~ **218D.210**, inclusive.

2. The request for the waiver must be submitted in writing to the Legislative Commission or standing committee, as appropriate, explaining the exceptional circumstances.

**Sec. 5.** NRS 218D.115 is hereby amended to read as follows:

218D.115 1. The Legislative Counsel shall assist authorized nonlegislative requesters in the drafting of the legislative measures which they are authorized to request pursuant to NRS 218D.175 to ~~[218D.215,]~~ **218D.210**, inclusive.

2. To ensure the greatest possible equity in the handling of such requests, drafting must proceed as follows:

(a) Requests from each agency or officer of the Executive Department or from a county, school district or city must, insofar as is possible, be acted

upon in the order in which they are received, unless a different priority is designated by the requester.

(b) As soon as an agency or officer of the Executive Department has requested 10 legislative measures for a regular session, the Legislative Counsel may request the agency or officer to designate the priority for each succeeding request.

3. The priority designated pursuant to this section must guide the Legislative Counsel in acting upon the requests of the respective agencies and officers of the Executive Department and the counties, school districts and cities to ensure each agency and officer, and each county, school district and city, as nearly as is possible, an equal rank.

**Sec. 6.** NRS 218D.150 is hereby amended to read as follows:

218D.150 1. Except as otherwise provided in ~~{subsection 2,}~~ **this section**, each:

(a) Incumbent member of the Assembly may request the drafting of ~~{not}~~ :

**(1) Not** more than ~~{6}~~ **4** legislative measures submitted to the Legislative Counsel on or before ~~{September}~~ **August** 1 preceding a regular session ~~{and not}~~ ;

**(2) Not** more than 5 legislative measures submitted to the Legislative Counsel after ~~{September}~~ **August** 1 but on or before December 10 preceding a regular session ~~{}~~ ; **and**

**(3) Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(b) Incumbent member of the Senate may request the drafting of ~~{not}~~ :

**(1) Not** more than ~~{12}~~ **8** legislative measures submitted to the Legislative Counsel on or before ~~{September}~~ **August** 1 preceding a regular session ~~{and not}~~ ;

**(2) Not** more than 10 legislative measures submitted to the Legislative Counsel after ~~{September}~~ **August** 1 but on or before December 10 preceding a regular session ~~{}~~ ; **and**

**(3) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(c) Newly elected member of the Assembly may request the drafting of ~~{not}~~ :

**(1) Not** more than 5 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~{}~~ ; **and**

**(2) Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

(d) Newly elected member of the Senate may request the drafting of ~~not~~ :

**(1) Not** more than 10 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session ~~1~~ ; **and**

**(2) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.**

2. A Legislator may not request the drafting of a legislative measure pursuant to subsection 1 on or after the date on which the Legislator becomes a nonreturning Legislator. For the purposes of this subsection, “nonreturning Legislator” means a Legislator who, in the year that the Legislator’s term of office expires:

(a) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly;

(b) Has failed to win nomination as a candidate for the Senate or the Assembly at the primary election; or

(c) Has withdrawn as a candidate for the Senate or the Assembly.

3. **A Legislator may not request the drafting of a legislative measure pursuant to paragraph (a) or (b) of subsection 1 on or after the date on which the Legislator files a declaration or an acceptance of candidacy for election to the House in which he or she is not currently a member. If the Legislator is elected to the other House, any request that he or she submitted pursuant to paragraph (a) or (b) of subsection 1 before filing his or her declaration or acceptance of candidacy for election counts against the applicable limitation set forth in paragraph (c) or (d) of subsection 1 for the House in which the Legislator is a newly elected member.**

4. If a request made pursuant to subsection 1 is submitted:

(a) On or before ~~September~~ **August** 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~December~~ **November** 1 preceding the regular session.

(b) After ~~September~~ **August** 1 but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~15~~ **1** preceding the regular session.

~~4~~ **(c) After a regular session has convened but on or before the 8th day of the regular session at 5 p.m., sufficient detail to allow complete drafting of the legislative measure must be submitted on or before the 15th day of the regular session.**

5. In addition to the number of requests authorized pursuant to subsection 1:

(a) The chair of each standing committee of the immediately preceding regular session, or a person designated in the place of the chair by the Speaker of the Assembly or the Majority Leader of the Senate, may request before the date of the general election preceding a regular session the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every ~~15~~ 18 legislative measures that were referred to the respective standing committee during the immediately preceding regular session.

(b) A person designated after the general election as a chair of a standing committee for the next regular session, or a person designated in the place of a chair by the person designated as the Speaker of the Assembly or the Majority Leader of the Senate for the next regular session, may request on or before December 10 preceding that regular session the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chair or designee.

~~15~~ 6. If a request made pursuant to subsection ~~14~~ 5 is submitted:

(a) Before the date of the general election preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the regular session.

(b) After the date of the general election but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January ~~15~~ 1 preceding the regular session.

~~16~~ 7. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

**Sec. 7.** NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than ~~15~~ 10 legislative measures before the first day of a regular session, with the approval of the Legislative Commission, which relate to the affairs of the Legislature or its employees, including legislative measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the first day of a regular session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. If a request made pursuant to subsection 1 or 2 is submitted before the first day of a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before March 1 of the regular session.

4. Except as otherwise provided by a specific statute, joint rule or concurrent resolution:

(a) Any legislative committee created by a statute, other than an interim legislative committee, may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

(b) Any committee or subcommittee established by an order of the Legislative Commission pursuant to NRS 218E.200 may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation, except that such a committee or subcommittee may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

(c) Any other committee established by the Legislature which conducts an interim legislative study or investigation may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation.

➔ The requests authorized pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding a regular session unless the Legislative Commission authorizes submitting a request after that date.

5. If a request made pursuant to subsection 4 is submitted on or before September 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before ~~December~~ **November** 1 preceding the regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

**Sec. 8.** NRS 218D.175 is hereby amended to read as follows:

218D.175 1. For a regular session, the Governor or the Governor's designated representative may request the drafting of not ~~for~~

~~—(a) Not~~ more than ~~[100] [50] 110~~ legislative measures ~~submitted to the Legislative Counsel on or before July 1 preceding the regular session; and~~

~~(b) Not more than 50 legislative measures submitted to the Legislative Counsel after July 1 but on or before September 1 preceding the regular session;~~

~~➔~~ which have been approved by the Governor or the Governor's designated representative on behalf of the officers, agencies, boards, commissions, departments and other units of the Executive Department. The requests must be submitted to the Legislative Counsel on or before ~~September~~ **August** 1 preceding the regular session.

2. The Department of Administration may request on or before the 19th day of a regular session, without limitation, the drafting of as many legislative measures as are necessary to implement the budget proposed by the Governor and to provide for the fiscal management of the State. In

addition to the requests otherwise authorized pursuant to this section, the Governor may request the drafting of not more than 5 legislative measures on or before the 19th day of a regular session to propose the Governor's legislative agenda.

3. For a regular session, the following constitutional officers may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than the following numbers of legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session:

|                           |                    |
|---------------------------|--------------------|
| Lieutenant Governor ..... | <del>{1}</del> 3   |
| Secretary of State .....  | <del>{5}</del> 6   |
| State Treasurer.....      | <del>{2}</del> 5   |
| State Controller .....    | <del>{2}</del> 5   |
| Attorney General .....    | <del>{15}</del> 20 |

4. ***In addition to the requests authorized by subsection 3, the Secretary of State may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than 2 legislative measures, which must be submitted to the Legislative Counsel on or before December 1 preceding the regular session. Sufficient detail to allow complete drafting of the legislative measures requested pursuant to this subsection must be submitted on or before December 31 preceding the regular session.***

5. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to subsections 1 and 3 must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

**Sec. 9.** NRS 218D.205 is hereby amended to read as follows:

218D.205 1. For a regular session, each board of county commissioners, board of trustees of a school district and city council may request the drafting of not more than the numbers of legislative measures set forth in this section if the requests are:

(a) Approved by the governing body of the county, school district or city at a public hearing before their submission to the Legislative Counsel; and

(b) Submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. The Legislative Counsel shall notify the requesting county, school district or city if its request substantially duplicates a request previously submitted by another county, school district or city.

3. The board of county commissioners of a county whose population:



(a) Is 700,000 or more may request the drafting of not more than 4 legislative measures for a regular session.

(b) Is 100,000 or more but less than 700,000 may request the drafting of not more than 2 legislative measures for a regular session.

(c) Is less than 100,000 may request the drafting of not more than 1 legislative measure for a regular session.

4. The board of trustees of a school district in a county whose population:

(a) Is 700,000 or more may request the drafting of not more than 2 legislative measures for a regular session.

(b) Is less than 700,000 may request the drafting of not more than 1 legislative measure for a regular session.

5. The city council of a city whose population:

(a) Is ~~150,000~~ 500,000 or more may request the drafting of not more than 3 legislative measures for a regular session.

(b) ***Is 150,000 or more but less than 500,000 may request the drafting of not more than 2 legislative measures for a regular session.***

(c) Is less than 150,000 may request the drafting of not more than 1 legislative measure for a regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

7. As used in this section, “population” means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

**Sec. 10.** NRS 218D.575 is hereby amended to read as follows:

218D.575 1. A Legislator who will be a member of the next regular session may request the Legislative Counsel to prefile any bill or joint resolution that was requested by that Legislator for introduction in the next regular session.

2. A Legislator designated as a chair of a standing committee for the next regular session may request the Legislative Counsel to prefile on behalf of the committee any bill or joint resolution within the jurisdiction of the committee for introduction in the next regular session.

3. ~~The~~ ***All*** bills and joint resolutions ***requested by authorized nonlegislative requesters and*** submitted for prefiling pursuant to NRS 218D.175 to ~~218D.215,~~ ***218D.210***, inclusive, must be ~~f-~~

~~—(a) Randomly~~ **randomly** divided in equal amounts between the Senate and the Assembly and prefiled on behalf of the appropriate standing committee.

~~[(b) Prepared]~~

**4. The Legislative Counsel shall prepare all bills and joint resolutions submitted for prefiling** in final and correct form for introduction in the Legislature as required by the Nevada Constitution and this chapter.

~~[(4)]~~ **5.** The Legislative Counsel shall not prefile a bill or joint resolution requested by:

(a) A Legislator who is not a candidate for reelection until after the general election immediately preceding the regular session.

(b) A Legislator who is elected or reelected to legislative office at the general election immediately preceding the regular session until the Legislator is determined to have received the highest number of votes pursuant to the canvass of votes required by NRS 293.395.

**Sec. 11.** NRS 432B.178 is hereby amended to read as follows:

432B.178 1. The Director of the Department of Health and Human Services may create an interagency committee to evaluate the child welfare system in this State. Any such evaluation must include, without limitation, a review of state laws to ensure that the state laws comply with federal law and to ensure that the state laws reflect the current practices of each agency which provides child welfare services and others involved in the child welfare system.

2. The Director may appoint as many members to the interagency committee as the Director deems appropriate except that the members of such a committee must include, without limitation, at least one person to represent:

- (a) Each agency which provides child welfare services;
- (b) The Department of Education;
- (c) The juvenile justice system;
- (d) Law enforcement; and
- (e) Providers of treatment or services for persons in the child welfare system.

3. ~~[(The interagency committee created pursuant to subsection 1 may directly request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare one legislative measure for a regular legislative session if it determines that changes in legislation are necessary. Any such request must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature. Upon completion of the proposed legislation, the Legislative Counsel shall transmit any legislative measure prepared pursuant to this~~

~~subsection to the appropriate standing committee of the Assembly or Senate within the first week of the next regular legislative session for introduction.~~

~~—4.1~~ The interagency committee created pursuant to subsection 1 shall, on or before January 1 of each odd-numbered year after it is created, submit to the Director of the Legislative Counsel Bureau a written report for transmittal to the Chairs of the Assembly and Senate Standing Committees on Judiciary, the Chair of the Assembly Committee on Health and Human Services and the Chair of the Senate Committee on Health and Education.

**Sec. 12.** NRS 218D.215 is hereby repealed.

**Sec. 13.** This act becomes effective upon passage and approval.

#### TEXT OF REPEALED SECTION

##### **218D.215 Requests from mental health consortium.**

1. For a regular session, each mental health consortium established pursuant to NRS 433B.333 may request the drafting of not more than 1 legislative measure. The request must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before December 20 preceding the regular session. A legislative measure that is not prefiled on or before that date shall be deemed withdrawn.

Assemblyman Ohrenschaal moved that the Assembly concur in the Senate Amendment No. 942 to Assembly Bill No. 412.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2013

*To the Honorable the Assembly:*

It is my pleasure to inform your esteemed body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 38, Amendment No. 986; Assembly Bill No. 74, Amendment No. 981; Assembly Bill No. 413, Amendment No. 974, and respectfully requests your honorable body to concur in said amendments.

Also, it is my pleasure to inform your esteemed body that the Senate on this day passed, as amended, Senate Bill No. 473.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

#### UNFINISHED BUSINESS

#### CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 425.

The following Senate amendment was read:

Amendment No. 967.

AN ACT relating to insurance; establishing certification provisions for certain enrollment facilitators by the Commissioner of Insurance; revising provisions relating to federal law and to conform with federal law; revising provisions relating to the general tax on insurance premiums; revising provisions relating to public inspection of information filed with the Commissioner; revising provisions relating to dental insurance; **revising provisions relating to certain policies of health insurance and health care plans that provide coverage for the treatment of cancer through the use of chemotherapy**; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Sections 1-26** of this bill establish certification provisions for exchange enrollment facilitators, who will be certified by the Commissioner of Insurance and appointed as navigators or assisters by the Silver State Health Insurance Exchange as part of the requirement that the Exchange implement a state-based health insurance exchange pursuant to the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152. (NRS 695I.210) **Section 119** of this bill repeals numerous sections of the Nevada Insurance Code (Title 57 of NRS) to conform to the federal acts, and **sections 27-118** of this bill generally make conforming changes based on the federal acts and on the repeal of those sections of NRS.

**Section 31.5** of this bill revises a credit which may be used against an insurer's liability for the general tax on insurance premiums imposed pursuant to NRS 680B.027. **Sections 32.1 and 32.8** of this bill revise provisions relating to contracts for coverage for dental care which are sold to small employers. **Section 32.5** of this bill limits, for specified periods, public inspection of certain information filed with the Commissioner of Insurance.

**Senate Bill No. 266 of this session establishes various provisions governing certain health care plans that provide coverage for the treatment of cancer through the use of chemotherapy. Sections 1, 3-5, 8 and 9 of Senate Bill No. 266 of this session prohibit those health care plans from requiring a copayment, deductible or coinsurance amount for orally administered chemotherapy in a combined amount that is more than \$100 per prescription. Sections 118.1 to 118.6 of this bill amend the corresponding provisions of Senate Bill No. 266 of this session to provide that the limit on the amount of the deductible that may be required does not apply if the plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the plan's annual deductible has not been satisfied.**

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

**Section 1.** Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 26, inclusive, of this act.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 2.5 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 2.5.** *“Appointment” means a contract, agreement or other arrangement under which a person may act on behalf of the Exchange as an assister, navigator or any other designation authorized or required by the Federal Act.*

**Sec. 3.** *“Assister” has the meaning ascribed to it by regulations adopted by the Board of Directors of the Exchange pursuant to NRS 695I.370.*

**Sec. 4.** *“Exchange” means the Silver State Health Insurance Exchange established by NRS 695I.200.*

**Sec. 5.** *“Exchange enrollment facilitator” means a person certified pursuant to this chapter who is engaged in the business of facilitating enrollment in qualified health plans offered by the Exchange.*

**Sec. 6.** *“Navigator” means a person or entity that meets the requirements of 45 C.F.R. § 155.210 and any other requirements of the Exchange.*

**Sec. 7.** *“Qualified health plan” has the meaning ascribed to it in NRS 695I.080.*

**Sec. 8. 1.** *The provisions of NRS 683A.341 and 683A.351 apply to exchange enrollment facilitators.*

**2.** *For the purposes of subsection 1, unless the context requires that NRS 683A.341 or 683A.351 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 “exchange enrollment facilitator.”*

**Sec. 9. 1.** *An applicant for an initial certificate as an exchange enrollment facilitator must:*

- (a) Be a natural person of not less than 18 years of age;*
- (b) Apply on a form prescribed by the Commissioner;*
- (c) Pass a written examination established by the Commissioner by regulation;*
- (d) Successfully complete a course of instruction established by the Commissioner by regulation;*

(e) *Submit fingerprints as required pursuant to section 10 of this act; and*

(f) *Pay the nonrefundable:*

(1) *Application and certificate fee set forth in NRS 680B.010;*

(2) *Initial fee set forth in NRS 680C.110; and*

(3) *Additional fee of not more than \$15 for the processing of the application established pursuant to section 25 of this act.*

2. *The additional fee for the processing of applications pursuant to subparagraph (3) of paragraph (f) of subsection 1 must be deposited in the Insurance Recovery Account created pursuant to NRS 679B.305.*

Sec. 10. 1. *The Commissioner shall prescribe the form for application for a certificate as an exchange enrollment facilitator. The form must require the applicant to declare, under penalty of refusal to issue, or suspension or revocation of, the certificate of the applicant, that the statements made in the application are true, correct and complete to the best of his or her knowledge and belief.*

2. *Before approving an application, the Commissioner must find that the applicant:*

(a) *Meets the requirements of section 9 of this act.*

(b) *Has not committed any act that is a ground for refusal to issue, or suspension or revocation of a certificate pursuant to NRS 683A.451.*

(c) *Paid all applicable fees prescribed pursuant to section 9 of this act.*

(d) *Meets the requirements of subsections 3 and 5.*

3. *An 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.*

*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 the information described in paragraph (b).*

*5. The Commissioner may require from the applicant any document reasonably necessary to verify information contained in an application.*

*6. Except as otherwise provided in section 23 of this act, a certificate issued pursuant to this chapter is valid for 3 years after the date of issuance unless it is suspended, revoked or otherwise terminated.*

*Sec. 11. 1. A person taking the examination required pursuant to section 9 of this act must apply to the Commissioner to take the examination and pay a nonrefundable fee in an amount prescribed in the regulations adopted pursuant to section 25 of this act.*

*2. A person who fails to appear for the examination as scheduled or fails to pass the examination must reapply for examination and pay the required fees in order to be scheduled for another examination.*

*Sec. 12. 1. A certificate may be renewed for an additional 3-year period by submitting to the Commissioner an application for renewal and:*

*(a) If the application is made:*

*(1) On or before the expiration date of the certificate, all applicable renewal fees and an additional fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account created pursuant to NRS 679B.305; or*

*(2) Except as otherwise provided in subsection 3:*

*(I) Not more than 30 days after the expiration date of the certificate, all applicable renewal fees plus any late fee required and an additional fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account created pursuant to NRS 679B.305; or*

*(II) More than 30 days but not more than 1 year after the expiration date of the certificate, all applicable renewal fees plus a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110.*

*(b) Proof of the successful completion of appropriate courses of study required for renewal, as established by the Commissioner by regulation.*

2. *The fees specified in this section are not refundable.*

3. *An exchange enrollment facilitator who is unable to renew his or her certificate 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.*

Sec. 13. 1. *An applicant for the issuance or renewal of a certificate to act as an exchange enrollment facilitator 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 certificate; or*

(b) *A separate form prescribed by the Commissioner.*

3. *A certificate to act as an exchange enrollment facilitator 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.*

Sec. 14. 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 certificate to act as an exchange enrollment facilitator, the Commissioner shall deem the certificate 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 certificate by the*



*district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*2. The Commissioner shall reinstate a certificate to act as an exchange enrollment facilitator 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 certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

*Sec. 15. The application of a natural person who applies for the issuance or renewal of a certificate as an exchange enrollment facilitator must include the social security number of the applicant.*

*Sec. 16. 1. A certificate issued pursuant to this chapter must state the certificate holder's name, address, personal identification number, the date of issuance and the date of expiration, and must contain any other information the Commissioner considers necessary. The certificate must be made available by the certificate holder for public inspection upon request.*

*2. A certificate holder shall inform the Commissioner of all locations from which he or she conducts business and of each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the date on which the change takes place. If a certificate holder changes his or her business or residence address without giving written notice and the Commissioner is unable to locate the certificate holder after diligent effort, the Commissioner may revoke the certificate without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the certificate holder 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. 17. 1. If the Commissioner believes that a temporary certificate is necessary to carry on the business of facilitating selection of a qualified health plan, the Commissioner may issue a temporary certificate as an exchange enrollment facilitator for 180 days or less without requiring an examination to:*

*(a) The surviving spouse, personal representative or guardian of an exchange enrollment facilitator who dies or becomes incompetent, to allow adequate time for the sale of the business, the recovery or return of the exchange enrollment facilitator, or the training and certification of new personnel to operate the business;*

*(b) A member or employee of a business organization appointed by the Exchange, upon the death or disability of the natural person designated in its application or certificate;*

*(c) The designee of an exchange enrollment facilitator entering active service in the Armed Forces of the United States; or*

*(d) A person in any other circumstance in which the Commissioner believes that the public interest will be best served by issuing the certificate.*

2. *The Commissioner may by order limit the authority of a person who holds a temporary certificate as the Commissioner believes necessary to protect persons insured and the public. The Commissioner may require the person who holds a temporary certificate to have a suitable sponsor who is an exchange enrollment facilitator and who assumes responsibility for all acts of the person who holds the temporary certificate, and may impose similar requirements to protect persons insured and the public. The Commissioner may order revocation of a temporary certificate if the interests of persons insured or the public are endangered. A temporary certificate expires when the owner or the personal representative or guardian of the owner disposes of the business.*

Sec. 18. *An entity other than a natural person that is appointed by the Exchange must require that each natural person who is authorized to act for the entity be an exchange enrollment facilitator. Each exchange enrollment facilitator must be named in the partnership's or corporation's appointment.*

Sec. 19. *An exchange enrollment facilitator:*

1. *May not concurrently hold a license as a producer of insurance, an insurance consultant or a surplus lines broker's license in any line.*

2. *Shall not:*

*(a) Sell, solicit or negotiate insurance;*

*(b) Receive any consideration, directly or indirectly, from any health insurance issuer or issuer of stop-loss insurance in connection with the enrollment of any individuals or employees in a qualified health plan or health insurance plan; or*

*(c) Employ, be employed by or be in partnership with, or receive any remuneration arising out of his or her activities as an exchange enrollment facilitator from, any licensed producer of insurance, insurance consultant or surplus lines broker or insurer.*

Sec. 20. *An exchange enrollment facilitator is obligated under his or her certificate to:*

1. *Serve with objectivity and complete loyalty the interests of his or her client; and*

2. *Render to his or her client information, counsel and service which, to the best of the exchange enrollment facilitator's knowledge,*

*understanding and opinion, best serves the client's insurance needs and interests.*

Sec. 21. 1. *A nonresident who is an exchange enrollment facilitator shall appoint the Commissioner, in writing, as his or her registered agent upon whom may be served all legal process issued in connection with any action or proceeding brought or pending in this State against or involving the nonresident certificate holder and relating to transactions under his or her Nevada certificate. The appointment is irrevocable and remains in force so long as such an action or proceeding exists or may arise. Duplicate copies of process must be served upon the Commissioner, or other person in apparent charge of the Division during the Commissioner's absence, accompanied by payment of the fee for service of process. Promptly after any such service, the Commissioner shall forward a copy of the process by certified mail, return receipt requested, to the nonresident certificate holder at his or her business address of most recent record with the Division. Process so served and the copy so forwarded constitutes personal service upon the certificate holder for all purposes.*

2. *Each such nonresident certificate holder shall also file with the Commissioner a written agreement to appear before the Commissioner pursuant to notice of hearing, order to show cause or subpoena issued by the Commissioner and sent by certified mail to the certificate holder at his or her business address of most recent record with the Division, and that if the nonresident certificate holder fails to appear, the nonresident certificate holder thereby consents to any subsequent suspension, revocation or refusal to renew his or her certificate.*

Sec. 22. 1. *The Commissioner may place an exchange enrollment facilitator on probation, suspend his or her certificate for not more than 12 months, or revoke or refuse to renew his or her certificate, or may impose an administrative fine or take any combination of the foregoing actions, for one or more of the causes set forth in NRS 683A.451.*

2. *The provisions of NRS 683A.461 also apply to an exchange enrollment facilitator.*

Sec. 23. 1. *Upon the suspension, limitation or revocation of the certificate of an exchange enrollment facilitator, the Commissioner shall immediately notify the certificate holder in person or by mail addressed to the certificate holder at his or her most recent address of record with the Division. Notice by mail is effective when mailed.*

2. *Upon the suspension, limitation or revocation of the certificate of an exchange enrollment facilitator, the Commissioner shall immediately notify the Executive Director of the Exchange. Upon receipt of such notification, the Executive Director shall immediately terminate the certificate holder's appointment.*

3. *The Commissioner shall not again issue a certificate under this chapter to any natural person whose certificate has been revoked until at least 1 year after the revocation has become final, and thereafter not until the person again qualifies for a certificate under this chapter. A person whose certificate has been revoked twice is not eligible for any certificate under this title.*

Sec. 24. 1. *If an exchange enrollment facilitator fails to obtain an appointment by the Exchange within 30 days after the date on which the certificate was issued, the exchange enrollment facilitator's certificate expires and the exchange enrollment facilitator shall promptly deliver his or her certificate to the Commissioner.*

2. *If the Exchange terminates an exchange enrollment facilitator's appointment, the exchange enrollment facilitator is prohibited from engaging in the business of an exchange enrollment facilitator under his or her certificate until such time as the exchange enrollment facilitator receives a new appointment by the Exchange. If the exchange enrollment facilitator does not obtain a new appointment by the Exchange within 30 days after the date the appointment was terminated, the exchange enrollment facilitator's certificate expires and the exchange enrollment facilitator shall promptly deliver his or her certificate to the Commissioner.*

3. *Except as otherwise provided in subsection 4, if the Exchange terminates the appointment of an entity other than a natural person:*

(a) *The appointments of exchange enrollment facilitators named on the entity's appointment also terminate; and*

(b) *The exchange enrollment facilitator is prohibited from engaging in the business of an exchange enrollment facilitator under his or her certificate until such time as the exchange enrollment facilitator receives a new appointment by the Exchange. If the exchange enrollment facilitator does not obtain a new appointment by the Exchange within 30 days after the date on which the appointment was terminated, the exchange enrollment facilitator's certificate expires and the exchange enrollment facilitator shall promptly deliver his or her certificate to the Commissioner.*

4. *The provisions of subsection 3 do not apply to any appointments the exchange enrollment facilitator may have individually or through an entity other than the terminated entity.*

5. *Upon the termination of an appointment for an entity or certificate holder, the Executive Director of the Exchange shall notify the Commissioner of the effective date of the termination and the grounds for termination.*

Sec. 25. 1. *The Commissioner shall adopt regulations:*

(a) *For establishing and conducting an examination required by this chapter for the initial issuance and renewal of a certificate;*

*(b) For the establishment of a course of instruction as required by this chapter for the initial issuance and renewal of a certificate;*

*(c) Establishing the fee required by section 9 of this act for the processing of an application;*

*(d) Establishing the fee required by section 11 of this act for the administration of the examination; and*

*(e) For carrying out the provisions of this chapter.*

**2. The Commissioner may contract with a person to perform functions required by this chapter, including, without limitation:**

*(a) Administering examinations;*

*(b) Providing courses of instruction;*

*(c) Processing applications; and*

*(d) Collecting fees.*

**Sec. 26. 1. No person may engage in the business of an exchange enrollment facilitator unless a certificate has been issued to the person by the Commissioner.**

**2. A person who violates subsection 1 is subject to an administrative fine of not more than \$1,000 for each act or violation.**

**Sec. 27.** Chapter 679A of NRS is hereby amended by adding thereto the provisions set forth as sections 28, 28.5 and 29 of this act.

**Sec. 28. “Federal Act” means the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to, or regulations or guidance issued pursuant to, those acts.**

**Sec. 28.5. “Grandfathered plan” means a health benefit plan that meets the requirements of 42 U.S.C. § 18011.**

**Sec. 29. “Rating characteristic” means age, family composition, tobacco use or geographic rating area.**

**Sec. 30.** NRS 679A.020 is hereby amended to read as follows:

679A.020 As used in this Code, unless the context otherwise requires, the words and terms defined in NRS 679A.030 to 679A.130, inclusive, **and sections 28, 28.5 and 29 of this act** have the meanings ascribed to them in those sections.

**Sec. 31.** NRS 680B.010 is hereby amended to read as follows:

680B.010 The Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, fees and miscellaneous charges as follows:

1. Insurer’s certificate of authority:

(a) Filing initial application..... \$2,450

(b) Issuance of certificate:

(1) For any one kind of insurance as defined in

|                                                                                                                                                                                                                                                                 |       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| NRS 681A.010 to 681A.080, inclusive .....                                                                                                                                                                                                                       | 283   |
| (2) For two or more kinds of insurance as so defined .....                                                                                                                                                                                                      | 578   |
| (3) For a reinsurer .....                                                                                                                                                                                                                                       | 2,450 |
| (c) Each annual continuation of a certificate.....                                                                                                                                                                                                              | 2,450 |
| (d) Reinstatement pursuant to NRS 680A.180, 50 percent of<br>the annual continuation fee otherwise required.                                                                                                                                                    |       |
| (e) Registration of additional title pursuant to NRS 680A.240 .....                                                                                                                                                                                             | 50    |
| (f) Annual renewal of the registration of additional title<br>pursuant to NRS 680A.240.....                                                                                                                                                                     | 25    |
| 2. Charter documents, other than those filed with an<br>application for a certificate of authority. Filing amendments<br>to articles of incorporation, charter, bylaws, power of attorney<br>and other constituent documents of the insurer, each document..... | \$10  |
| 3. Annual statement or report. For filing annual statement<br>or report .....                                                                                                                                                                                   | \$25  |
| 4. Service of process:                                                                                                                                                                                                                                          |       |
| (a) Filing of power of attorney .....                                                                                                                                                                                                                           | \$5   |
| (b) Acceptance of service of process.....                                                                                                                                                                                                                       | \$30  |
| 5. Licenses, appointments and renewals for producers of<br>insurance:                                                                                                                                                                                           |       |
| (a) Application and license.....                                                                                                                                                                                                                                | \$125 |
| (b) Appointment fee for each insurer .....                                                                                                                                                                                                                      | 15    |
| (c) Triennial renewal of each license .....                                                                                                                                                                                                                     | 125   |
| (d) Temporary license .....                                                                                                                                                                                                                                     | 10    |
| (e) Modification of an existing license.....                                                                                                                                                                                                                    | 50    |
| 6. Surplus lines brokers:                                                                                                                                                                                                                                       |       |
| (a) Application and license.....                                                                                                                                                                                                                                | \$125 |
| (b) Triennial renewal of each license .....                                                                                                                                                                                                                     | 125   |
| 7. Managing general agents' licenses, appointments and<br>renewals:                                                                                                                                                                                             |       |
| (a) Application and license.....                                                                                                                                                                                                                                | \$125 |
| (b) Appointment fee for each insurer .....                                                                                                                                                                                                                      | 15    |
| (c) Triennial renewal of each license .....                                                                                                                                                                                                                     | 125   |
| 8. Adjusters' licenses and renewals:                                                                                                                                                                                                                            |       |
| (a) Independent and public adjusters:                                                                                                                                                                                                                           |       |
| (1) Application and license.....                                                                                                                                                                                                                                | \$125 |
| (2) Triennial renewal of each license .....                                                                                                                                                                                                                     | 125   |
| (b) Associate adjusters:                                                                                                                                                                                                                                        |       |
| (1) Application and license.....                                                                                                                                                                                                                                | 125   |
| (2) Triennial renewal of each license .....                                                                                                                                                                                                                     | 125   |
| 9. Licenses and renewals for appraisers of physical damage<br>to motor vehicles:                                                                                                                                                                                |       |

|                                                                                                                                                                                                                                                   |       |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|
| (a) Application and license.....                                                                                                                                                                                                                  | \$125 |
| (b) Triennial renewal of each license .....                                                                                                                                                                                                       | 125   |
| 10. Additional title and property insurers pursuant to<br>NRS 680A.240:                                                                                                                                                                           |       |
| (a) Original registration.....                                                                                                                                                                                                                    | \$50  |
| (b) Annual renewal.....                                                                                                                                                                                                                           | 25    |
| 11. Insurance vending machines:                                                                                                                                                                                                                   |       |
| (a) Application and license, for each machine .....                                                                                                                                                                                               | \$125 |
| (b) Triennial renewal of each license .....                                                                                                                                                                                                       | 125   |
| 12. Permit for solicitation for securities:                                                                                                                                                                                                       |       |
| (a) Application for permit .....                                                                                                                                                                                                                  | \$100 |
| (b) Extension of permit .....                                                                                                                                                                                                                     | 50    |
| 13. Securities salespersons for domestic insurers:                                                                                                                                                                                                |       |
| (a) Application and license.....                                                                                                                                                                                                                  | \$25  |
| (b) Annual renewal of license .....                                                                                                                                                                                                               | 15    |
| 14. Rating organizations:                                                                                                                                                                                                                         |       |
| (a) Application and license.....                                                                                                                                                                                                                  | \$500 |
| (b) Annual renewal.....                                                                                                                                                                                                                           | 500   |
| 15. Certificates and renewals for administrators licensed<br>pursuant to chapter 683A of NRS:                                                                                                                                                     |       |
| (a) Application and certificate of registration .....                                                                                                                                                                                             | \$125 |
| (b) Triennial renewal.....                                                                                                                                                                                                                        | 125   |
| 16. For copies of the insurance laws of Nevada, a fee which<br>is not less than the cost of producing the copies.                                                                                                                                 |       |
| 17. Certified copies of certificates of authority and<br>licenses issued pursuant to the Code.....                                                                                                                                                | \$10  |
| 18. For copies and amendments of documents on file in<br>the Division, a reasonable charge fixed by the Commissioner,<br>including charges for duplicating or amending the forms<br>and for certifying the copies and affixing the official seal. |       |
| 19. Letter of clearance for a producer of insurance or other<br>licensee if requested by someone other than the licensee .....                                                                                                                    | \$10  |
| 20. Certificate of status as a producer of insurance or other<br>licensee if requested by someone other than the licensee .....                                                                                                                   | \$10  |
| 21. Licenses, appointments and renewals for bail agents:                                                                                                                                                                                          |       |
| (a) Application and license.....                                                                                                                                                                                                                  | \$125 |
| (b) Appointment for each surety insurer .....                                                                                                                                                                                                     | 15    |
| (c) Triennial renewal of each license .....                                                                                                                                                                                                       | 125   |
| 22. Licenses and renewals for bail enforcement agents:                                                                                                                                                                                            |       |
| (a) Application and license.....                                                                                                                                                                                                                  | \$125 |
| (b) Triennial renewal of each license .....                                                                                                                                                                                                       | 125   |
| 23. Licenses, appointments and renewals for general agents                                                                                                                                                                                        |       |

for bail:

- (a) Application and license..... \$125
- (b) Initial appointment by each insurer ..... 15
- (c) Triennial renewal of each license ..... 125
- 24. Licenses and renewals for bail solicitors:
- (a) Application and license..... \$125
- (b) Triennial renewal of each license ..... 125
- 25. Licenses and renewals for title agents and escrow officers:
- (a) Application and license..... \$125
- (b) Triennial renewal of each license ..... 125
- (c) Appointment fee for each title insurer ..... 15
- (d) Change in name or location of business or in association ..... 10
- 26. Certificate of authority and renewal for a seller of prepaid

funeral contracts \$125

- 27. Licenses and renewals for agents for prepaid funeral

contracts:

- (a) Application and license..... \$125
- (b) Triennial renewal of each license ..... 125
- 28. Licenses, appointments and renewals for agents for

fraternal benefit societies:

- (a) Application and license..... \$125
- (b) Appointment for each insurer ..... 15
- (c) Triennial renewal of each license ..... 125
- 29. Reinsurance intermediary broker or manager:
- (a) Application and license..... \$125
- (b) Triennial renewal of each license ..... 125
- 30. Agents for and sellers of prepaid burial contracts:
- (a) Application and certificate or license ..... \$125
- (b) Triennial renewal..... 125
- 31. Risk retention groups:
- (a) Initial registration ..... \$250
- (b) Each annual continuation of a certificate of registration.....250
- 32. Required filing of forms:
- (a) For rates and policies ..... \$25
- (b) For riders and endorsements..... 10
- 33. Viatical settlements:
- (a) Provider of viatical settlements:
- (1) Application and license..... \$1,000
- (2) Annual renewal ..... 1,000
- (b) Broker of viatical settlements:
- (1) Application and license..... 500
- (2) Annual renewal ..... 500



|                                                                                                                                                                                        |              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| (c) Registration of producer of insurance acting as a<br>viatical settlement broker.....                                                                                               | 250          |
| 34. Insurance consultants:                                                                                                                                                             |              |
| (a) Application and license.....                                                                                                                                                       | \$125        |
| (b) Triennial renewal.....                                                                                                                                                             | 125          |
| 35. Licensee's association with or appointment or sponsorship<br>by an organization:                                                                                                   |              |
| (a) Initial appointment, association or sponsorship, for each<br>Organization .....                                                                                                    | \$50         |
| (b) Renewal of each association or sponsorship .....                                                                                                                                   | 50           |
| (c) Annual renewal of appointment.....                                                                                                                                                 | 15           |
| 36. Purchasing groups:                                                                                                                                                                 |              |
| (a) Initial registration and review of an application .....                                                                                                                            | \$100        |
| (b) Each annual continuation of registration .....                                                                                                                                     | 100          |
| 37. <b>Exchange enrollment facilitators:</b>                                                                                                                                           |              |
| (a) <b>Application and certificate .....</b>                                                                                                                                           | <b>\$125</b> |
| (b) <b>Triennial renewal of each certificate .....</b>                                                                                                                                 | <b>125</b>   |
| (c) <b>Temporary certificate.....</b>                                                                                                                                                  | <b>10</b>    |
| (d) <b>Modification of an existing certificate .....</b>                                                                                                                               | <b>\$50</b>  |
| 38. In addition to any other fee or charge, all applicable fees required of<br>any person, including, without limitation, persons listed in this section,<br>pursuant to NRS 680C.110. |              |

**Sec. 31.5.** NRS 680B.050 is hereby amended to read as follows:

680B.050 1. Except as otherwise provided in this section, a domestic or foreign insurer , **including, without limitation, an insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29)**, which owns and substantially occupies and uses any building in this state as its home office or as a regional home office is entitled to the following credits against the tax otherwise imposed by NRS 680B.027:

(a) An amount equal to 50 percent of the aggregate amount of the tax as determined under NRS 680B.025 to 680B.039, inclusive; and

(b) An amount equal to the full amount of ad valorem taxes paid by the insurer during the calendar year next preceding the filing of the report required by NRS 680B.030, upon the home office or regional home office together with the land, as reasonably required for the convenient use of the office, upon which the home office or regional home office is situated.

➤ These credits must not reduce the amount of tax payable to less than 20 percent of the tax otherwise payable by the insurer under NRS 680B.027.

2. As used in this section, a “regional home office” means an office of the insurer performing for an area covering two or more states, with a minimum of 25 employees on its office staff, the supervision, underwriting, issuing and servicing of the insurance business of the insurer.

3. The insurer shall, on or before March 15 of each year, furnish proof to the satisfaction of the Executive Director of the Department of Taxation, on forms furnished by or acceptable to the Executive Director, as to its entitlement to the tax reduction provided for in this section. A determination of the Executive Director of the Department of Taxation pursuant to this section is not binding upon the Commissioner for the purposes of NRS 682A.240.

4. An insurer is not entitled to the credits provided in this section unless:

(a) The insurer owned the property upon which the reduction is based for the entire year for which the reduction is claimed; and

(b) The insurer occupied at least 70 percent of the usable space in the building to transact insurance or the insurer is a general or limited partner and occupies 100 percent of its ownership interest in the building.

5. If two or more insurers under common ownership or management and control jointly own in equal interest, and jointly occupy and use such a home office or regional home office in this state for the conduct and administration of their respective insurance businesses as provided in this section, each of the insurers is entitled to the credits provided for by this section if otherwise qualified therefor under this section.

**6. For the purposes of subsection 1, any insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29) and is restricted or prohibited from purchasing or owning real property pursuant to a contract with the Federal Government, including any entity thereof, shall be deemed to own any portion of any real property that the insurer occupies. The provisions of this subsection expire upon the expiration, cancellation, repayment or any other termination of the contract restricting or prohibiting such purchase or ownership.**

**Sec. 32.** 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) Independent review organizations, as provided for in NRS 616A.469 or 683A.3715, 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.031:                                                  |         |
| (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

**(tt) Exchange enrollment facilitators, as defined in section**

**5 of this act:**

- (1) Initial fee..... \$60**
- (2) Triennial fee..... \$60**

**Sec. 32.1.** NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2 ~~††~~ **and NRS 686B.125**, 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) 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;
- (h) Surety insurance;
- (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.

**Sec. 32.2.** NRS 686B.070 is hereby amended to read as follows:

686B.070 1. Every authorized insurer and every rate service organization licensed under NRS 686B.140 which has been designated by any insurer for the filing of rates under subsection 2 of NRS 686B.090 shall file with the Commissioner all:

- (a) Rates and proposed increases thereto;
  - (b) Forms of policies to which the rates apply;
  - (c) Supplementary rate information; and
  - (d) Changes and amendments thereof,
- ↪ made by it for use in this state.

2. If an insurer makes a filing for a proposed increase in a rate for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, the insurer shall not include in the filing any component that is directly or indirectly related to the following:

(a) Capital losses, diminished cash flow from any dividends, interest or other investment returns, or any other financial loss that is materially outside of the claims experience of the professional liability insurance industry, as determined by the Commissioner.

(b) Losses that are the result of any criminal or fraudulent activities of a director, officer or employee of the insurer.

↪ If the Commissioner determines that a filing includes any such component, the Commissioner shall, pursuant to NRS 686B.110, disapprove the proposed increase, in whole or in part, to the extent that the proposed increase relies upon such a component.

**3. *If an insurer makes a filing for a proposed increase in a rate for a health benefit plan, as that term is defined in section 33.4 of this act, the filing must include a unified rate review template, a written description justifying the rate increase and any rate filing documentation.***

**4. As used in this section, “rate filing documentation,” “unified rate review template” and “written description justifying the rate increase” have the meanings ascribed in 45 C.F.R. § 154.215.**

**Sec. 32.5.** NRS 686B.080 is hereby amended to read as follows:

686B.080 ~~Each~~

**1. Except as otherwise provided in subsections 2 and 3, each** filing and any supporting information filed under NRS 686B.010 to 686B.1799, inclusive, must, as soon as filed, be open to public inspection at any reasonable time. Copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

**2. All approved rates for health benefit plans available for purchase by individuals are considered proprietary and to constitute trade secrets, and are not subject to disclosure by the Commissioner to persons outside the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.**

**3. The provisions of subsection 2 expire annually on the date 30 days before open enrollment.**

**4. For the purposes of this section, “open enrollment” has the meaning ascribed to it in 45 C.F.R. § 147.104(b)(1)(ii).**

**Sec. 32.8.** NRS 686B.125 is hereby amended to read as follows:

686B.125 ~~No~~

**1. Except as otherwise provided in this section, no** insurer, organization or person licensed pursuant to this title may sell or offer to sell any contract providing coverage for dental care at a rate which is excessive for the benefits offered to the insured or member. For the purpose of this section, a ratio of losses to premiums collected which is less than 75 percent is presumed to show an excessive rate.

**2. The provisions of subsection 1 do not apply to a contract providing coverage for dental care that is sold to a small employer pursuant to the provisions of chapter 689C of NRS.**

**3. As used in this section, “small employer” has the meaning ascribed to it in NRS 689C.095.**

**Sec. 33.** Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 33.4 to 33.8, inclusive, of this act.

**Sec. 33.4. 1. “Health benefit plan” means a policy, contract, certificate or agreement offered by a carrier to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services. Except as otherwise provided in this section, the term includes catastrophic health insurance policies and a policy that pays on a cost-incurred basis.**

**2. The term does not include:**



- (a) Coverage that is only for accident or disability income insurance, or any combination thereof;*
- (b) Coverage issued as a supplement to liability insurance;*
- (c) Liability insurance, including general liability insurance and automobile liability insurance;*
- (d) Workers' compensation or similar insurance;*
- (e) Coverage for medical payments under a policy of automobile insurance;*
- (f) Credit insurance;*
- (g) Coverage for on-site medical clinics;*
- (h) Other similar insurance coverage specified pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits;*
- (i) Coverage under a short-term health insurance policy; and*
- (j) Coverage under a blanket student accident and health insurance policy.*

3. *The term does not include the following benefits if the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan:*

- (a) Limited-scope dental or vision benefits;*
- (b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and*
- (c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.*

4. *The term does not include the following benefits if the benefits are provided under a separate policy, certificate or contract, there is no coordination between the provisions of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor:*

- (a) Coverage that is only for a specified disease or illness; and*
- (b) Hospital indemnity or other fixed indemnity insurance.*

5. *The term does not include any of the following, if offered as a separate policy, certificate or contract of insurance:*

- (a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;*

*(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and*

*(c) Similar supplemental coverage provided under a group health plan.*

**Sec. 33.5. 1.** All health benefit plans must be made available in the manner required by 45 C.F.R § 147.104.

**2.** In addition to the requirements of subsection 1, any health benefit plan for individuals that is not purchased on the Silver State Health Insurance Exchange established by NRS 695I.210:

*(a) Must be made available for purchase at any time during the calendar year;*

*(b) Is subject to a waiting period of not more than 90 days after the date on which the application for coverage was received;*

*(c) Is effective upon the first day of the month immediately succeeding the month in which the waiting period expires; and*

*(d) Is not retroactive to the date on which the application for coverage was received.*

**Sec. 33.6. 1.** A carrier that offers coverage in the group or individual market must, before making any network plan available for sale in this State, demonstrate the capacity to deliver services adequately by applying to the Commissioner for the issuance of a network plan and submitting a description of the procedures and programs to be implemented to meet the requirements described in subsection 2.

**2.** The Commissioner shall determine, within 90 days after receipt of the application required pursuant to subsection 1, if the carrier, with respect to the network plan:

*(a) Has demonstrated the willingness and ability to ensure that health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities in a manner that enhances availability, accessibility and continuity of service;*

*(b) Has organizational arrangements established in accordance with regulations promulgated by the Commissioner; and*

*(c) Has a procedure established in accordance with regulations promulgated by the Commissioner to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the Commissioner.*

**3.** The Commissioner may certify that the carrier and the network plan meet the requirements of subsection 2, or may determine that the carrier and the network plan do not meet such requirements. Upon a determination that the carrier and the network plan do not meet the

*requirements of subsection 2, the Commissioner shall specify in what respects the carrier and the network plan are deficient.*

*4. A carrier approved to issue a network plan pursuant to this section must file annually with the Commissioner a summary of information compiled pursuant to subsection 2 in a manner determined by the Commissioner.*

*5. The Commissioner shall, not less than once each year, or more often if deemed necessary by the Commissioner for the protection of the interests of the people of this State, make a determination concerning the availability and accessibility of the health care services of any network plan approved pursuant to this section.*

*6. The expense of any determination made by the Commissioner pursuant to this section must be assessed against the carrier and remitted to the Commissioner.*

*7. As used in this section, "network plan" has the meaning ascribed to it in NRS 689B.570.*

*Sec. 33.8. 1. The premium rate charged by a health insurer for health benefit plans offered in the individual or small group market may vary with respect to the particular plan or coverage involved based solely on these characteristics:*

- (a) Whether the plan or coverage applies to an individual or a family;*
- (b) Geographic rating area;*
- (c) Tobacco use, except that the rate shall not vary by a ratio of more than 1.5 to 1 for like individuals who vary in tobacco use; and*
- (d) Age, except that the rate must not vary by a ratio of more than 3 to 1 for like individuals of different age who are age 21 years or older and that the variation in rate must be actuarially justified for individuals who are under the age of 21 years, consistent with the uniform age rating curve established in the Federal Act. For the purpose of identifying the appropriate age adjustment under this paragraph and the age band defined in the Federal Act to a specific enrollee, the enrollee's age as of the date of policy issuance or renewal must be used.*

*2. The provisions of subsection 1:*

*(a) Apply to a fraternal benefit society organized under chapter 695A of NRS; and*

*(b) Do not apply to grandfathered plans.*

*Sec. 34. NRS 689A.020 is hereby amended to read as follows:*

*689A.020 Nothing in this chapter applies to or affects:*

*1. Any policy of liability or workers' compensation insurance with or without supplementary expense coverage therein.*

*2. Any group or blanket policy.*

3. Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to health insurance as to:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means; or

(b) Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity if the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

4. Reinsurance, except as otherwise provided in NRS 689A.470 to 689A.740, inclusive, and 689C.610 to ~~689C.980,~~ **689C.940**, inclusive, relating to the program of reinsurance.

**Sec. 35.** NRS 689A.030 is hereby amended to read as follows:

689A.030 A policy of health insurance must not be delivered or issued for delivery to any person in this State unless it otherwise complies with this Code, and complies with the following:

1. The entire money and other considerations for the policy must be expressed therein.

2. The time when the insurance takes effect and terminates must be expressed therein.

3. It must purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policyholder, any two or more eligible members of that family, including the husband, wife, **domestic partner as defined in NRS 122A.030**, dependent children, from the time of birth, adoption or placement for the purpose of adoption as provided in NRS 689A.043, or any ~~children under a specified age which must not exceed 19~~ **child on or before the last day of the month in which the child attains 26** years ~~except as provided in NRS 689A.045,~~ **of age**, and any other person dependent upon the policyholder.

4. The style, arrangement and overall appearance of the policy must not give undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers must be plainly printed in light-faced type of a style in general use, the size of which must be uniform and not less than 10 points with a lowercase unspaced alphabet length not less than 120 points. "Text" includes all printed matter except the name and address of the insurer, the name or the title of the policy, the brief description, if any, and captions and subcaptions.

5. The exceptions and reductions of indemnity must be set forth in the policy and, other than those contained in NRS 689A.050 to 689A.290, inclusive, must be printed, at the insurer's option, with the benefit provision to which they apply or under an appropriate caption such as "Exceptions" or

“Exceptions and Reductions,” except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of that exception or reduction must be included with the benefit provision to which it applies.

6. Each such form, including riders and endorsements, must be identified by a number in the lower left-hand corner of the first page thereof.

7. The policy must not contain any provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless that portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates or classification of risks, or short-rate table filed with the Commissioner.

8. The policy must provide 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. The policy must provide, at the option of the applicant, benefits for expenses incurred for the treatment of abuse of alcohol or drugs, unless the policy provides coverage only for a specified disease or provides for the payment of a specific amount of money if the insured is hospitalized or receiving health care in his or her home.

10. The policy must provide benefits for expense arising from hospice care.

**Sec. 36.** NRS 689A.040 is hereby amended to read as follows:

689A.040 1. Except as otherwise provided in subsections 2 and 3, each such policy delivered or issued for delivery to any person in this State must contain the provisions specified in NRS 689A.050 to 689A.170, inclusive, in the words in which the provisions appear, except that the insurer may, at its option, substitute for one or more of the provisions corresponding provisions of different wording approved by the Commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision must be preceded individually by the applicable caption shown or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

2. ~~Each policy delivered or issued for delivery in this State after November 1, 1973, must contain a provision, if applicable, setting forth the provisions of NRS 689A.045.~~

~~3.~~ If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the Commissioner, may omit from the policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of a provision in such a manner as to make the

provision as contained in the policy consistent with the coverage provided by the policy.

**Sec. 37.** (Deleted by amendment.)

**Sec. 38.** NRS 689A.044 is hereby amended to read as follows:

689A.044 1. A policy of health insurance must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine ~~[to women and girls at such ages]~~ as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A policy of health insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

**Sec. 39.** NRS 689A.0455 is hereby amended to read as follows:

689A.0455 1. ~~[Notwithstanding any provisions of this Title to the contrary, a]~~ A policy of health insurance delivered or issued for delivery in this state pursuant to this chapter must provide coverage for the treatment of conditions relating to severe mental illness.

2. ~~[The coverage required by this section:~~

~~—(a) Must provide:~~

~~—(1) Benefits for at least 40 days of hospitalization as an inpatient per policy year and 40 visits for treatment as an outpatient per policy year, excluding visits for the management of medication; and~~

~~—(2) That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of hospitalization not used by the insured. In no event is the policy required to provide coverage for more than 40 days of hospitalization as an inpatient per policy year.~~

~~—(b) Is not required to provide benefits for psychosocial rehabilitation or care received as a custodial inpatient.~~

~~—3. Any deductibles and copayments required to be paid for the coverage required by this section must not be greater than 150 percent of the out of pocket expenses required to be paid for medical and surgical benefits provided pursuant to the policy of health insurance.~~

~~4. The provisions of this section do not apply to a policy of health insurance if, at the end of the policy year, the premiums charged for that policy, or a standard grouping of policies, increase by more than 2 percent as a result of providing the coverage required by this section and the insurer obtains an exemption from the Commissioner pursuant to subsection 5.~~

~~5. To obtain the exemption required by subsection 4, an insurer must submit to the Commissioner a written request therefor that is signed by an actuary and sets forth the reasons and actuarial assumptions upon which the request is based. To determine whether an exemption may be granted, the Commissioner shall subtract from the amount of premiums charged during the policy year the amount of premiums charged during the period immediately preceding the policy year and the amount of any increase in the premiums charged that is attributable to factors that are unrelated to providing the coverage required by this section. The Commissioner shall verify the information within 30 days after receiving the request. The request shall be deemed approved if the Commissioner does not deny the request within that time.~~

~~6. The provisions of this section do not:~~

~~(a) Limit the provision of specialized services covered by Medicaid for persons with conditions relating to mental health or substance abuse.~~

~~(b) Supersede any provision of federal law, any federal or state policy relating to Medicaid, or the terms and conditions imposed on any Medicaid waiver granted to this state with respect to the provisions of services to persons with conditions relating to mental health or substance abuse.~~

~~7. A policy of health insurance subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after January 1, 2000, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void, unless the policy is otherwise exempt from the provisions of this section pursuant to subsection 4.~~

~~8.]~~ As used in this section, “severe mental illness” means any of the following mental illnesses that are biologically based and for which diagnostic criteria are prescribed in the ***most recent edition of the Diagnostic and Statistical Manual of Mental Disorders***, ~~[Fourth Edition,]~~ published by the American Psychiatric Association:

- (a) Schizophrenia.
- (b) Schizoaffective disorder.
- (c) Bipolar disorder.
- (d) Major depressive disorders.
- (e) Panic disorder.
- (f) Obsessive-compulsive disorder.

**Sec. 39.5.** NRS 689A.230 is hereby amended to read as follows:

689A.230 1. There may be a provision as follows:

Coordination of Benefits: If, with respect to a person covered under this policy, benefits for allowable expense incurred during a claim determination period under this policy, together with benefits for allowable expense during such period under all other valid coverage (without giving effect to this provision or to any "coordination of benefits provision" applying to such other valid coverage), exceed the total of such person's allowable expense during such period, this insurer shall be liable only for such proportionate amount of the benefits for allowable expense under this policy during such period as (a) the total allowable expense during such period bears to (b) the total amount of benefits payable during such period for such expense under this policy and all other valid coverage (without giving effect to this provision or to any "coordination of benefits provision" applying to such other valid coverage) less in both (a) and (b) any amount of benefits for allowable expense payable under other valid coverage which does not contain a "coordination of benefits provision." In no event shall this provision operate to increase the amount of benefits for allowable expense payable under this policy with respect to a person covered under this policy above the amount which would have been paid in the absence of this provision. This insurer may pay benefits to any insurer providing other valid coverage in the event of overpayment by such insurer. Any such payment shall discharge the liability of this insurer as fully as if the payment had been made directly to the insured or the assignee or beneficiary of the insured. If this insurer pays benefits to the insured or the assignee or beneficiary of the insured, in excess of the amount which would have been payable if the existence of other valid coverage had been disclosed, this insurer shall have a right of action against the insured or the assignee or beneficiary of the insured to recover the amount which would not have been paid had there been a disclosure of the existence of the other valid coverage. The amount of other valid coverage which is on a provision of service basis shall be computed as the amount the services rendered would have cost in the absence of such coverage.

For the purposes of this provision:

(1) "Allowable expense" means 100 percent of any necessary, reasonable and customary item of expense which is covered, in whole or in part, as a hospital, surgical, medical or major medical expense under this policy or under any other valid coverage.

(2) "Claim determination period" with respect to any covered person means the initial period of ..... (insert period of not less than 30 days)



and each successive period of a like number of days, during which allowable expense covered under this policy is incurred on account of such person. The first such period begins on the date when the first such expense is incurred, and successive periods shall begin when such expense is incurred after expiration of a prior period.

or, in lieu thereof:

(2) "Claim determination period" with respect to any covered person means each ..... (insert calendar or policy period of not less than a month) during which allowable expense covered under this policy is incurred on account of such person.

(3) "Coordination of benefits provision" means this provision and any other provision which may reduce an insurer's liability because of the existence of benefits under other valid coverage.

2. The foregoing policy provisions may be inserted in all policies providing hospital, surgical, medical or major medical benefits for which the application includes a question as to other coverages subject to this provision. If the policy provision stated in subsection 1 is included in a policy which also contains the policy provision stated in NRS 689A.240, there shall be added to the caption of the provision stated in subsection 1 of the phrase "expense-incurred benefits." The insurer may make this provision applicable to either or both:

- (a) Other valid coverage with other insurers; and
- (b) Other valid coverage with the same insurer.

➡ The insurer shall include in this provision a definition of "other valid coverage" approved as to form by the Commissioner. Such term may include hospital, surgical, medical or major medical benefits provided by individual or family-type coverage, government programs or workers' compensation. Such term shall not include any ~~group insurance,~~ automobile medical payments or third-party liability coverage. The insurer shall not include a subrogation clause in the policy. The insurer may require, as part of the proof of claim, the information necessary to administer this provision.

3. If by application of any of the foregoing provisions the insurer effects a material reduction of benefits otherwise payable under the policy, the insurer shall refund to the insured any premium unearned on the policy by reason of such reduction of coverage during the policy year current and that next preceding at the time the loss commenced, subject to the insurer's right to provide in the policy that no such reduction of benefits or refund will be made unless the unearned premium to be so refunded amounts to \$5 or such larger sum as the insurer may so specify.

**Sec. 40.** NRS 689A.470 is hereby amended to read as follows:

689A.470 As used in NRS 689A.470 to 689A.740, inclusive, unless the context otherwise requires, the words and terms defined in NRS 689A.475 to ~~689A.605,~~ **689A.600**, inclusive, have the meanings ascribed to them in those sections.

**Sec. 41.** NRS 689A.520 is hereby amended to read as follows:

689A.520 ~~["Established geographic]~~ **"Geographic** service area" means a geographic area, as approved by the Commissioner, ~~[and based on the certificate of authority of the carrier to transact insurance in this state,]~~ within which the carrier is authorized to provide coverage.

**Sec. 42.** NRS 689A.525 is hereby amended to read as follows:

689A.525 "Geographic **rating** area" means an area established by the Commissioner for use in adjusting the rates for a health benefit plan.

**Sec. 43.** NRS 689A.630 is hereby amended to read as follows:

689A.630 1. Except as otherwise provided in this section, coverage under an individual health benefit plan must be renewed by the individual carrier that issued the plan, at the option of the individual, unless:

(a) The individual has failed to pay premiums or contributions in accordance with the terms of the health benefit plan or the individual carrier has not received timely premium payments.

(b) The individual has performed an act or a practice that constitutes fraud or has made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The individual carrier decides to discontinue offering and renewing all health benefit plans delivered or issued for delivery in this state. If the individual carrier decides to discontinue offering and renewing such plans, the individual carrier shall:

(1) Provide notice of its intention to the Commissioner and the chief regulatory officer for insurance in each state in which the individual carrier is licensed to transact insurance at least 60 days before the date on which notice of cancellation or nonrenewal is delivered or mailed to the persons covered by the insurance to be discontinued pursuant to subparagraph (2).

(2) Provide notice of its intention to all persons covered by the discontinued insurance and to the Commissioner and the chief regulatory officer for insurance in each state in which such a person is known to reside. The notice must be made at least 180 days before the nonrenewal of any health benefit plan by the individual carrier.

(3) Discontinue all health insurance issued or delivered for issuance for individuals in this state and not renew coverage under any health benefit plan issued to such individuals.

(d) The Commissioner finds that the continuation of the coverage in this state by the individual carrier would not be in the best interests of the

policyholders or certificate holders of the individual carrier or would impair the ability of the individual carrier to meet its contractual obligations. If the Commissioner makes such a finding, the Commissioner shall assist the persons covered by the discontinued insurance in this state in finding replacement coverage.

2. An individual carrier may discontinue the issuance and renewal of a form of a product of a health benefit plan if the Commissioner finds that the form of the product offered by the individual carrier is obsolete and is being replaced with comparable coverage. A form of a product of a health benefit plan may be discontinued by the individual carrier pursuant to this subsection only if:

(a) The individual carrier notifies the Commissioner and the chief regulatory officer for insurance in each state in which it is licensed of its decision pursuant to this subsection to discontinue the issuance and renewal of the form of the product at least 60 days before the individual carrier notifies the persons covered by the discontinued insurance pursuant to paragraph (b).

(b) The individual carrier notifies each person covered by the discontinued insurance, the Commissioner and the chief regulatory officer for insurance in each state in which a person covered by the discontinued insurance is known to reside of the decision of the individual carrier to discontinue offering the form of the product. The notice must be made to persons covered by the discontinued insurance at least 180 days before the date on which the individual carrier will discontinue offering the form of the product.

(c) The individual carrier offers to each person covered by the discontinued insurance the option to purchase any other health benefit plan currently offered by the individual carrier to individuals in this state.

(d) In exercising the option to discontinue the form of the product and in offering the option to purchase other coverage pursuant to paragraph (c), the individual carrier acts uniformly without regard to the claim experience of the persons covered by the discontinued insurance or any health status-related factor relating to those persons or beneficiaries covered by the discontinued form of the product or any persons or beneficiaries who may become eligible for such coverage.

3. An individual carrier may discontinue the issuance and renewal of a health benefit plan that is made available to individuals pursuant to this chapter only through a bona fide association if:

(a) The membership of the individual in the association was the basis for the provision of coverage;

(b) The membership of the individual in the association ceases; and

(c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the covered individual.

4. An individual carrier that elects not to renew a health benefit plan pursuant to paragraph (c) of subsection 1 shall not write new business for individuals pursuant to this chapter for 5 years after the date on which notice is provided to the Commissioner pursuant to subparagraph (2) of paragraph (c) of subsection 1.

5. If an individual carrier does business in only one ~~established~~ geographic service area of this state, the provisions of this section apply only to the operations of the individual carrier in that service area.

**Sec. 44.** NRS 689A.635 is hereby amended to read as follows:

689A.635 1. An individual carrier that offers coverage through a network plan is not required pursuant to NRS 689A.630 to offer coverage to or accept an application from ~~an eligible~~ a person if the ~~eligible~~ person does not reside or work in the ~~established~~ geographic service area or in a geographic **rating** area , ~~{for which the individual carrier is authorized to transact insurance,}~~ provided that the coverage is refused or terminated uniformly without regard to any health status-related factor of any eligible person.

2. As used in this section, “network plan” means a health benefit plan offered by a health carrier under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the carrier. The term does not include an arrangement for the financing of premiums.

**Sec. 45.** NRS 689A.637 is hereby amended to read as follows:

689A.637 1. An individual carrier that offers a health benefit plan that includes a provision for a restricted network shall use its best efforts to contract with at least one health center in each ~~established~~ geographic service area to provide health care services to persons covered by the plan if the health center:

(a) Meets all conditions imposed by the carrier on similarly situated providers of health care with which the carrier contracts, including, without limitation:

(1) Certification for participation in the Medicaid or Medicare program; and

(2) Requirements relating to the appropriate credentials for providers of health care; and

(b) Agrees to reasonable reimbursement rates that are generally consistent with those offered by the carrier to similarly situated providers of health care with which the carrier contracts.

2. As used in this section, “health center” has the meaning ascribed to it in 42 U.S.C. § 254b.

**Sec. 46.** (Deleted by amendment.)

**Sec. 47.** NRS 689A.690 is hereby amended to read as follows:

689A.690 1. As part of its solicitation and sales materials for an individual health benefit plan, an individual carrier shall disclose, to the extent reasonable:

(a) The extent to which premium rates for an individual and the dependent of the individual are established or adjusted based upon rating characteristics;

(b) The right of the individual carrier to change premium rates and the factors, other than claims experience, that may affect changes in premium rates; **and**

(c) Any provisions in the individual health benefit plan relating to the renewability of the plan. ~~}; and~~

~~—(d) Any provisions in the individual health benefit plan relating to an exclusion for a preexisting condition.}~~

2. For the purposes of this section, an individual carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

~~{3. On or before March 1 of each year, an individual carrier shall file with the Commissioner an actuarial certification that the individual carrier is in compliance with NRS 689A.680 to 689A.700, inclusive, and that the rating methods of the individual carrier are actuarially sound. The certification must be in such a form and must contain such information as specified by the Commissioner. A copy of the certification must be retained by the individual carrier at its principal place of business.~~

~~—4. As used in this section, “actuarial certification” means a written statement signed by a member of the American Academy of Actuaries or any other person acceptable to the Commissioner that an individual carrier is in compliance with the provisions of NRS 689A.680 to 689A.700, inclusive, based upon an examination conducted by the person which included a review of the appropriate records and the actuarial assumptions and methods used by the individual carrier in establishing premium rates for applicable health benefit plans.}~~

**Sec. 47.5.** NRS 689A.695 is hereby amended to read as follows:

689A.695 An individual carrier shall make the information and documents described in NRS ~~[689A.680 to]~~ **689A.690, 689A.695 and 689A.700, [inclusive,]** available to the Commissioner upon request. Except in cases of violations of the provisions of this chapter, the information, other

than the premium rates charged by the individual carrier, is proprietary, constitutes a trade secret and is not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.

**Sec. 48.** NRS 689A.700 is hereby amended to read as follows:

689A.700 The Commissioner may adopt regulations to carry out the provisions of NRS ~~689A.680 to~~ **689A.690, 689A.695 and** 689A.700, ~~inclusive,~~ and to ensure that the practices used by individual carriers relating to the establishment of rates are consistent with the purposes of NRS 689A.470 to 689A.740, inclusive . ~~It, including, but not limited to, determining the manner in which geographic rating areas are designated by all individual carriers.~~

**Sec. 49.** NRS 689A.710 is hereby amended to read as follows:

689A.710 1. Except as otherwise provided in this section, an individual carrier or a producer shall not, directly or indirectly:

(a) Encourage or direct an ~~eligible person~~ **individual or family** to refrain from filing an application for coverage with an individual carrier because of the health status, claims experience, industry, occupation or geographic location of the ~~eligible person~~ **individual or family**.

(b) Encourage or direct an ~~eligible person~~ **individual or family** to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the ~~eligible person~~ **individual or family**.

2. The provisions of subsection 1 do not apply to information provided to an ~~eligible person~~ **individual or family** by an individual carrier or a producer relating to the ~~established~~ geographic service area or a provision for a restricted network of the individual carrier.

3. Except as otherwise provided in this subsection, an individual carrier shall not, directly or indirectly, enter into any contract, agreement or arrangement with a producer if the contract, agreement or arrangement provides for or results in a variation to the compensation paid to a producer for the sale of a health benefit plan because of the health status, claims experience, industry, occupation or geographic location of the individual at the time that the health benefit plan is issued to or renewed by the individual. ~~[The provisions of this subsection do not apply to any arrangement for compensation that provides payment to a producer on the basis of a percentage of premiums, except that the percentage may not vary because of the health status, claims experience, industry, occupation or geographic area of the individual.]~~

4. An individual carrier shall not terminate, fail to renew, or limit its contract or agreement of representation with a producer for any reason related to the health status, claims experience, industry, occupation or

geographic location of an individual at the time that the health benefit plan is issued to or renewed by the individual placed by the producer with the individual carrier.

5. A denial by an individual carrier of an application for coverage from an ~~eligible person~~ **individual or family** must be in writing and must state the reason for the denial.

6. The Commissioner may adopt regulations that set forth additional standards to provide for the fair marketing and broad availability of health benefit plans to ~~eligible persons~~ **individuals or families** in this state.

7. A violation of any provision of this section by an individual carrier may constitute an unfair trade practice for the purposes of chapter 686A of NRS.

8. The provisions of this section apply to a third-party administrator if the third-party administrator enters into a contract, agreement or other arrangement with an individual carrier to provide administrative, marketing or other services related to the offering of a health benefit plan to ~~eligible persons~~ **individuals or families** in this state.

9. Nothing in this section interferes with the right and responsibility of a ~~broker~~ **producer** to advise and represent the best interests of an ~~eligible person~~ **individual or family** who is seeking health insurance coverage from an individual carrier.

**Sec. 50.** NRS 689A.725 is hereby amended to read as follows:

689A.725 For the purposes of NRS 689A.470 to 689A.740, inclusive, a plan for coverage of a bona fide association must:

1. Conform with ~~[NRS 689A.680 to]~~ **689A.690, 689A.695 and 689A.700, [inclusive,]** concerning rates.

2. Provide for the renewability of coverage for members of the bona fide association, and their dependents, if such coverage meets the criteria set forth in NRS 689A.630.

~~{3. Provide for the availability of coverage for members of the bona fide association, and their dependents, if such coverage conforms with NRS 689A.640, except that the bona fide association is not required to offer basic and standard health benefit plan coverage to its members or their dependents.~~

~~—4. Conform with subsection 1 of NRS 689A.660, relating to preexisting conditions.~~

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

**Sec. 52.** NRS 689B.0313 is hereby amended to read as follows:

689B.0313 1. A policy of group health insurance must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine ~~[to women and girls at such ages]~~ as recommended for vaccination by a competent authority, including, without

limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A policy of group health insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

**Sec. 53.** NRS 689B.033 is hereby amended to read as follows:

689B.033 1. All group health insurance policies providing coverage on an expense-incurred basis and all employee welfare plans providing medical, surgical or hospital care or benefits established or maintained for employees or their families or dependents, or for both, must as to the family members' coverage provide that the health benefits applicable for children are payable with respect to:

- (a) A newly born child of the insured from the moment of birth;
- (b) An adopted child from the date the adoption becomes effective, if the child was not placed in the home before adoption; and
- (c) A child placed with the insured for the purpose of adoption from the moment of placement as certified by the public or private agency making the placement. The coverage of such a child ceases if the adoption proceedings are terminated as certified by the public or private agency making the placement.

↪ The policies must provide the coverage specified in subsection 3 and must not exclude premature births.

2. The policy or contract may require that notification of:

- (a) The birth of a newly born child;
- (b) The effective date of adoption of a child; or
- (c) The date of placement of a child for adoption,

↪ and payments of the required premium or fees, if any, must be furnished to the insurer or welfare plan within 31 days after the date of birth, adoption or placement for adoption in order to have the coverage continue beyond the 31-day period.

3. The coverage for newly born and adopted children and children placed for adoption consists of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities and, within the limits of the policy, necessary



transportation costs from place of birth to the nearest specialized treatment center under major medical policies, and with respect to basic policies to the extent such costs are charged by the treatment center.

~~{4. An insurer shall not restrict the coverage of a dependent child adopted or placed for adoption solely because of a preexisting condition the child has at the time the child would otherwise become eligible for coverage pursuant to the group health policy. Any provision relating to an exclusion for a preexisting condition must comply with NRS 689B.500.}~~

**Sec. 54.** NRS 689B.061 is hereby amended to read as follows:

689B.061 A policy of group health insurance which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

~~1. May not require a deductible of more than \$600 difference per admission to a facility for inpatient treatment which is not a preferred provider of health care.~~

~~—2. May not require a deductible of more than \$500 difference per treatment, other than inpatient treatment at a hospital, by a provider which is not preferred.~~

~~3.}~~ May not require an insured, another insurer who issues policies of group health insurance, a nonprofit medical service corporation or a health maintenance organization to pay any amount in excess of the deductible or coinsurance due from the insured based on the rates agreed upon with a provider.

~~{4. May not provide for a difference in percentage rates of payment for coinsurance of more than 30 percentage points between the payment for coinsurance required to be paid by the insured to a preferred provider of health care and the payment for coinsurance required to be paid by the insured to a provider of health care who is not preferred.~~

~~—5.}~~ 2. Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

~~{6.}~~ 3. Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a calendar year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.

~~{7.}~~ 4. Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured requests the service and the insurer determines that the

use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

~~{8.}~~ 5. Must require the insurer to process a claim of a provider of health care who is not preferred not later than 30 working days after the date on which proof of the claim is received.

**Sec. 54.5.** NRS 689B.063 is hereby amended to read as follows:

689B.063 1. When a policy of group insurance is primary, its benefits are determined before those of another policy and the benefits of another policy are not considered. When a policy of group insurance is secondary, its benefits are determined after those of another policy. Secondary benefits may not be reduced because of benefits under the primary policy. When there are more than two policies, a policy may be primary as to one and may be secondary as to another.

2. The benefits payable under a policy of group health insurance may not be reduced because of any benefits payable under ~~{an individual health insurance policy,}~~ health insurance on a franchise plan or first-party coverage under an automobile insurance policy.

3. As used in this section, “a policy of group insurance” includes Medicare.

**Sec. 55.** NRS 689B.340 is hereby amended to read as follows:

689B.340 As used in NRS 689B.340 to ~~{689B.590,}~~ **689B.580**, inclusive, unless the context otherwise requires, the words and terms defined in NRS 689B.350 to 689B.460, inclusive, have the meanings ascribed to them in those sections.

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

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

**Sec. 58.** NRS 689B.480 is hereby amended to read as follows:

689B.480 1. In determining the applicable creditable coverage of a person for the purposes of NRS 689B.340 to ~~{689B.590,}~~ **689B.580**, inclusive, a period of creditable coverage must not be included if, after the expiration of that period but before the enrollment date, there was a 63-day period during all of which the person was not covered under any creditable coverage. To establish a period of creditable coverage, a person must present any certificates of coverage provided to the person in accordance with NRS 689B.490 and such other evidence of coverage as required by regulations adopted by the Commissioner. For the purposes of this subsection, any waiting period for coverage or an affiliation period must not be considered in determining the applicable period of creditable coverage.

2. In determining the period of creditable coverage of a person, ~~{for the purposes of NRS 689B.500,}~~ a carrier shall include each applicable period of creditable coverage without regard to the specific benefits covered during that period, except that the carrier may elect to include applicable periods of

creditable coverage based on coverage of specific benefits as specified in the regulations of the United States Department of Health and Human Services, if such an election is made on a uniform basis for all participants and beneficiaries of the health benefit plan or coverage. Pursuant to such an election, the carrier shall include each applicable period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within that class or category, as specified by those regulations.

3. Regardless of whether coverage is actually provided, if a carrier elects in accordance with subsection 2 to determine creditable coverage based on specified benefits, a statement that such an election has been made and a description of the effect of the election must be:

(a) Included prominently in any disclosure statement concerning the health benefit plan; and

(b) Provided to each person at the time of enrollment in the health benefit plan.

**4. *The provisions of this section apply only to grandfathered plans.***

**Sec. 59.** NRS 689B.500 is hereby amended to read as follows:

689B.500 ~~{1. Except as otherwise provided in this section, a}~~ A carrier that issues a group health plan or coverage under blanket accident and health insurance or group health insurance shall not deny, exclude or limit a benefit for a preexisting condition . ~~{for:~~

~~—(a) More than 12 months after the effective date of coverage if the employee or other insured enrolls through open enrollment or after the first day of the waiting period for that enrollment, whichever is earlier; or~~

~~—(b) More than 18 months after the effective date of coverage for a late enrollee.~~

~~➔ A carrier may not define a preexisting condition more restrictively than that term is defined in NRS 689B.450.~~

~~—2. The period of any exclusion for a preexisting condition imposed by a group health plan or coverage under blanket accident and health insurance or group health insurance on a person to be insured in accordance with the provisions of this chapter must be reduced by the aggregate period of creditable coverage of that person, if the creditable coverage was continuous to a date not more than 63 days before the effective date of the coverage. The period of continuous coverage must not include:~~

~~—(a) Any waiting period for the effective date of the new coverage applied by the employer or the carrier; or~~

~~—(b) Any affiliation period not to exceed 60 days for a new enrollee and 90 days for a late enrollee required before becoming eligible to enroll in the group health plan.~~

~~— 3. A health maintenance organization authorized to transact insurance pursuant to chapter 695C of NRS that does not restrict coverage for a preexisting condition may require an affiliation period before coverage becomes effective under a plan of insurance if the affiliation period applies uniformly to all employees or other persons insured and without regard to any health status related factors. During the affiliation period, the carrier shall not collect any premiums for coverage of the employee or other insured.~~

~~— 4. An insurer that restricts coverage for preexisting conditions shall not impose an affiliation period.~~

~~— 5. A carrier shall not impose any exclusion for a preexisting condition:~~

~~— (a) Relating to pregnancy.~~

~~— (b) In the case of a person who, as of the last day of the 30 day period beginning on the date of the birth of the person, is covered under creditable coverage.~~

~~— (c) In the case of a child who is adopted or placed for adoption before attaining the age of 18 years and who, as of the last day of the 30 day period beginning on the date of adoption or placement for adoption, whichever is earlier, is covered under creditable coverage. The provisions of this paragraph do not apply to coverage before the date of adoption or placement for adoption.~~

~~— (d) In the case of a condition for which medical advice, diagnosis, care or treatment was recommended or received for the first time while the covered person held creditable coverage, and the medical advice, diagnosis, care or treatment was a benefit under the plan, if the creditable coverage was continuous to a date not more than 63 days before the effective date of the new coverage.~~

~~➔ The provisions of paragraphs (b) and (c) do not apply to a person after the end of the first 63 day period during all of which the person was not covered under any creditable coverage.~~

~~— 6. As used in this section, “late enrollee” means an eligible employee, or a dependent of the eligible employee, who requests enrollment in a group health plan following the initial period of enrollment, if that initial period of enrollment is at least 30 days, during which the person is entitled to enroll under the terms of the health benefit plan. The term does not include an eligible employee or a dependent of the eligible employee if:~~

~~— (a) The employee or dependent:~~

~~— (1) Was covered under creditable coverage at the time of the initial enrollment;~~

~~— (2) Lost coverage under creditable coverage as a result of cessation of contributions by his or her employer, termination of employment or eligibility, reduction in the number of hours of employment, involuntary~~

~~termination of creditable coverage, or death of, or divorce or legal separation from, a covered spouse; and~~

~~—(3) Requests enrollment not later than 30 days after the date on which the creditable coverage of the employee or dependent was terminated or on which the change in conditions that gave rise to the termination of the coverage occurred.~~

~~—(b) The employee enrolls during the open enrollment period, as provided in the contract or as otherwise specifically provided by specific statute.~~

~~—(c) The employer of the employee offers several health benefit plans and the employee elected a different plan during an open enrollment period.~~

~~—(d) A court has ordered coverage to be provided to the spouse or a minor or dependent child of an employee under a health benefit plan of the employee and a request for enrollment is made within 30 days after the issuance of the court order.~~

~~—(e) The employee changes status from not being an eligible employee to being an eligible employee and requests enrollment, subject to any waiting period, within 30 days after the change in status.~~

~~—(f) The person has continued coverage in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, and that coverage has been exhausted.}]~~

**Sec. 60.** NRS 689B.560 is hereby amended to read as follows:

689B.560 1. Except as otherwise provided in this section, coverage under a policy of group health insurance must be renewed by the carrier at the option of the plan sponsor, unless:

(a) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the group health insurance or the carrier has not received timely premium payments;

(b) The plan sponsor has performed an act or a practice that constitutes fraud or has made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The plan sponsor has failed to comply with any material provision of the group health insurance relating to employer contributions and group participation; or

(d) The carrier decides to discontinue offering coverage under group health insurance. If the carrier decides to discontinue offering and renewing such insurance, the carrier shall:

(1) Provide notice of its intention to the Commissioner and the chief regulatory officer for insurance in each state in which the carrier is licensed to transact insurance at least 60 days before the date on which notice of cancellation or nonrenewal is delivered or mailed to the persons covered by the discontinued insurance pursuant to subparagraph (2).

(2) Provide notice of its intention to all persons covered by the discontinued insurance and to the Commissioner and the chief regulatory officer for insurance in each state in which such a person is known to reside. The notice must be made at least 180 days before the discontinuance of any group health plan by the carrier.

(3) Discontinue all health insurance issued or delivered for issuance for persons in this state and not renew coverage under any group health insurance issued to such persons.

2. A carrier may discontinue the issuance and renewal of a form of a product of group health insurance if the Commissioner finds that the form of the product offered by the carrier is obsolete and is being replaced with comparable coverage. A form of a product may be discontinued by the carrier pursuant to this subsection only if:

(a) The carrier notifies the Commissioner and the chief regulatory officer in each state in which it is licensed of its decision pursuant to this subsection to discontinue the issuance and renewal of the form of the product at least 60 days before the individual carrier notifies the persons covered by the discontinued insurance pursuant to paragraph (b).

(b) The carrier notifies each person covered by the discontinued insurance and the Commissioner and the chief regulatory officer in each state in which such a person is known to reside of the decision of the carrier to discontinue offering the form of the product. The notice must be made at least 180 days before the date on which the carrier will discontinue offering the form of the product.

(c) The carrier offers to each person covered by the discontinued insurance the option to purchase any other health benefit plan currently offered by the carrier to large groups in this state.

(d) In exercising the option to discontinue the form of the product and in offering the option to purchase other coverage pursuant to paragraph (c), the carrier acts uniformly without regard to the claim experience of the persons covered by the discontinued insurance or any health status-related factor relating to those persons or beneficiaries covered by the discontinued form of the product or any person or beneficiary who may become eligible for such coverage.

3. A carrier may discontinue the issuance and renewal of any type of group health insurance offered by the carrier in this state that is made available pursuant to this chapter only to a member of a bona fide association if:

(a) The membership of the person in the bona fide association was the basis for the provision of coverage under the group health insurance;

(b) The membership of the person in the bona fide association ceases; and

(c) Coverage is terminated pursuant to this subsection for all such former members uniformly without regard to any health status-related factor relating to the former member.

4. A carrier that elects not to renew group health insurance pursuant to paragraph (d) of subsection 1 shall not write new business pursuant to this chapter for 5 years after the date on which notice is provided to the Commissioner pursuant to subparagraph (2) of paragraph (d) of subsection 1.

5. If the carrier does business in only one ~~established~~ geographic service area of this state, the provisions of this section apply only to the operations of the carrier in that service area.

6. As used in this section, “bona fide association” has the meaning ascribed to it in NRS 689A.485.

**Sec. 61.** NRS 689B.570 is hereby amended to read as follows:

689B.570 1. A carrier that offers coverage through a network plan is not required to offer coverage to or accept an application from an employer that does not employ or no longer employs any enrollees who reside or work in the ~~established~~ geographic service area of the carrier, ~~for the geographic rating area for which the carrier is authorized to transact insurance,~~ provided that such coverage is refused or terminated uniformly without regard to any health status-related factor for any employee of the employer.

2. As used in this section, “network plan” means a health benefit plan offered by a health carrier under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the carrier. The term does not include an arrangement for the financing of premiums.

**Sec. 62.** (Deleted by amendment.)

**Sec. 63.** NRS 689B.580 is hereby amended to read as follows:

689B.580 1. A plan sponsor of a governmental plan that is a group health plan to which the provisions of NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, otherwise apply may elect to exclude the governmental plan from compliance with those sections. Such an election:

(a) Must be made in such a form and in such a manner as the Commissioner prescribes by regulation.

(b) Is effective for a single specified year of the plan or, if the plan is provided pursuant to a collective bargaining agreement, for the term of that agreement.

(c) May be extended by subsequent elections.

(d) Excludes the governmental plan from those provisions in this chapter that apply only to group health plans.

2. If a plan sponsor of a governmental plan makes an election pursuant to this section, the plan sponsor shall:

(a) Annually and at the time of enrollment, notify the enrollees in the plan of the election and the consequences of the election; and

(b) Provide certification and disclosure of creditable coverage under the plan with respect to those enrollees pursuant to NRS 689B.490.

3. As used in this section, “governmental plan” has the meaning ascribed to in section 3(32) of the Employee Retirement Income Security Act of 1974, as that section existed on July 16, 1997.

**Sec. 64.** NRS 689C.055 is hereby amended to read as follows:

689C.055 “Dependent” means a spouse , ***a domestic partner as defined in NRS 122A.030***, or ~~[-~~:

~~—1. An unmarried] a child [under 19] on or before the last day of the month in which the child attains 26 years of age . [-~~

~~—2. An unmarried child who is a full time student under 24 years of age and who is financially dependent upon the parent; or~~

~~—3. An unmarried child of any age who is medically certified as disabled and dependent upon the parent,~~

~~↪ who the parent claimed as his or her dependent on the form for income tax returns which the parent filed with the Internal Revenue Service for the previous fiscal year.]~~

**Sec. 65.** NRS 689C.067 is hereby amended to read as follows:

689C.067 ~~[-“Established geographic]~~ ***“Geographic*** service area” means a geographic area, as approved by the Commissioner , ~~[and based on the certificate of authority of the carrier to transact insurance in this state,]~~ within which the carrier is authorized to provide coverage.

**Sec. 66.** NRS 689C.071 is hereby amended to read as follows:

689C.071 “Geographic ***rating*** area” means an area established by the Commissioner for use in adjusting the rates for a health benefit plan.

**Sec. 66.5.** NRS 689C.095 is hereby amended to read as follows:

689C.095 ~~[-]~~ “Small employer” ~~[means, with respect to a calendar year and a plan year, an employer who employed on business days during the preceding calendar year an average of at least 2 employees, but not more than 50 employees, who have a normal workweek of 30 hours or more, and who employs at least 2 employees on the first day of the plan year. For the purposes of determining the number of eligible employees, organizations which are affiliated or which are eligible to file a combined tax return for the purposes of taxation constitute one employer.~~

~~—2. For the purposes of this section, organizations are “affiliated” if one directly, or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the other, as determined pursuant to the provisions of NRS 692C.050.] has the meaning ascribed to it in 42 U.S.C. § 18024(b)(2).~~



**Sec. 67.** NRS 689C.125 is hereby amended to read as follows:

689C.125 1. A carrier serving small employers shall apply rating factors ~~[, including characteristics,]~~ consistently with respect to all small employers ~~. [in a class of business.]~~ Rating factors must produce premiums for identical groups that differ only by the amounts attributable to the design of the plans and the terms of the coverage and do not reflect differences based on the nature of the groups that will select particular health benefit plans. As used in this subsection, “premium” means all money paid by a small employer and eligible employees to a carrier as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

2. A carrier serving small employers shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period, if the terms of coverage provided in the plans are the same.

**Sec. 68.** (Deleted by amendment.)

**Sec. 69.** NRS 689C.155 is hereby amended to read as follows:

689C.155 The Commissioner may adopt regulations to carry out the provisions of NRS ~~[689C.107]~~ **689C.109** to ~~[689C.145,]~~ **689C.142**, inclusive, 689C.156 to 689C.159, inclusive, 689C.165, 689C.183, 689C.187, 689C.191, **689C.192** to 689C.198, inclusive, 689C.203, 689C.207, 689C.265, ~~[689C.283, 689C.287,]~~ 689C.325, ~~[689C.342 to 689C.348, inclusive,]~~ 689C.355 and 689C.610 to ~~[689C.980,]~~ **689C.940**, inclusive, and to ensure that rating practices used by carriers serving small employers are consistent with those sections, including regulations that:

1. Ensure that differences in rates charged for health benefit plans by such carriers are reasonable and reflect only differences in the designs of the plans, the terms of the coverage, the amount contributed by the employers to the cost of coverage and differences based on the rating factors established by the carrier.

2. Prescribe the manner in which ~~[characteristics]~~ **rating factors** may be used by such carriers.

**Sec. 70.** 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 689C.610 to ~~689C.980,~~ **689C.940**, 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.

**Sec. 71.** NRS 689C.159 is hereby amended to read as follows:

689C.159 The provisions of NRS 689C.156 ~~1, 689C.157~~ and 689C.190 do not apply to health benefit plans offered by a carrier if the carrier makes the health benefit plan available in the small employer market only through a bona fide association.

**Sec. 72.** NRS 689C.160 is hereby amended to read as follows:

689C.160 The requirements used by a carrier serving small employers to determine whether to provide coverage to a small employer, including, without limitation, ~~standards for medical underwriting,~~ requirements for minimum participation of eligible employees and minimum employer's contributions, must be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the carrier.

**Sec. 73.** NRS 689C.169 is hereby amended to read as follows:

689C.169 1. ~~Notwithstanding any provisions of this title to the contrary, a~~ A policy of group health insurance delivered or issued for delivery in this State pursuant to this chapter must provide coverage for the treatment of conditions relating to severe mental illness.

2. ~~The coverage required by this section:~~

~~—(a) Must provide:~~

~~—(1) Benefits for at least 40 days of hospitalization as an inpatient per policy year and 40 visits for treatment as an outpatient per policy year, excluding visits for the management of medication; and~~

~~—(2) That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of hospitalization not used by the insured. In no event is the policy required to provide coverage for more than 40 days of hospitalization as an inpatient per policy year.~~

~~—(b) Is not required to provide benefits for psychosocial rehabilitation or care received as a custodial inpatient.~~

~~—3. Any deductibles and copayments required to be paid for the coverage required by this section must not be greater than 150 percent of the out-of-pocket expenses required to be paid for medical and surgical benefits provided pursuant to the policy of group health insurance.~~

~~—4. The provisions of this section do not apply to a policy of group health insurance if, at the end of the policy year, the premiums charged for that policy, or a standard grouping of policies, increase by more than 2 percent as a result of providing the coverage required by this section and the insurer obtains an exemption from the Commissioner pursuant to subsection 5.~~

~~—5. To obtain the exemption required by subsection 4, an insurer must submit to the Commissioner a written request therefor that is signed by an actuary and sets forth the reasons and actuarial assumptions upon which the request is based. To determine whether an exemption may be granted, the Commissioner shall subtract from the amount of premiums charged during the policy year the amount of premiums charged during the period immediately preceding the policy year and the amount of any increase in the premiums charged that is attributable to factors that are unrelated to providing the coverage required by this section. The Commissioner shall verify the information within 30 days after receiving the request. The request shall be deemed approved if the Commissioner does not deny the request within that time.~~

~~—6. The provisions of this section do not:~~

~~—(a) Limit the provision of specialized services covered by Medicaid for persons with conditions relating to mental health or substance abuse.~~

~~—(b) Supersede any provision of federal law, any federal or state policy relating to Medicaid, or the terms and conditions imposed on any Medicaid waiver granted to this State with respect to the provisions of services to persons with conditions relating to mental health or substance abuse.~~

~~—7. A policy of group health insurance subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 3, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void, unless the policy is otherwise exempt from the provisions of this section pursuant to subsection 4.~~

~~—8.]~~ As used in this section, “severe mental illness” means any of the following mental illnesses that are biologically based and for which diagnostic criteria are prescribed in the *latest edition of the Diagnostic and Statistical Manual of Mental Disorders*, ~~{Fourth Edition,}~~ published by the American Psychiatric Association:

(a) Schizophrenia.

- (b) Schizoaffective disorder.
- (c) Bipolar disorder.
- (d) Major depressive disorders.
- (e) Panic disorder.
- (f) Obsessive-compulsive disorder.

**Sec. 74.** NRS 689C.190 is hereby amended to read as follows:

689C.190 ~~1. Except as otherwise provided in this section, a~~ A carrier serving small employers that issues a health benefit plan shall not deny, exclude or limit a benefit for a preexisting condition . ~~1.~~

~~—(a) For more than 12 months after the effective date of coverage if the employee enrolls through open enrollment or after the first day of the waiting period for such enrollment, whichever is earlier; or~~

~~—(b) For more than 18 months after the effective date of coverage for a late enrollee. A carrier may not define a preexisting condition in its health benefit plan more restrictively than that term is defined in NRS 689C.082.~~

~~—2. The period of any exclusion for a preexisting condition imposed by a health benefit plan on a person to be insured in accordance with the provisions of this chapter must be reduced by the aggregate period of creditable coverage of that person, if the creditable coverage was continuous to a date not more than 63 days before the effective date of the new coverage. The period of continuous coverage must not include:~~

~~—(a) Any waiting period for the effective date of the new coverage applied by the employer or the carrier; or~~

~~—(b) Any affiliation period, not to exceed 60 days for a new enrollee and 90 days for a late enrollee, required before becoming eligible to enroll in the health benefit plan.~~

~~—3. A health maintenance organization authorized to transact insurance pursuant to chapter 695C of NRS that does not restrict coverage for a preexisting condition may require an affiliation period before coverage becomes effective under a plan of insurance if the affiliation period applies uniformly to all employees and without regard to any health status related factors. During the affiliation period, the carrier shall not collect any premiums for coverage of the employee.~~

~~—4. A carrier that restricts coverage for preexisting conditions shall not impose an affiliation period.~~

~~—5. A carrier shall not impose any exclusion for a preexisting condition:~~

~~—(a) Relating to pregnancy.~~

~~—(b) In the case of a person who, as of the last day of the 30-day period beginning on the date of the person's birth, is covered under creditable coverage.~~

~~—(c) In the case of a child who is adopted or placed for adoption before attaining the age of 18 years and who, as of the last day of the 30-day period~~

~~beginning on the date of adoption or placement for adoption, whichever is earlier, is covered under creditable coverage. The provisions of this paragraph do not apply to coverage before the date of adoption or placement for adoption.~~

~~—(d) In the case of a condition for which medical advice, diagnosis, care or treatment was recommended or received for the first time while the covered person held creditable coverage, and the medical advice, diagnosis, care or treatment was a covered benefit under the plan, if the creditable coverage was continuous to a date not more than 90 days before the effective date of the new coverage.~~

~~→ The provisions of paragraphs (b) and (c) do not apply to a person after the end of the first 63 day period during all of which the person was not covered under any creditable coverage.~~

~~—6. As used in this section, “late enrollee” means an eligible employee, or a dependent of the eligible employee, who requests enrollment in a health benefit plan of a small employer following the initial period of enrollment, if the initial period of enrollment is at least 30 days, during which the person is entitled to enroll under the terms of the health benefit plan. The term does not include an eligible employee or a dependent of the eligible employee if:~~

~~—(a) The employee or dependent:~~

~~——(1) Was covered under creditable coverage at the time of the initial enrollment;~~

~~——(2) Lost coverage under creditable coverage as a result of cessation of employer contribution, termination of employment or eligibility, reduction in the number of hours of employment, involuntary termination of creditable coverage, or the death of, or divorce or legal separation from, a covered spouse; and~~

~~——(3) Requests enrollment not later than 30 days after the date on which his or her creditable coverage was terminated or on which the change in conditions that gave rise to the termination of the coverage occurred.~~

~~—(b) The person enrolls during the open enrollment period, as provided in the contract or as otherwise provided by specific statute.~~

~~—(c) The person is employed by an employer which offers multiple health benefit plans and the person elected a different plan during an open enrollment period.~~

~~—(d) A court has ordered coverage to be provided to the spouse or a minor or dependent child of an employee under a health benefit plan of the employee and a request for enrollment is made within 30 days after the issuance of the court order.~~

~~—(e) The person changes status from not being an eligible employee to being an eligible employee and requests enrollment, subject to any waiting period, within 30 days after the change in status.~~

~~—(f) The person has continued coverage in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985 and such coverage has been exhausted.]~~

**Sec. 75.** NRS 689C.191 is hereby amended to read as follows:

689C.191 1. In determining the applicable creditable coverage of a person, ~~[for the purposes of NRS 689C.190,]~~ a period of creditable coverage must not be included if, after the expiration of that period but before the enrollment date, there was a 63-day period during all of which the person was not covered under any creditable coverage. To establish a period of creditable coverage, an eligible employee must present any certificates of coverage provided to the eligible employee in accordance with NRS 689C.192 and such other evidence of coverage as required by regulations adopted by the Commissioner. For the purposes of this subsection, any waiting period for coverage or an affiliation period must not be considered in determining the applicable period of creditable coverage.

2. In determining the period of creditable coverage of a person, ~~[for the purposes of NRS 689C.190,]~~ a carrier shall include each applicable period of creditable coverage without regard to the specific benefits covered during that period, except that the carrier may elect to include applicable periods of creditable coverage based on coverage of specific benefits as specified by the United States Department of Health and Human Services by regulation, if such an election is made on a uniform basis for all participants and beneficiaries of the health benefit plan or coverage. Pursuant to such an election, the carrier shall include each applicable period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within that class or category, as specified by those regulations.

3. Regardless of whether coverage is actually provided, if a carrier elects in accordance with subsection 2 to determine creditable coverage based on specified benefits, a statement that such an election has been made and a description of the effect of the election must be:

(a) Included prominently in any disclosure statement concerning the health benefit plan; and

(b) Provided to each eligible employee at the time of enrollment in the health benefit plan.

**4. *The provisions of this section apply only to grandfathered plans.***

**Sec. 76.** NRS 689C.193 is hereby amended to read as follows:

689C.193 1. A carrier shall not place any restriction on a small employer or an eligible employee or a dependent of the eligible employee as a condition of being a participant in or a beneficiary of a health benefit plan that is inconsistent with NRS 689C.015 to 689C.355, inclusive.

2. A carrier that offers health insurance coverage to small employers pursuant to this chapter shall not establish rules of eligibility, including, but not limited to, rules which define applicable waiting periods, for the initial or continued enrollment under a health benefit plan offered by the carrier that are based on the following factors relating to the eligible employee or a dependent of the eligible employee:

- (a) Health status.
- (b) Medical condition, including physical and mental illnesses, or both.
- (c) Claims experience.
- (d) Receipt of health care.
- (e) Medical history.
- (f) Genetic information.
- (g) Evidence of insurability, including conditions which arise out of acts of domestic violence.
- (h) Disability.

3. Except as otherwise provided in NRS 689C.190, the provisions of subsection 1 do not ~~1:~~

~~—(a) Require~~ **require** a carrier to provide particular benefits other than those that would otherwise be provided under the terms of the health benefit plan or coverage. ~~1: or~~

~~—(b) Prevent a carrier from establishing limitations or restrictions on the amount, level, extent or nature of the benefits or coverage for similarly situated persons.]~~

4. As a condition of enrollment or continued enrollment under a health benefit plan, a carrier shall not require any person to pay a premium or contribution that is greater than the premium or contribution for a similarly situated person covered by similar coverage on the basis of any factor described in subsection 2 in relation to the person or a dependent of the person.

5. Nothing in this section:

(a) Restricts the amount that a small employer may be charged for coverage by a carrier;

(b) Prevents a carrier from establishing premium discounts or rebates or from modifying otherwise applicable copayments or deductibles in return for adherence by the insured person to programs of health promotion and disease prevention; or

(c) Precludes a carrier from establishing rules relating to employer contribution or group participation when offering health insurance coverage to small employers in this State.

6. As used in this section:

(a) "Contribution" means the minimum employer contribution toward the premium for enrollment of participants and beneficiaries in a health benefit plan.

(b) "Group participation" means the minimum number of participants or beneficiaries that must be enrolled in a health benefit plan in relation to a specified percentage or number of eligible persons or employees of the employer.

**Sec. 77.** NRS 689C.200 is hereby amended to read as follows:

689C.200 A carrier serving small employers is not required to accept applications from or offer coverage to:

1. A small employer if the employer is not physically located in the carrier's ~~established~~ geographic **service** area; or

2. An employee if the employee does not work or reside within the carrier's ~~established~~ geographic **service** area.

**Sec. 78.** NRS 689C.250 is hereby amended to read as follows:

689C.250 ~~[A carrier serving small employers shall make the information and documents described in NRS 689C.210 to 689C.240, inclusive, available to the Commissioner upon request.]~~

1. Except in cases of violations of NRS 689C.015 to 689C.355, inclusive, the ~~information is~~ **unified rate review template and rate filing documentation used by carriers servicing small employers are considered** proprietary, ~~constitutes~~ **constitute** a trade secret, and ~~is~~ **are** not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.

2. ***As used in this section, "rate filing documentation" and "unified rate review template" ascribed to in 45 C.F.R § 154.215.***

**Sec. 79.** NRS 689C.310 is hereby amended to read as follows:

689C.310 1. Except as otherwise provided in subsections 2 and 3, a carrier shall renew a health benefit plan at the option of the small employer who purchased the plan.

2. A carrier may refuse to issue or to renew a health benefit plan if:

(a) The carrier discontinues transacting insurance in this state or in the geographic **service** area of this state where the employer is located;

(b) The employer fails to pay the premiums or contributions required by the terms of the plan;

(c) The employer misrepresents any information regarding the employees covered under the plan or other information regarding eligibility for coverage under the plan;

(d) The plan sponsor has engaged in an act or practice that constitutes fraud to obtain or maintain coverage under the plan;

(e) The employer is not in compliance with the minimum requirements for participation or employer contribution as set forth in the plan; or



(f) The employer fails to comply with any of the provisions of this chapter.

3. A carrier may require a small employer to exclude a particular employee or a dependent of the particular employee from coverage under a health benefit plan as a condition to renewal of the plan if the employee or dependent of the employee commits fraud upon the carrier or misrepresents a material fact which affects his or her coverage under the plan.

4. A carrier shall discontinue the issuance and renewal of coverage to a small employer if the Commissioner finds that the continuation of the coverage would not be in the best interests of the policyholders or certificate holders of the carrier in this state or would impair the ability of the carrier to meet its contractual obligations. If the Commissioner makes such a finding, the Commissioner shall assist the affected small employers in finding replacement coverage.

5. A carrier may discontinue the issuance and renewal of a form of a product of a health benefit plan offered to small employers pursuant to this chapter if the Commissioner finds that the form of the product offered by the carrier is obsolete and is being replaced with comparable coverage. A form of a product of a health benefit plan may be discontinued by a carrier pursuant to this subsection only if:

(a) The carrier notifies the Commissioner and the chief regulatory officer for insurance in each state in which it is licensed of its decision pursuant to this subsection to discontinue the issuance and renewal of the form of the product at least 60 days before the carrier notifies the affected small employers pursuant to paragraph (b).

(b) The carrier notifies each affected small employer and the Commissioner and the chief regulatory officer for insurance in each state in which any affected small employer is located or eligible employee resides of the decision of the carrier to discontinue offering the form of the product. The notice must be made at least 180 days before the date on which the carrier will discontinue offering the form of the product.

(c) The carrier offers to each affected small employer the option to purchase any other health benefit plan currently offered by the carrier to small employers in this state.

(d) In exercising the option to discontinue the particular form of the product and in offering the option to purchase other coverage pursuant to paragraph (c), the carrier acts uniformly without regard to the claims experience of the affected small employers or any health status-related factor relating to any participant or beneficiary covered by the discontinued product or any new participant or beneficiary who may become eligible for such coverage.

6. A carrier may discontinue the issuance and renewal of a health benefit plan offered to a small employer or an eligible employee pursuant to this chapter only through a bona fide association if:

(a) The membership of the small employer or eligible employee in the association was the basis for the provision of coverage;

(b) The membership of the small employer or eligible employee in the association ceases; and

(c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the small employer or eligible employee or dependent of the eligible employee.

7. If a carrier does business in only one ~~established~~ geographic service area of this state, the provisions of this section apply only to the operations of the carrier in that service area.

**Sec. 80.** NRS 689C.320 is hereby amended to read as follows:

689C.320 1. A carrier that discontinues transacting insurance in this State or in a particular geographic **service** area of this State shall:

(a) Notify the Commissioner and the chief regulatory officer for insurance in each state in which the carrier is licensed to transact insurance at least 60 days before a notice of cancellation or nonrenewal is delivered or mailed to the affected small employers pursuant to paragraph (b).

(b) Notify the Commissioner and each small employer affected not less than 180 days before the expiration of any policy or contract of insurance under any health benefit plan issued to a small employer pursuant to this chapter.

2. A carrier that cancels any health benefit plan because it has discontinued transacting insurance in this State or in a particular geographic **service** area of this State:

(a) Shall discontinue the issuance and delivery for issuance of all health benefit plans pursuant to this chapter in this State and not renew coverage under any health benefit plan issued to a small employer; and

(b) May not issue any health benefit plans pursuant to this chapter in this State or in the particular geographic area for 5 years after it gives notice to the Commissioner pursuant to paragraph (b) of subsection 1.

**Sec. 81.** NRS 689C.325 is hereby amended to read as follows:

689C.325 A carrier that offers coverage through a network plan is not required to offer coverage to or accept any applications for coverage from the eligible employees of a small employer pursuant to NRS 689C.310 and 689C.320 if:

1. The eligible employees do not reside or work in the ~~established~~ geographic service area of the network plan.

2. For a small employer whose eligible employees reside or work in the ~~established~~ geographic service area of the network plan, the carrier

demonstrates to the satisfaction of the Commissioner that the carrier does not have the capacity to deliver adequate service to additional small employers and eligible employees because of the existing obligations of the carrier. If a carrier is authorized by the Commissioner not to offer coverage pursuant to this subsection, the carrier shall not thereafter offer coverage to additional small employers and eligible employees within that ~~established~~ geographic service area until the carrier demonstrates to the satisfaction of the Commissioner that it has regained the capacity to deliver adequate service to additional small employers and eligible employees within that service area.

**Sec. 82.** (Deleted by amendment.)

**Sec. 83.** NRS 689C.350 is hereby amended to read as follows:

689C.350 A health benefit plan which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

~~1. May not require a deductible of more than \$600 difference per admission to a facility for inpatient treatment which is not a preferred provider of health care.~~

~~2. May not require a deductible of more than \$500 difference per treatment, other than inpatient treatment at a hospital, by a provider which is not preferred.~~

~~3. May not provide for a difference in percentage rates of payment for coinsurance of more than 30 percentage points between the payment for coinsurance required to be paid by the insured to a preferred provider of health care and the payment for coinsurance required to be paid by the insured to a provider of health care who is not preferred.~~

~~4.]~~ Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

~~5.]~~ 2. Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a ~~calendar~~ **plan** year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.

~~6.]~~ 3. Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured requests the service and the insurer determines that the use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

~~[7. Must require the insurer to process a claim of a provider of health care who is not preferred not later than 30 working days after the date on which proof of the claim is received.]~~

**Sec. 84.** NRS 689C.355 is hereby amended to read as follows:

689C.355 1. Except as otherwise provided in this section, a carrier or a producer shall not, directly or indirectly:

(a) Encourage or direct a small employer to refrain from filing an application for coverage with the carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(b) Encourage or direct a small employer to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

2. The provisions of subsection 1 do not apply to information provided to a small employer by a carrier or a producer relating to the ~~established~~ geographic service area or a provision for a restricted network of the carrier.

3. Except as otherwise provided in this subsection, a carrier shall not, directly or indirectly, enter into any contract, agreement or arrangement with a producer if the contract, agreement or arrangement provides for or results in a variation to the compensation that is paid to a producer for the sale of a health benefit plan because of the health status, claims experience, industry, occupation or geographic location of the small employer at the time that the health benefit plan is issued to or renewed by the small employer. ~~[The provisions of this subsection do not apply to any arrangement for compensation that provides payment to a producer on the basis of percentage of premium, except that the percentage may not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer.]~~

4. A carrier shall not terminate, fail to renew, or limit its contract or agreement of representation with a producer for any reason related to the health status, claims experience, occupation or geographic location of a small employer at the time that the health benefit plan is issued to or renewed by the small employer placed by the producer with the carrier.

5. A carrier or producer shall not induce or otherwise encourage a small employer to separate or otherwise exclude an employee or a dependent of the employee from health coverage or benefits provided in connection with the employment of the employee.

6. A violation of any provision of this section by a carrier may constitute an unfair trade practice for the purposes of chapter 686A of NRS.

7. The provisions of this section apply to a third-party administrator if the third-party administrator enters into a contract, agreement or other arrangement with a carrier to provide administrative, marketing or other

services related to the offering of a health benefit plan to small employers in this state.

8. Nothing in this section interferes with the right and responsibility of a ~~broker~~ **producer** to advise and represent the best interests of a small employer who is seeking health insurance coverage from a small employer carrier.

**Sec. 85.** NRS 689C.390 is hereby amended to read as follows:

689C.390 “Dependent” means a spouse, ~~an unmarried~~ **a domestic partner as defined in NRS 122A.030, or a child [who has not attained 19] on or before the last day of the month in which the child attains 26** years of age . ~~an unmarried child who is a full-time student who has not attained 24 years of age and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.~~

**Sec. 86.** NRS 689C.610 is hereby amended to read as follows:

689C.610 As used in NRS 689C.610 to ~~689C.980,~~ **689C.940**, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~689C.620 to 689C.730, inclusive,~~ **689C.630, 689C.660 and 689C.670** have the meanings ascribed to them in those sections.

**Sec. 87.** (Deleted by amendment.)

**Sec. 88.** NRS 695A.152 is hereby amended to read as follows:

695A.152 1. To the extent reasonably applicable, a fraternal benefit society shall comply with the provisions of NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance offered by the society to its members. If there is a conflict between the provisions of this chapter and the provisions of NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, and chapter 689C of NRS, the provisions of NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, and chapter 689C of NRS control.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to a group health plan or a carrier that provides coverage under a group health plan, any reference in those sections to “group health plan” or “carrier” must be replaced by “fraternal benefit society.”

**Sec. 89.** NRS 695A.159 is hereby amended to read as follows:

695A.159 1. If a person:

- (a) Adopts a dependent child; or
  - (b) Assumes and retains a legal obligation for the total or partial support of a dependent child in anticipation of adopting the child,
- ↪ while the person is eligible for group coverage under a certificate for health benefits, the society issuing that certificate shall not restrict the coverage, in accordance with NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and availability

of health insurance, of the child solely because of a preexisting condition the child has at the time he or she would otherwise become eligible for coverage pursuant to that policy.

2. For the purposes of this section, "child" means a person who is under 18 years of age at the time of his or her adoption or the assumption of a legal obligation for his or her support in anticipation of his or her adoption.

**Sec. 90.** NRS 695B.187 is hereby amended to read as follows:

695B.187 Except as otherwise provided by the provisions of NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance:

1. A group contract for hospital, medical or dental services issued by a nonprofit hospital, medical or dental service corporation to replace any discontinued policy or coverage for group health insurance must:

(a) Provide coverage for all persons who were covered under the previous policy or coverage on the date it was discontinued; and

(b) Except as otherwise provided in subsection 2, provide benefits which are at least as extensive as the benefits provided by the previous policy or coverage, except that the benefits may be reduced or excluded to the extent that such a reduction or exclusion was permissible under the terms of the previous policy or coverage,

↪ if that contract is issued within 60 days after the date on which the previous policy or coverage was discontinued.

2. If an employer obtains a replacement contract pursuant to subsection 1 to cover the employees of the employer, any benefits provided by the previous policy or coverage may be reduced if notice of the reduction is given to the employees of the employer pursuant to NRS 608.1577.

3. Any corporation which issues a replacement contract pursuant to subsection 1 may submit a written request to the insurer which provided the previous policy or coverage for a statement of benefits which were provided under that policy or coverage. Upon receiving such a request, the insurer shall give a written statement to the corporation which indicates what benefits were provided and what exclusions or reductions were in effect under the previous policy or coverage.

4. The provisions of this section apply to a self-insured employer who provides health benefits to the employees of the self-insured employer and replaces those benefits with a group contract for hospital, medical or dental services issued by a nonprofit hospital, medical or dental service corporation.

**Sec. 91.** NRS 695B.189 is hereby amended to read as follows:

695B.189 A group contract issued by a corporation under the provisions of this chapter must contain a provision which permits the continuation of coverage pursuant to the provisions of NRS ~~689B.245 to 689B.249,~~

~~inclusive, and~~ 689B.340 to ~~[689B.590,]~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.

**Sec. 92.** NRS 695B.192 is hereby amended to read as follows:

695B.192 1. No hospital, medical or dental service contract issued by a corporation pursuant to the provisions of this chapter may contain any exclusion, reduction or other limitation of coverage relating to complications of pregnancy, unless the provision applies generally to all benefits payable under the contract and complies with the provisions of NRS 689B.340 to ~~[689B.590,]~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.

2. As used in this section, the term “complications of pregnancy” includes any condition which requires hospital confinement for medical treatment and:

(a) If the pregnancy is not terminated, is caused by an injury or sickness not directly related to the pregnancy or by acute nephritis, nephrosis, cardiac decompensation, missed abortion or similar medically diagnosed conditions; or

(b) If the pregnancy is terminated, results in nonelective cesarean section, ectopic pregnancy or spontaneous termination.

3. A contract subject to the provisions of this chapter which is issued or delivered on or after July 1, 1977, has the legal effect of including the coverage required by this section, and any provision of the contract which is in conflict with this section is void.

**Sec. 93.** NRS 695B.251 is hereby amended to read as follows:

695B.251 1. Except as otherwise provided in the provisions of this section, NRS 689B.340 to ~~[689B.590,]~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance, all group subscriber contracts delivered or issued for delivery in this state providing for hospital, surgical or major medical coverage, or any combination of these coverages, on a service basis or an expense-incurred basis, or both, must contain a provision that the employee or member is entitled to have issued to him or her a subscriber contract of health coverage when the employee or member is no longer covered by the group subscriber contract.

2. The requirement in subsection 1 does not apply to contracts providing benefits only for specific diseases or accidental injuries.

3. If an employee or member was a recipient of benefits under the coverage provided pursuant to NRS 695B.1944, the employee or member is not entitled to have issued to him or her by a replacement insurer a subscriber contract of health coverage unless the employee or member has reported for his or her normal employment for a period of 90 consecutive days after last

being eligible to receive any benefits under the coverage provided pursuant to NRS 695B.1944.

**Sec. 94.** NRS 695B.259 is hereby amended to read as follows:

695B.259 The medical service corporation may continue coverage identical to that provided under the group contract instead of issuing a converted contract. Coverage may be offered by amending the group certificate or by issuing an individual contract and ~~[-except as otherwise provided in NRS 689B.245 to 689B.249, inclusive,]~~ must otherwise comply with every requirement of NRS 695B.251 to 695B.259, inclusive.

**Sec. 95.** NRS 695B.318 is hereby amended to read as follows:

695B.318 1. Nonprofit hospital, medical or dental service corporations are subject to the provisions of NRS 689B.340 to ~~689B.590,]~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance offered by such organizations. If there is a conflict between the provisions of this chapter and the provisions of NRS 689B.340 to ~~689B.590,]~~ **689B.580**, inclusive, and chapter 689C of NRS, the provisions of NRS 689B.340 to ~~689B.590,]~~ **689B.580**, inclusive, and chapter 689C of NRS control.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to a group health plan or a carrier that provides coverage under a group health plan, any reference in those sections to:

(a) "Carrier" must be replaced by "corporation."

(b) "Group health plan" must be replaced by "group contract for hospital, medical or dental services."

**Sec. 95.5.** NRS 695B.320 is hereby amended to read as follows:

695B.320 Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the provisions of chapters 679A and 679B of NRS, NRS 686A.010 to 686A.315, inclusive, 687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, **and section 33.8 of this act**, and chapters 692C and 696B of NRS, to the extent applicable and not in conflict with the express provisions of this chapter.

**Sec. 96.** NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to



violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.173, inclusive, 695C.1733 to 695C.200, inclusive, ~~695C.250~~ and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

**Sec. 96.5.** NRS 695C.055 is hereby amended to read as follows:

695C.055 1. The provisions of NRS 449.465, 679A.200, 679B.700, subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS 680B.020 to 680B.060, inclusive, **and section 33.8 of this act**, and chapters 686A and 695G of NRS apply to a health maintenance organization.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to insurers, any reference in those sections to "insurer" must be replaced by "health maintenance organization."

**Sec. 97.** NRS 695C.057 is hereby amended to read as follows:

695C.057 1. A health maintenance organization is subject to the provisions of NRS 689B.340 to ~~689B.590~~, **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance offered by such organizations. If there is a conflict between the provisions of this chapter and the provisions of NRS 689B.340 to ~~689B.590~~, **689B.580**, inclusive, and chapter 689C of NRS, the provisions of NRS 689B.340 to ~~689B.590~~, **689B.580**, inclusive, and chapter 689C of NRS control.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to a group health plan or a carrier that provides coverage under a group health plan, any reference in those sections to "group health plan" or "carrier" must be replaced by "health maintenance organization."

**Sec. 98.** NRS 695C.080 is hereby amended to read as follows:

695C.080 1. ~~Upon receipt of an application for issuance of a certificate of authority, the Commissioner shall forthwith transmit copies of such application and accompanying documents to the State Board of Health.~~

~~—2.1~~ The ~~{State Board of Health}~~ **Commissioner** shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

(a) Has demonstrated the willingness and ability to ensure that such health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility and continuity of service;

(b) Has organizational arrangements, established in accordance with regulations promulgated by the **Commissioner and in consultation with the** State Board of Health; and

(c) Has a procedure established in accordance with regulations of the ~~{State Board of Health}~~ **Commissioner** to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the ~~{State Board of Health}~~.

~~—3.1~~ **Commissioner.**

2. Within 90 days of receipt of the application for issuance of a certificate of authority, the ~~{State Board of Health shall certify to the}~~ Commissioner **shall certify** whether the proposed health maintenance organization meets the requirements of subsection ~~{2.1}~~ **1**. If the ~~{State Board of Health}~~ **Commissioner** certifies that the health maintenance organization does not meet such requirements, it shall specify in what respects it is deficient.

**Sec. 99.** NRS 695C.090 is hereby amended to read as follows:

695C.090 The Commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to NRS 695C.060 within 90 days ~~{of receipt of the}~~ **after** certification . ~~{from the State Board of Health.}~~ Issuance of a certificate of authority must be granted upon payment of the fees prescribed in NRS 695C.230 if the Commissioner is satisfied that the following conditions are met:

1. The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy and possess good reputations.

2. The ~~{State Board of Health}~~ **Commissioner** certifies, in accordance with NRS 695C.080, that the health maintenance organization's proposed plan of operation meets the requirements of subsection ~~{2.1}~~ **1** of NRS 695C.080.

3. The health care plan furnishes comprehensive health care services.

4. The health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the Commissioner may consider:

(a) The financial soundness of the health care plan's arrangements for health care services and the schedule of charges used in connection therewith;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a government, or any other organization for insuring the payment of the cost of health care services;

(d) Any agreement with providers for the provision of health care services; and

(e) Any surety bond or deposit of cash or securities submitted in accordance with NRS 695C.270 as a guarantee that the obligations will be duly performed.

5. The enrollees will be afforded an opportunity to participate in matters of program content pursuant to NRS 695C.110.

6. Nothing in the proposed method of operation, as shown by the information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, or by independent investigation is contrary to the public interest.

**Sec. 100.** NRS 695C.140 is hereby amended to read as follows:

695C.140 1. A health maintenance organization shall, unless otherwise provided for in this chapter, file notice with the Commissioner ~~and the State Board of Health~~ before any material modification of the operations described in the information required by NRS 695C.070. If the Commissioner does not disapprove within 90 days after filing of the notice, the modification is deemed approved.

2. The Commissioner may adopt regulations to carry out the provisions of this section.

**Sec. 101.** NRS 695C.1693 is hereby amended to read as follows:

695C.1693 1. Except as otherwise provided in NRS 695C.050, a health care plan issued by a health maintenance organization must provide coverage for medical treatment which an enrollee receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II, Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;

(3) The Food and Drug Administration as an application for a new investigational drug;

(4) The United States Department of Veterans Affairs; or

(5) The United States Department of Defense;

(c) In the case of:

(1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or

(2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;

(d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;

(e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;

(f) The clinical trial or study is conducted in this State; and

(g) The enrollee has signed, before participating in the clinical trial or study, a statement of consent indicating that the enrollee has been informed of, without limitation:

(1) The procedure to be undertaken;

(2) Alternative methods of treatment; and

(3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.

2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:

(a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or device has been approved for use in the medical treatment of the enrollee.

(b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the health care plan.

(c) The cost of any routine health care services that would otherwise be covered under the health care plan for an enrollee in a Phase I clinical trial or study.

(d) The initial consultation to determine whether the enrollee is eligible to participate in the clinical trial or study.

(e) Health care services required for the clinically appropriate monitoring of the enrollee during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the enrollee during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➔ Except as otherwise provided in NRS 695C.1691, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the services are provided by a provider with whom the health maintenance organization has contracted for such services. If the health maintenance organization has not contracted for the provision of such services, the health maintenance organization shall pay the provider the rate of reimbursement that is paid to other providers with whom the health maintenance organization has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to an enrollee is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the enrollee.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the enrollee's health care plan, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the enrollee during the clinical trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the enrollee.

(h) Any costs for the management of research relating to the clinical trial or study.

5. A health maintenance organization that delivers or issues for delivery a health care plan specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the enrollee, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial or study relevant to the coverage of medical treatment pursuant to this section.

6. A health maintenance organization that delivers or issues for delivery a health care plan specified in subsection 1 shall ~~be~~:

~~—(a) Include in the disclosure required pursuant to NRS 695C.193 notice to each enrollee of the availability of the benefits required by this section.~~

~~—(b) Provide~~ **provide** the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the plan.

7. A health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the plan that conflicts with this section is void.

8. A health maintenance organization that delivers or issues for delivery a health care plan specified in subsection 1 is immune from liability for:

(a) Any injury to an enrollee caused by:

(1) Any medical treatment provided to the enrollee in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the enrollee in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of an enrollee's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) "Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer" means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the Policies and Guidelines Relating to the

Cancer-Center Support Grant published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) “Provider of health care” means:

(1) A hospital; or

(2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

**Sec. 102.** NRS 695C.1705 is hereby amended to read as follows:

695C.1705 Except as otherwise provided in the provisions of NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and accountability of health insurance:

1. A group health care plan issued by a health maintenance organization to replace any discontinued policy or coverage for group health insurance must:

(a) Provide coverage for all persons who were covered under the previous policy or coverage on the date it was discontinued; and

(b) Except as otherwise provided in subsection 2, provide benefits which are at least as extensive as the benefits provided by the previous policy or coverage, except that benefits may be reduced or excluded to the extent that such a reduction or exclusion was permissible under the terms of the previous policy or coverage,

➡ if that plan is issued within 60 days after the date on which the previous policy or coverage was discontinued.

2. If an employer obtains a replacement plan pursuant to subsection 1 to cover the employees of the employer, any benefits provided by the previous policy or coverage may be reduced if notice of the reduction is given to the employees pursuant to NRS 608.1577.

3. Any health maintenance organization which issues a replacement plan pursuant to subsection 1 may submit a written request to the insurer which provided the previous policy or coverage for a statement of benefits which were provided under that policy or coverage. Upon receiving such a request, the insurer shall give a written statement to the organization indicating what

benefits were provided and what exclusions or reductions were in effect under the previous policy or coverage.

4. If an employee or enrollee was a recipient of benefits under the coverage provided pursuant to NRS 695C.1709, the employee or enrollee is not entitled to have issued to him or her by a health maintenance organization a replacement plan unless the employee or enrollee has reported for his or her normal employment for a period of 90 consecutive days after last being eligible to receive any benefits under the coverage provided pursuant to NRS 695C.1709.

5. The provisions of this section apply to a self-insured employer who provides health benefits to the employees of the self-insured employer and replaces those benefits with a group health care plan issued by a health maintenance organization.

**Sec. 103.** NRS 695C.172 is hereby amended to read as follows:

695C.172 1. No health maintenance organization may issue evidence of coverage under a health care plan to any enrollee in this state if it contains any exclusion, reduction or other limitation of coverage relating to complications of pregnancy unless the provision applies generally to all benefits payable under the policy and complies with the provisions of NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and accountability of health insurance.

2. As used in this section, the term “complications of pregnancy” includes any condition which requires hospital confinement for medical treatment and:

(a) If the pregnancy is not terminated, is caused by an injury or sickness not directly related to the pregnancy or by acute nephritis, nephrosis, cardiac decompensation, missed abortion or similar medically diagnosed conditions; or

(b) If the pregnancy is terminated, results in nonelective cesarean section, ectopic pregnancy or spontaneous termination.

3. Evidence of coverage under a health care plan subject to the provisions of this chapter which is issued on or after July 1, 1977, has the legal effect of including the coverage required by this section, and any provision which is in conflict with this section is void.

**Sec. 104.** NRS 695C.1727 is hereby amended to read as follows:

695C.1727 1. No evidence of coverage that provides coverage for hospital, medical or surgical expenses may be delivered or issued for delivery in this state unless the evidence of coverage includes coverage for the management and treatment of diabetes, including, without limitation, coverage for the self-management of diabetes.

2. An insurer who delivers or issues for delivery an evidence of coverage specified in subsection 1 ~~+~~



~~—(a) Shall include in the disclosure required pursuant to NRS 695C.193 notice to each enrollee under the evidence of coverage of the availability of the benefits required by this section.~~

~~—(b) Shall~~ **shall** provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for the evidence of coverage that are required under the evidence of coverage.

3. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 1998, has the legal effect of including the coverage required by this section, and any provision of the evidence of coverage that conflicts with this section is void.

4. As used in this section:

(a) “Coverage for the management and treatment of diabetes” includes coverage for medication, equipment, supplies and appliances that are medically necessary for the treatment of diabetes.

(b) “Coverage for the self-management of diabetes” includes:

(1) The training and education provided to the enrollee after the enrollee is initially diagnosed with diabetes which is medically necessary for the care and management of diabetes, including, without limitation, counseling in nutrition and the proper use of equipment and supplies for the treatment of diabetes;

(2) Training and education which is medically necessary as a result of a subsequent diagnosis that indicates a significant change in the symptoms or condition of the enrollee and which requires modification of the enrollee’s program of self-management of diabetes; and

(3) Training and education which is medically necessary because of the development of new techniques and treatment for diabetes.

(c) “Diabetes” includes type I, type II and gestational diabetes.

**Sec. 105.** NRS 695C.1745 is hereby amended to read as follows:

695C.1745 1. A health care plan of a health maintenance organization must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine ~~to women and girls at such ages~~ as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A health care plan of a health maintenance organization must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. Any evidence of coverage subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and

any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

**Sec. 106.** NRS 695C.200 is hereby amended to read as follows:

695C.200 The Commissioner shall within a reasonable period approve any form if the requirements of NRS 695C.170 are met . ~~and any schedule of charges if the requirements of NRS 695C.180 are met.~~ It is unlawful to issue such form or to use such schedule of charges until approved. If the Commissioner disapproves such filing, the Commissioner shall notify the filer. In the notice, the Commissioner shall specify the reasons for disapproval. A hearing will be granted within 90 days after a request in writing by the person filing.

**Sec. 107.** NRS 695C.210 is hereby amended to read as follows:

695C.210 1. Every health maintenance organization shall file with the Commissioner on or before March 1 of each year a report showing its financial condition on the last day of the preceding calendar year. The report must be verified by at least two principal officers of the organization. ~~{The organization shall file a copy of the report with the State Board of Health.}~~

2. The report must be on forms prescribed by the Commissioner and must include:

(a) A financial statement of the organization, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information submitted pursuant to NRS 695C.070;

(c) The number of persons enrolled during the year, the number of enrollees as of the end of the year, the number of enrollments terminated during the year and, if requested by the Commissioner, a compilation of the reasons for such terminations;

(d) The number and amount of malpractice claims initiated against the health maintenance organization and any of the providers used by it during the year broken down into claims with and without form of legal process, and the disposition, if any, of each such claim, if requested by the Commissioner;

(e) A summary of information compiled pursuant to paragraph (c) of subsection ~~{2}~~ **1** of NRS 695C.080 in such form as required by the ~~{State Board of Health;}~~ **Commissioner**; and

(f) Such other information relating to the performance of the health maintenance organization as is necessary to enable the Commissioner to carry out his or her duties pursuant to this chapter.

3. Every health maintenance organization shall file with the Commissioner annually an audited financial statement of the organization prepared by an independent certified public accountant. The statement must cover the preceding 12-month period and must be filed with the Commissioner within 120 days after the end of the organization's fiscal year. Upon written request, the Commissioner may grant a 30-day extension.

4. If an organization fails to file timely the report or financial statement required by this section, it shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

5. The Commissioner may grant a reasonable extension of time for filing the report or financial statement required by this section, if the request for an extension is submitted in writing and shows good cause.

**Sec. 108.** NRS 695C.310 is hereby amended to read as follows:

695C.310 1. The Commissioner shall make an examination of the affairs of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary for the protection of the interests of the people of this State. An examination must be made not less frequently than once every 3 years.

2. The ~~{State Board of Health}~~ **Commissioner** shall make an examination concerning the quality of health care services of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan as often as it deems necessary for the protection of the interests of the people of this State. An examination must be made not less frequently than once every 3 years.

3. Every health maintenance organization and provider shall submit its books and records relating to the health care plan to an examination made pursuant to subsection 1 or 2 and in every way facilitate the examination. Medical records of natural persons and records of physicians providing service pursuant to a contract to the health maintenance organization are not subject to such examination, although the records are subject to subpoena upon a showing of good cause. For the purpose of examinations, the Commissioner ~~{and the State Board of Health}~~ may administer oaths to, and examine the officers and agents of the health maintenance organization and the principals of such providers concerning their business.

4. The expenses of examinations pursuant to this section must be assessed against the organization being examined and remitted to the Commissioner . ~~{for the State Board of Health, whichever is appropriate.}~~

5. In lieu of such examination, the Commissioner may accept the report of an examination made by the insurance commissioner or the state board of health of another state.

**Sec. 109.** 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 **certifies** that the health maintenance organization:

(1) Does not meet the requirements of subsection ~~{2}~~ **1** 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 adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(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. 110.** NRS 695C.340 is hereby amended to read as follows:

695C.340 1. When the Commissioner has cause to believe that grounds for the denial of an application for a certificate of authority exist, or that grounds for the suspension or revocation of a certificate of authority exist, the Commissioner shall notify the health maintenance organization ~~and the State Board of Health~~ in writing specifically stating the grounds for denial, suspension or revocation and fixing a time at least 30 days thereafter for a hearing on the matter.

2. ~~{The State Board of Health or its delegated representative shall be in attendance at the hearing and shall participate in the proceedings. The recommendation and findings of the State Board of Health with respect to matters relating to the quality of health maintenance services provided in connection with any decision regarding denial, suspension or revocation of a certificate of authority are conclusive and binding upon the Commissioner.}~~ After the hearing, or upon the failure of the health maintenance organization to appear at the hearing, the Commissioner shall take action as is deemed advisable on written findings which must be mailed to the health maintenance organization . ~~{with a copy thereof to the State Board of Health.}~~ The action of the Commissioner ~~{and the recommendation and findings of the State Board of Health}~~ are subject to review by the First Judicial District Court of the State of Nevada in and for Carson City. The

court may, in disposing of the issue before it, modify, affirm or reverse the order of the Commissioner in whole or in part.

**Sec. 111.** NRS 695C.350 is hereby amended to read as follows:

695C.350 1. The Commissioner may, in lieu of suspension or revocation of a certificate of authority under NRS 695C.330, levy an administrative penalty in an amount not more than \$2,500 for each act or violation, if reasonable notice in writing is given of the intent to levy the penalty.

2. Any person who violates the provisions of this chapter is guilty of a misdemeanor.

3. If the Commissioner ~~for the State Board of Health~~ for any reason ~~have~~ **has** cause to believe that any violation of this chapter has occurred or is threatened, the Commissioner ~~for the State Board of Health~~ may give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in the suspected violation, to arrange a conference with the alleged violators or their authorized representatives to attempt to determine the facts relating to the suspected violation, and, if it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing the violation.

4. The proceedings conducted pursuant to the provisions of subsection 3 must not be governed by any formal procedural requirements, and may be conducted in such manner as the Commissioner ~~for the State Board of Health~~ may deem appropriate under the circumstances.

5. The Commissioner may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this chapter.

6. Within 30 days after service of the order to cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this chapter have occurred. The hearing must be conducted pursuant to the provisions of chapter 233B of NRS and judicial review must be available as provided therein.

7. In the case of any violation of the provisions of this chapter, if the Commissioner elects not to issue a cease and desist order, or in the event of noncompliance with a cease and desist order issued pursuant to subsection 5, the Commissioner may institute a proceeding to obtain injunctive relief, or seek other appropriate relief in the district court of the judicial district of the county in which the violator resides.

**Sec. 112.** NRS 695F.090 is hereby amended to read as follows:

695F.090 Prepaid limited health service organizations are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:

1. NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.
2. NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.
3. The requirements of NRS 679B.152.
4. The fees imposed pursuant to NRS 449.465.
5. NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.
6. The assessment imposed pursuant to NRS 679B.700.
7. Chapter 683A of NRS.
8. To the extent applicable, the provisions of NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.
9. NRS 689A.035, 689A.410, 689A.413 and 689A.415.
10. NRS 680B.025 to 680B.039, inclusive, concerning premium tax, premium tax rate, annual report and estimated quarterly tax payments. For the purposes of this subsection, unless the context otherwise requires that a section apply only to insurers, any reference in those sections to “insurer” must be replaced by a reference to “prepaid limited health service organization.”
11. Chapter 692C of NRS, concerning holding companies.
12. NRS 689A.637, concerning health centers.

**Sec. 113.** NRS 695G.130 is hereby amended to read as follows:

695G.130 1. In addition to any other report which is required to be filed with the Commissioner , ~~for the State Board of Health,~~ each managed care organization shall file with the Commissioner , ~~and the State Board of Health,~~ on or before March 1 of each year, a report regarding its methods for reviewing the quality of health care services provided to its insureds.

2. Each managed care organization shall include in its report the criteria, data, benchmarks or studies used to:

- (a) Assess the nature, scope, quality and accessibility of health care services provided to insureds; or
- (b) Determine any reduction or modification of the provision of health care services to insureds.

3. Except as already required to be filed with the Commissioner , ~~for the State Board of Health,~~ if the managed care organization is not owned and operated by a public entity and has more than 100 insureds, the report filed pursuant to subsection 1 must include:

- (a) A copy of all of its quarterly and annual financial reports;
- (b) A statement of any financial interest it has in any other business which is related to health care that is greater than 5 percent of that business or \$5,000, whichever is less; and
- (c) A description of each complaint filed with or against it that resulted in arbitration, a lawsuit or other legal proceeding, unless disclosure is prohibited by law or a court order.

4. A report filed pursuant to this section must be made available for public inspection within a reasonable time after it is received by the Commissioner.

**Sec. 114.** NRS 695G.171 is hereby amended to read as follows:

695G.171 1. A health care plan issued by a managed care organization must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine ~~to women and girls at such ages~~ as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A health care plan must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. An evidence of coverage for a health care plan subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal thereof which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

**Sec. 115.** NRS 695G.173 is hereby amended to read as follows:

695G.173 1. A health care plan issued by a managed care organization must provide coverage for medical treatment which a person insured under the plan receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II, Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;



(3) The Food and Drug Administration as an application for a new investigational drug;

(4) The United States Department of Veterans Affairs; or

(5) The United States Department of Defense;

(c) In the case of:

(1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or

(2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;

(d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;

(e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;

(f) The clinical trial or study is conducted in this State; and

(g) The insured has signed, before participating in the clinical trial or study, a statement of consent indicating that the insured has been informed of, without limitation:

(1) The procedure to be undertaken;

(2) Alternative methods of treatment; and

(3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.

2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:

(a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or device has been approved for use in the medical treatment of the insured.

(b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the health care plan.

(c) The cost of any routine health care services that would otherwise be covered under the health care plan for an insured in a Phase I clinical trial or study.

(d) The initial consultation to determine whether the insured is eligible to participate in the clinical trial or study.

(e) Health care services required for the clinically appropriate monitoring of the insured during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the insured during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➔ Except as otherwise provided in NRS 695G.164, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the services are provided by a provider with whom the managed care organization has contracted for such services. If the managed care organization has not contracted for the provision of such services, the managed care organization shall pay the provider the rate of reimbursement that is paid to other providers with whom the managed care organization has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to a person insured under the plan is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the person insured under the plan.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the insured's health care plan, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the insured during the clinical trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the insured.

(h) Any costs for the management of research relating to the clinical trial or study.

5. A managed care organization that delivers or issues for delivery a health care plan specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the insured, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial or study relevant to the coverage of medical treatment pursuant to this section.

6. A managed care organization that delivers or issues for delivery a health care plan specified in subsection 1 shall ~~be~~:

~~—(a) Include in the disclosure required pursuant to NRS 695C.193 notice to each person insured under the plan of the availability of the benefits required by this section;~~

~~—(b) Provide~~ **provide** the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the plan.

7. A health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the plan that conflicts with this section is void.

8. A managed care organization that delivers or issues for delivery a health care plan specified in subsection 1 is immune from liability for:

(a) Any injury to an insured caused by:

(1) Any medical treatment provided to the insured in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the insured in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of an insured's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) "Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer" means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the Policies and Guidelines Relating to the

Cancer-Center Support Grant published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) “Provider of health care” means:

(1) A hospital; or

(2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

**Sec. 116.** NRS 695G.200 is hereby amended to read as follows:

695G.200 1. Each managed care organization shall establish a system for resolving complaints of an insured concerning:

(a) Payment or reimbursement for covered health care services;

(b) Availability, delivery or quality of covered health care services, including, without limitation, an adverse determination made pursuant to utilization review; or

(c) The terms and conditions of a health care plan.

↪ The system must be approved by the Commissioner in consultation with the State Board of Health.

2. If an insured makes an oral complaint, a managed care organization shall inform the insured that if the insured is not satisfied with the resolution of the complaint, the insured must file the complaint in writing to receive further review of the complaint.

3. Each managed care organization shall:

(a) Upon request, assign an employee of the managed care organization to assist an insured or other person in filing a complaint or appealing a decision of the review board;

(b) Authorize an insured who appeals a decision of the review board to appear before the review board to present testimony at a hearing concerning the appeal; and

(c) Authorize an insured to introduce any documentation into evidence at a hearing of a review board and require an insured to provide the documentation required by the health care plan of the insured to the review board not later than 5 business days before a hearing of the review board.

4. The Commissioner ~~[for the State Board of Health]~~ may examine the system for resolving complaints established pursuant to this section at such times as either deems necessary or appropriate.

**Sec. 117.** NRS 695G.220 is hereby amended to read as follows:

695G.220 1. Each managed care organization shall submit to the Commissioner ~~[and the State Board of Health]~~ an annual report regarding its system for resolving complaints established pursuant to NRS 695G.200 on a form prescribed by the Commissioner in consultation with the State Board of Health which includes, without limitation:

(a) A description of the procedures used for resolving complaints of an insured;

(b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;

(c) The current status of each complaint and appeal filed; and

(d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each managed care organization shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

**Sec. 117.5.** NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this

purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 687B.408, 689B.030 to 689B.050, inclusive, **and** 689B.287 ~~and 689B.575~~ apply to coverage provided pursuant to this paragraph.

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, “legal services organization” means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

**Sec. 118.** NRS 287.045 is hereby amended to read as follows:

287.045 1. Except as otherwise provided in this section, every state officer or employee is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment.

2. Professional employees of the Nevada System of Higher Education who have annual employment contracts are eligible to participate in the Program on:

(a) The effective dates of their respective employment contracts, if those dates are on the first day of a month; or

(b) The first day of the month following the effective dates of their respective employment contracts, if those dates are not on the first day of a month.

3. Every officer or employee who is employed by a participating local governmental agency on a permanent and full-time basis on the date on which the participating local governmental agency enters into an agreement to participate in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, and every officer or employee who commences employment with that participating local governmental agency after that date, is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment, unless that officer or employee is excluded pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.

4. Every member of the Senate and Assembly is eligible to participate in the Program on the first day of the month following the 90th day after the member’s initial term of office begins.

5. Notwithstanding the provisions of subsections 1, 3 and 4, if the Board does not, pursuant to NRS 689B.580, elect to exclude the Program from compliance with NRS 689B.340 to ~~689B.590,~~ **689B.580**, inclusive, and if the coverage under the Program is provided by a health maintenance

organization authorized to transact insurance in this State pursuant to chapter 695C of NRS, any affiliation period imposed by the Program may not exceed the statutory limit for an affiliation period set forth in NRS 689B.500.

**Sec. 118.1. Section 1 of Senate Bill No. 266 of this session is hereby amended to read as follows:**

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

*1. An insurer that offers or issues a policy of health insurance which provides coverage for the treatment of cancer through the use of chemotherapy shall not:*

*(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.*

*(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.*

*(c) Decrease the monetary limits applicable to chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.*

*2. A policy subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the policy or renewal which is in conflict with this section is void.*

*3. Nothing in this section shall be construed as requiring an insurer to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.*

**Sec. 118.2. Section 3 of Senate Bill No. 266 of this session is hereby amended to read as follows:**

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:



1. An insurer that offers or issues a policy of group health insurance which provides coverage for the treatment of cancer through the use of chemotherapy shall not:

(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.

(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.

(c) Decrease the monetary limits applicable to chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.

2. A policy subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the policy or renewal which is in conflict with this section is void.

3. Nothing in this section shall be construed as requiring an insurer to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.

**Sec. 118.3. Section 4 of Senate Bill No. 266 of this session is hereby amended to read as follows:**

Sec. 4. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer that offers or issues a contract for hospital or medical service which provides coverage for the treatment of cancer through the use of chemotherapy shall not:

(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as

defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.

(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.

(c) Decrease the monetary limits applicable to chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.

2. A contract subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the contract or renewal which is in conflict with this section is void.

3. Nothing in this section shall be construed as requiring an insurer to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.

**Sec. 118.4. Section 5 of Senate Bill No. 266 of this session is hereby amended to read as follows:**

Sec. 5. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health maintenance organization that offers or issues a health care plan which provides coverage for the treatment of cancer through the use of chemotherapy shall not:

(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.

(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.

(c) *Decrease the monetary limits applicable to such chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.*

2. *Evidence of coverage subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.*

3. *Nothing in this section shall be construed as requiring a health maintenance organization to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.*

**Sec. 118.5. Section 8 of Senate Bill No. 266 of this session is hereby amended to read as follows:**

Sec. 8. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A managed care organization that offers or issues a health care plan which provides coverage for the treatment of cancer through the use of chemotherapy shall not:*

(a) *Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.*

(b) *Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.*

(c) *Decrease the monetary limits applicable to chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.*

2. *An evidence of coverage for a health care plan subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued*

*for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.*

*3. Nothing in this section shall be construed as requiring a managed care organization to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.*

**Sec. 118.6. Section 9 of Senate Bill No. 266 of this session is hereby amended to read as follows:**

Sec. 9. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental entity of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for the treatment of cancer through the use of chemotherapy shall not:*

*(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.*

*(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.*

*(c) Decrease the monetary limits applicable to such chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.*

*2. A plan of self-insurance subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the plan or the renewal which is in conflict with this section is void.*

*3. Nothing in this section shall be construed as requiring the governing body of any county, school district, municipal corporation,*

*political subdivision, public corporation or other local governmental entity of the State of Nevada that provides health insurance through a plan of self-insurance to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.*

**Sec. 119.** NRS 689A.045, 689A.370, 689A.480, 689A.500, 689A.515, 689A.545, 689A.560, 689A.565, 689A.575, 689A.595, 689A.605, 689A.610, 689A.620, 689A.640, 689A.645, 689A.650, 689A.655, 689A.660, 689A.665, 689A.670, 689A.675, 689A.680, 689A.685, 689A.730, 689B.120, 689B.130, 689B.140, 689B.150, 689B.170, 689B.180, 689B.200, 689B.210, 689B.245, 689B.246, 689B.247, 689B.248, 689B.249, 689B.283, 689B.410, 689B.420, 689B.470, 689B.575, 689B.590, 689C.021, 689C.035, 689C.051, 689C.076, 689C.084, 689C.089, 689C.099, 689C.107, 689C.145, 689C.157, 689C.210, 689C.230, 689C.240, 689C.260, 689C.283, 689C.287, 689C.290, 689C.300, 689C.327, 689C.340, 689C.342, 689C.344, 689C.346, 689C.348, 689C.620, 689C.640, 689C.650, 689C.680, 689C.690, 689C.700, 689C.710, 689C.720, 689C.730, 689C.740, 689C.750, 689C.760, 689C.770, 689C.780, 689C.790, 689C.800, 689C.810, 689C.820, 689C.830, 689C.840, 689C.850, 689C.860, 689C.870, 689C.880, 689C.890, 689C.900, 689C.910, 689C.920, 689C.930, 689C.950, 689C.955, 689C.960, 689C.970, 689C.980, 695C.1707, 695C.180, 695C.193, 695C.195, 695C.250 and 695I.050 are hereby repealed.

**Sec. 119.5.** The provisions of sections 27 to 30, inclusive, 32.2, 33 to 66, inclusive, and 67 to ~~118.6~~, **118.6**, inclusive, of this act apply to policies which are issued on or after October 1, 2013, and which become effective on or after January 1, 2014.

**Sec. 120.** 1. This section and sections 1 to 26, inclusive, 31 to 32.1, inclusive, 32.5, ~~and~~ 32.8 **and 118.1 to 118.6, inclusive**, of this act become effective upon passage and approval.

2. Sections 27 to 30, inclusive, 32.2, 33 to 66, inclusive, ~~and~~ 67 to **118, inclusive, 119 and 119.5, inclusive**, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations; and

(b) On January 1, 2014, for all other purposes.

3. Section 66.5 of this act becomes effective on January 1, 2016.

4. Sections 13, 14 and 15 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

- 689A.045 Termination of coverage on dependent child.  
689A.370 Health insurance on franchise plan.  
689A.480 “Basic health benefit plan” defined.  
689A.500 “Converted policy” defined.  
689A.515 “Eligible person” defined.  
689A.545 “Health status-related factor” defined.  
689A.560 “Individual reinsuring carrier” defined.  
689A.565 “Individual risk-assuming carrier” defined.  
689A.575 “Plan of operation” defined.  
689A.595 “Program of Reinsurance” defined.  
689A.605 “Standard health benefit plan” defined.  
689A.610 Applicability; ceding arrangement prohibited in certain circumstances.  
689A.620 Certain person with break in coverage deemed eligible person.  
689A.640 Each health benefit plan marketed in this State required to be offered to eligible persons.  
689A.645 Coverage to eligible person who does not reside in established geographic service area not required; coverage within certain areas not required.  
689A.650 Coverage to eligible persons not required under certain circumstances; notice to Commissioner of and prohibition on writing new business after election not to offer new coverage required.  
689A.655 Requirement to file basic and standard health benefit plans with Commissioner; disapproval of plan.  
689A.660 Prohibited acts concerning preexisting conditions and modification of health benefit plan.  
689A.665 Certain health carriers not required to offer health benefit insurance coverage to individuals.  
689A.670 Election to operate as individual risk-assuming carrier or individual reinsuring carrier: Notice to Commissioner; effective date; change in status.  
689A.675 Election to act as individual risk-assuming carrier: Suspension by Commissioner; applicable statutes.  
689A.680 Rates for individual health benefit plans to be developed based on rating characteristics: Prohibited characteristics; health status as rating factor.

689A.685 Amount of change in rate of single block of business; plan with provision for restricted network; involuntary transfer of individual or dependent prohibited; premiums adjusted for block of business.

689A.730 Producer may only sign up eligible persons if eligible persons are actively engaged in or related to association.

689B.120 Policies of group health insurance to contain provision for conversion; exceptions; conditions.

689B.130 Conversion privilege available to spouse and children; conditions.

689B.140 Denial of converted policy because of overinsurance; notice concerning cancellation of other coverage.

689B.150 Choice of plans for converted policy.

689B.170 Benefits payable under converted policy may be reduced by amount payable under group policy.

689B.180 Issuance and effective date of converted policy; premiums; persons covered.

689B.200 Notice of conversion privilege.

689B.210 Converted policy delivered outside Nevada: Form.

689B.245 Required provision concerning continuation of coverage.

689B.246 Notice of eligibility or election to continue coverage.

689B.247 Payment of premium for continued coverage.

689B.248 New insurer to provide continued coverage.

689B.249 Termination of continued coverage before end of period.

689B.283 Mandatory renewal of coverage under conversion health benefit plan.

689B.410 "Health benefit plan" defined.

689B.420 "Health status-related factor" defined.

689B.470 Certain plan, fund or program to be treated as employee welfare benefit plan which is group health plan; partnership deemed employer of each partner.

689B.575 Carrier that offers coverage through network plan: Contracts with certain federally qualified health centers.

689B.590 Converted policies: Carrier may only offer choice of basic and standard plans; election of basic or standard plan; premium; rates must be same for persons with similar case characteristics; losses must be spread across book.

689C.021 "Basic health benefit plan" defined.

689C.035 "Characteristics" defined.

689C.051 "Converted policy" defined.

689C.076 "Health status-related factor" defined.

689C.084 "Program of Reinsurance" defined.

689C.089 "Risk-assuming carrier" defined.

689C.099 "Standard health benefit plan" defined.

689C.107 Affiliated carriers deemed one carrier in certain circumstances; affiliated carrier that is health maintenance organization considered separate carrier; ceding arrangement prohibited in certain circumstances.

689C.145 Characteristics that carrier may use to determine rating factors for establishing premiums.

689C.157 Requirement to file basic and standard health benefit plans with Commissioner; disapproval of plan.

689C.210 Procedure for increasing premium rates.

689C.230 Determination and application of index rate.

689C.240 Use of industry classifications as rating factor.

689C.260 Manner in which carrier may establish separate class of business; transferring small employer into or out of class of business.

689C.283 Election to operate as risk-assuming carrier or reinsuring carrier: Notice to Commissioner; effective date; change in status.

689C.287 Election to act as risk-assuming carrier: Suspension by Commissioner; applicable statutes.

689C.290 Commissioner authorized to suspend restriction on increase of premiums for new rating period based on new business for policy.

689C.300 Carrier to file actuarial certification annually with Commissioner.

689C.327 Carrier that offers network plan: Contracts with certain federally qualified health centers.

689C.340 Required provisions in health benefit plan of employer who employs less than 20 employees related to continuation of coverage.

689C.342 Notice of election and payment of premium.

689C.344 Amount of premium for continuation of coverage; change in rates; payment to insurer; termination.

689C.346 Effect of change in insurer during period of continued coverage.

689C.348 Continued coverage ceases before end of established period under certain circumstances.

689C.620 "Board" defined.

689C.640 "Committee" defined.

689C.650 "Eligible person" defined.

689C.680 "Individual reinsuring carrier" defined.

689C.690 "Individual risk-assuming carrier" defined.

689C.700 "Plan of operation" defined.

689C.710 "Program of Reinsurance" defined.

689C.720 "Reinsuring carrier" defined.



689C.730 “Risk-assuming carrier” defined.

689C.740 Creation.

689C.750 Board of Directors: Creation; members; term; vacancy.

689C.760 Meetings of Board; Chair of Board.

689C.770 Plan of operation: Submission by Board; approval by Commissioner; temporary plan when plan not suitable or not submitted.

689C.780 Requirements of plan of operation and temporary plan of operation.

689C.790 Program deemed to have powers and authority of insurance companies and health maintenance organizations; exceptions; powers.

689C.800 Amount of coverage to be reinsured; time within which reinsurance may begin; limitation on reimbursement to reinsuring carrier; termination of reinsurance; premium rate charged to federally qualified health maintenance organization; manner of handling managed care and claims by reinsuring carrier.

689C.810 Premium rates: Methodology for determining; minimum rates; review of methodology.

689C.820 Premiums for certain health benefit plans that are reinsured with program required to meet established requirements for premium rates.

689C.830 Board required to determine, account for and report to Commissioner net loss.

689C.840 Net loss from reinsuring small employers and eligible employees and dependents required to be recouped by assessments against reinsuring carriers.

689C.850 Net loss from reinsuring individual eligible persons and dependents required to be recouped by assessments against individual reinsuring carriers.

689C.860 Board required to determine, account for and report to Commissioner estimate of assessments needed to pay for losses; evaluation of operation of Program.

689C.870 Additional funding: Eligibility based on amount of assessment needed; Board to establish formula for additional assessments on all carriers.

689C.880 Use of excess assessments.

689C.890 Assessment against reinsuring carrier to be determined annually; penalty for late payment of assessments; deferment of assessment.

689C.900 Insurer to receive certificate of contribution for paying additional assessment; certain amount of contribution may be shown as asset and may offset liability for premium tax.

**689C.910 Adjustment of assessment on federally qualified health maintenance organizations.**

**689C.920 Immunity from liability of Program and reinsuring carriers for certain acts.**

**689C.930 Board to develop standards setting forth manner and levels of compensation paid to producers for sale of health benefit plans.**

**689C.950 Certain provisions inapplicable to certain basic health benefit plan delivered to small employers or eligible persons.**

**689C.955 Member, agent or employee of Board immune from liability in certain circumstances.**

**689C.960 Creation; members; term; vacancy.**

**689C.970 Meetings; Chair; duties.**

**689C.980 Board and Committee to study and submit report concerning effectiveness of certain provisions.**

**695C.1707 Required provision for continuation of coverage.**

**695C.180 Schedule of charges.**

**695C.193 Summary of coverage: Contents of disclosure; approval by Commissioner; regulations.**

**695C.195 Summary of coverage: Copy to be provided before policy issued; policy not to be offered unless summary approved by Commissioner.**

**695C.250 Open enrollment.**

**695I.050 "Federal Act" defined.**

Assemblyman Bobzien moved that the Assembly concur in the Senate Amendment No. 967 to Assembly Bill No. 425.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 404.

The following Senate amendment was read:

Amendment No. 957.

AN ACT relating to time shares; amending provisions relating to licensing and registration of sales agents, representatives, managers, developers, project brokers and time-share resale brokers; revising provisions relating to permits to sell time shares; amending provisions relating to time-share instruments; revising provisions governing public offering statements; amending provisions governing the sale and resale of time shares; revising provisions governing the management and development of time-share plans and time-share projects; revising provisions governing certain fees relating to time shares; prohibiting certain acts; amending various other provisions relating to time shares; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides certain exemptions from the requirements governing time shares. (NRS 119A.170) **Section 11** of this bill revises these exemptions.

Existing law governs the qualifications and licensing of sales agents and requires a sales agent to be associated with a project broker. (NRS 119A.210-119A.237) **Section 14** of this bill maintains the existing law requiring that a sales agent obtain a license from the Real Estate Division of the Department of Business and Industry, but provides that a sales agent is not required to be licensed pursuant to existing law governing real estate salespersons.

Existing law provides for the registration and regulation of a representative, defined as a person who, on behalf of a developer, induces other persons to attend a sales presentation. (NRS 119A.120, 119A.240, 119A.260) **Section 18** of this bill maintains the existing law requiring a representative to register with the Division, but provides that a representative is not required to be licensed pursuant to existing law governing real estate salespersons. **Section 19** of this bill amends provisions setting forth the prohibited acts of representatives.

Existing law requires a developer of a time-share plan to obtain certain permits from the Administrator of the Division before selling or offering for sale any time shares in this State. Existing law requires an applicant for a public offering statement and permit to sell time shares to submit an application containing certain information. (NRS 119A.300) **Section 23** of this bill ~~4- (1)~~ requires the applicant to include with the application a public offering statement ~~4- and (2)~~ and certain information concerning points, if applicable. Section 4.4 of this bill provides that in lieu of the information required to be included with the application, a developer of a time-share plan in which some or all of the units are located outside of this State may file an abbreviated registration. **Section 3** of this bill requires a developer to file an amended statement of record with the Division under certain circumstances. **Section 25** of this bill amends the grounds for denial of an application for a permit to sell time shares. **Section 26** of this bill amends provisions relating to the procedure for approving or denying an application for a permit to sell time shares. **Section 27** of this bill provides for a hearing on the denial of an amendment to the statement of record or a renewal of a permit to sell time shares. **Section 28** of this bill revises the information to be provided in a public offering statement if a time-share project is not completed before the issuance of a permit to sell time shares.

**Section 29** of this bill authorizes instead of requires the Division to complete an investigation before issuing any permit or license issued pursuant to the provisions of existing law governing time shares.

**Section 30** of this bill provides that a renewal of a permit to sell time shares in this State is deemed approved if the Division does not take certain actions within the prescribed period.

Existing law governs the fees that the Division is required to collect relating to time shares. (NRS 119A.360) **Section 32** of this bill increases certain fees and revises the fee based on the number of time shares sold by a developer to provide for a fee based on the number of time shares in a time-share plan. **Section 32** also establishes a fee for an amendment to a statement of record, the initial registration of a time-share resale broker and the renewal of the registration of a time-share resale broker.

Existing law governs the contents of a time-share instrument. (NRS 119A.380) **Section 33** of this bill enacts provisions relating to the governing instrument of a time-share plan or units governed by the laws of another state or jurisdiction.

Existing law requires a developer to provide each prospective purchaser with a copy of the developer's public offering statement. (NRS 119A.400) **Section 35** of this bill provides that, upon the request of a prospective purchaser for an electronic copy of the public offering statement, the developer must provide an electronic copy of the public offering statement.

Existing law requires money, negotiable instruments or other deposits pertaining to the sale of a time share to be placed in escrow. (NRS 119A.420) **Section 36** of this bill requires money, negotiable instruments or other deposits pertaining to the sale of a time share received from a purchaser to be placed in an escrow account or requires the developer to establish a surety bond.

Existing law provides for the licensing and regulation of a time-share resale broker. (NRS 119A.4771) **Section 41** of this bill amends provisions relating to the registration of a time-share resale broker. **Sections 42 and 43** of this bill provide for a right to cancel certain contracts or agreements relating to the resale of a time share.

Existing law governs the charging or collection of an advance fee by a time-share resale broker. (NRS 119A.4779) **Section 44** of this bill requires a contract for an advance fee listing to include certain information. **Section 44** also prohibits a time-share resale broker from engaging in certain acts with respect to an advance fee and provides penalties for engaging in those acts.

**Section 48** of this bill removes the authority of the Administrator to require an association or developer to provide an opinion of an independent professional consultant regarding the budget.

Existing law prohibits certain unfair methods of competition or deceptive or unfair acts in the offer to sell or sale of a time share. (NRS 119A.710) **Section 4** of this bill prohibits ~~to a person~~ **certain persons** from knowingly participating in a plan or scheme to transfer a time share to a person who

does not have the ability, means or intent to pay the assessments ~~for~~ and taxes for that time share and provides a penalty for a violation of this provision.

**Section 4.2 of this bill exempts certain developers from provisions governing permits to sell and the sale of certain time shares.**

Section 52 of this bill repeals provisions of existing law governing advertisements for time shares, and **section 13** of this bill authorizes the Division to adopt regulations regarding advertisements relating to time shares.

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

**Section 1.** Chapter 119A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2 to ~~1.4,~~ **4.4,** inclusive, of this act.

**Sec. 1.2.** *“Branch office” means an office operated by a real estate broker who is licensed pursuant to chapter 645 of NRS, separate from the principal location of the real estate broker, for the purpose of engaging in the business of selling or reselling time shares.*

**Sec. 1.4.** *“Component site” means the specific geographic location where units that are part of a time-share plan are located. ~~It includes, without limitation, new~~ The term includes units added to a single project in the same specific geographic location and under common management.*

**Sec. 1.6. 1.** *“Material change” means a change in any information or document that is part of the statement of record which renders the statement of record inaccurate, incomplete or misleading in such a way as to adversely affect the rights or obligations of a purchaser.*

**2.** *The term does not include a change:*

*(a) In the real estate tax assessment or rate, utility charges or deposits, maintenance fees, association dues, assessments, special assessments or any recurring time-share expense item, if the change is made known immediately to the prospective purchaser by a written addendum to the public offering statement;*

*(b) Which is an aspect or result of the orderly development of the time-share plan in accordance with the time-share instrument, if the change is made known immediately to the prospective purchaser by a written addendum to the public offering statement;*

*(c) Which corrects spelling, grammar, omissions or other similar errors and which does not affect the substance of the information or document;*  
*or*

*(d) Which occurs in the issuance of the updated annual report or disclosure document of an exchange company.*

Sec. 1.8. "Sales and marketing entity" means an entity hired by a developer to manage the sale or marketing of a time-share plan.

Sec. 2. "Statement of record" means the information provided to the Administrator pursuant to ~~paragraph (a) of~~ subsection 1 of NRS 119A.300 or ~~subsection 2 of NRS 119A.300,~~ section 4.4 of this act, as applicable.

Sec. 2.5. 1. Every branch office must be operated under the supervision of a real estate broker or real estate broker-salesperson who is licensed pursuant to chapter 645 of NRS and who has had at least 2 years of experience as an active real estate broker ~~or~~ or real estate broker-salesperson ~~for real estate salesperson~~ in the United States.

2. The project broker or time-share resale broker is responsible for each branch office which he or she operates.

3. If the location of the branch office does not permit a project broker or a time-share resale broker to exercise direct supervision of a branch office, a real estate broker-salesperson shall directly supervise the branch office.

4. A supervisor of a branch office may not supervise more than one branch office.

Sec. 3. 1. If there is a material change to the time-share plan, ~~which is not caused by or under the control of the developer, the developer shall file with the Division an amended statement of record not later than 10 days before the material change occurs or within 10 days after the developer knows or reasonably should have known of the material change. For any material change to the time-share plan,~~ the developer shall file an amended statement of record, and such ~~an~~ amended statement of record is effective on the 60th day after the filing or, in the event that ~~additional~~ units are added to the time-share plan which are in a component site which has not previously been registered with the Division, on the 120th day after the filing, unless the Administrator:

(a) Issues a denial of the amended statement of record pursuant to NRS 119A.654 in a notice of deficiency describing the reasons for the denial in sufficient detail to allow the developer to correct the deficiencies in the amended statement of record; or

(b) Approves the amended statement of record on an earlier date.

2. The developer may submit evidence that the deficiencies in the amended statement of record described in the notice of deficiency issued pursuant to paragraph (a) of subsection 1 have been corrected within 90 days after the developer receives the notice of deficiency or within such extended time period as approved by the Division in writing.

3. The Administrator shall, within 30 days after receiving evidence that the deficiencies in the amended statement of record are ~~fixed,~~ corrected,

~~approve or deny~~ the amended statement of record or issue a denial of the amended statement of record and list the specific pursuant to NRS 119A.654 in a notice of deficiency describing the reasons for denial. If the Division fails to take any of the actions described in this subsection within the 30-day period, the amended statement of record shall be deemed approved by the Division.

~~3.~~ 4. If the developer fails to correct all the deficiencies in the amended statement of record after receipt of a second notice of deficiency pursuant to subsection 3, the Administrator may deny the amended statement of record and require the developer to pay a filing fee equal to one-half of the filing fee for an amendment to a statement of record as set forth in subsection 1 of NRS 119A.360.

5. Any amendment proposed by the developer to the provisions of a time-share instrument must be filed with the Division. Unless the Division notifies the developer of its disapproval within 15 days after the developer files the proposed amendment to the time-share instrument, the amendment shall be deemed to be approved by the Division.

Sec. 4. 1. Except as otherwise provided in subsection 3, ~~at~~ any person other than a person described in paragraph (a) of subsection 3 of NRS 119A.4771 or a developer or an association that is offering time shares in a time-share plan which is registered by such a developer or an association or which is exempt from registration in this State, who knowingly participates, for consideration or with the expectation of consideration, in any plan or scheme, a purpose of which is to transfer a previously sold time share to a transferee who does not have the ability, means or intent to pay for provide payment for all assessments and taxes for that time share commits a false, misleading or deceptive act or practice for the purposes of NRS 207.170, 207.171, 598.0915 to 598.0925, inclusive, and chapters 598A and 599A of NRS.

2. The failure of a transferee to pay assessments or taxes that come due after the acquisition of a previously sold time share by a person who acquires the time share for commercial purposes ~~is prima facie evidence~~ creates a rebuttable presumption of a violation of this section.

3. An association or manager does not violate the provisions of this section by performing such administrative acts and collecting such fees or expenses as are customary or required by law or a time-share instrument during the transfer.

Sec. 4.2. The provisions of NRS 119A.290 to 119A.470, inclusive, and sections 3 and 4 of this act, and NRS 119A.480 do not apply to a developer who has a valid permit issued pursuant to this chapter concerning the offer or disposition in this State of a time share in a time-share plan which includes units which are:

1. Located outside of this State;
2. Not registered pursuant to the provisions of this chapter; and
3. Offered or sold to an existing owner of a time-share plan offered by that developer or an affiliate of that developer if the developer or the affiliate;

(a) Authorizes the purchaser to cancel the purchase contract until midnight of the fifth calendar day after the date of the execution of the contract; and

(b) Provides the purchaser with all of the time share disclosure documents required by law in the jurisdiction in which the time share is located.

Sec. 4.4. 1. In lieu of the statement of record required pursuant to NRS 119A.300, the Division may accept an abbreviated registration from a developer of a time-share plan in which some or all of the units are located outside of this State if:

(a) The developer provides evidence that the time-share plan is registered with the applicable regulatory agency in the state or jurisdiction where the time-share plan is offered or sold and that the time-share plan is in compliance with the laws and regulations of the state or jurisdiction in which some or all of the units are located; and

(b) The disclosure requirements of the other state or jurisdiction are substantially equivalent to or greater than the information required to be disclosed to purchasers in this State pursuant to this chapter.

2. A developer who files an abbreviated registration pursuant to subsection 1 shall, in addition to paying the fee for an initial permit required by NRS 119A.360, provide to the Division:

(a) The developer's legal name, any assumed names used by the developer and the developer's principal office location, mailing address, primary contact person and telephone number;

(b) The name, location, mailing address, primary contact person and telephone number of the time-share plan;

(c) The name and principal address of the developer's authorized project broker who must be a real estate broker licensed to maintain offices within this State;

(d) The name and principal address of all sales and marketing entities and the manager of the time-share plan;

(e) Evidence of registration and compliance with the laws and regulations of the state or jurisdiction in which the time-share plan is located, approved or accepted;

(f) A brief description as to whether the time-share plan contains one or more component sites and a brief description of the types of time shares offered in the time-share plan;



(g) Disclosure of each jurisdiction in which the developer has applied for registration of the time-share plan and whether the time-share plan or its developer was denied registration or was the subject of any disciplinary proceeding;

(h) Copies of any disclosure documents required to be given to purchasers or required to be filed with the state or jurisdiction in which the time-share plan is located, approved or accepted;

(i) A copy of the current annual or projected budget for the association if not otherwise included in the disclosure documents; and

(j) Any other information regarding the developer, time-share plan, project broker, manager or sales and marketing entities as established by the Division by regulation.

3. A developer of a time-share plan with units located solely in this State may not file an abbreviated application.

4. Upon acceptance of the abbreviated registration by the Division, the developer shall provide to each purchaser, in lieu of the public offering statement required to be provided pursuant to the provisions of NRS 119A.400, a copy of the public report, public offering statement or other disclosure document which complies with paragraph (b) of subsection 1, including a cover page which states that such disclosure document has been approved for use by the Real Estate Division of the Department of Business and Industry.

Sec. 5. NRS 119A.010 is hereby amended to read as follows:

119A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 119A.020 to 119A.160, inclusive, **and sections 1.2 ~~f, 1.4 and~~ to 2 , inclusive, of this act** have the meanings ascribed to them in those sections.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 119A.090 is hereby amended to read as follows:

119A.090 “Project broker” means any person who coordinates the sale of time shares for ~~{a} one or more~~ time-share ~~{plan and to whom sales agents and representatives are responsible.}~~ **plans on behalf of one or more developers and who is licensed as a real estate broker pursuant to the provisions of chapter 645 of NRS.**

Sec. 8. NRS 119A.100 is hereby amended to read as follows:

119A.100 “Public offering statement” means a ~~{report, issued by the Administrator}~~ **disclosure document prepared and signed by the developer and approved or deemed approved for use by the Division** pursuant to the provisions of this chapter, which ~~{authorizes a developer to offer to sell or sell time shares in the time share plan which is the subject of the report.}~~ **contains the information required by this chapter and any regulations adopted pursuant thereto.**

**Sec. 9.** NRS 119A.130 is hereby amended to read as follows:

119A.130 "Sales agent" means a person who, on behalf of a developer ~~and~~ **and under the direct supervision of a real estate broker licensed pursuant to the provisions of chapter 645 of NRS,** sells or offers to sell a time share to a purchaser or who, if he or she is not registered as a representative, may act to induce other persons to attend a sales presentation on the behalf of a developer.

**Sec. 10.** NRS 119A.156 is hereby amended to read as follows:

119A.156 "Time-share resale broker" means a person who is licensed pursuant to the provisions of chapter 645 of NRS and is registered as a time-share resale broker pursuant to the provisions of this chapter ~~and~~ **and who, for compensation, lists, advertises, transfers, assists in transferring, promotes for resale or solicits prospective purchasers for previously sold time shares on behalf of an owner other than a developer.**

**Sec. 11.** NRS 119A.170 is hereby amended to read as follows:

119A.170 1. ~~The~~ **Unless the method of disposition is adopted to evade the provisions of this chapter or chapter 645 of NRS, the** provisions of this chapter, except subsection 4, ~~do not apply to:~~

(a) The sale ~~for resale~~ of 12 or fewer time shares in a **time-share** ~~project~~ **plan;** ~~for the sale of 12 or fewer time shares in the same subdivision;~~

(b) The sale or transfer of a time share by an owner who is not the developer, unless the time share is sold in the ordinary course of business of that owner;

(c) Any transfer of a time share:

(1) By deed in lieu of foreclosure;

(2) At a foreclosure sale; or

(3) By the resale of a time share **by an association** that has been acquired by ~~an~~ **that** association **;** ~~by~~ ~~as a result of nonpayment of association assessments;~~

**(I) By termination of a contractual right of occupancy;**

**(II) By deed** ~~for other transfer~~ **in lieu of foreclosure, other transfer or termination;** or ~~at~~

**(III) At a foreclosure sale** ~~;~~ **,**

**↪ provided that the association or its agent delivers to the purchaser the disclosures required by subsections 2 and 3 of NRS 119A.4775** ~~to the purchaser;~~ **and gives the purchaser the statement of the right of cancellation required by NRS 119A.410;**

(d) A gratuitous transfer of a time share;

(e) A transfer by devise or descent or a transfer to an inter vivos trust; or

(f) The sale or transfer of the right to use and occupy a unit on a periodic basis which recurs over a period of less than 5 years . ~~;~~

↪ unless the method of disposition is adopted to evade the provisions of this chapter or chapter 645 of NRS.]

2. ~~[The provisions of NRS 119A.200 to 119A.470, inclusive, and sections 3 and 4 of this act and 119A.480 do not apply to the offer or disposition in this State of a time share in a time share plan that includes units which are located outside of this State, which are not registered under this chapter and which are offered or sold to an existing owner of a time share in a time share plan offered by the same developer or an affiliate of the same developer who has a valid permit under this chapter, if the developer or its affiliate:~~

~~—(a) Authorizes the purchaser to cancel the purchase contract until midnight of the fifth calendar day after the date of execution of the contract; and~~

~~—(b) Provides the purchaser with all the time share disclosure documents required by law in the jurisdiction where the unit is located.~~

~~3.]~~ Any campground or developer who is subject to the requirements of chapter 119B of NRS and complies with those provisions is not required to comply with the provisions of this chapter.

3. ~~[4.]~~ The Division may waive any provision of this chapter if it finds that the enforcement of that provision is not necessary in the public interest or for the protection of purchasers.

4. ~~[5.]~~ The provisions of chapter 645 of NRS apply to the sale of time shares, except any sale of a time share to which this chapter applies ~~[.]~~ **and except any provisions of this chapter expressly excluding the applicability of the provisions of chapter 645 of NRS,** and for ~~[that]~~ the purpose of applying the provisions of chapter 645 of NRS, the terms “real property” and “real estate” as used in chapter 645 of NRS shall be deemed to include a time share, whether it is an interest in real property or merely a contractual right to occupancy.

~~[ 6. The provisions of NRS 119A.520 to 119A.580, inclusive, only apply to the management of time share projects located in this State.]~~

Sec. 12. NRS 119A.172 is hereby amended to read as follows:

119A.172 The provisions of this chapter and chapter 645 of NRS relating to real estate brokers and sales agents do not apply to an owner, other than a developer, who, for compensation, refers prospective purchasers to a developer **or an association** or an employee or agent of the developer ~~[.]~~ **or association,** if the owner:

1. Refers to ~~[the]~~ **a developer or an association** or an employee or agent of the developer ~~[.]~~ **or association,** or any combination thereof, not more than 20 prospective purchasers within any 1 calendar year; and

2. Does not ~~{show a unit to the prospective purchaser,}~~ discuss with the prospective purchaser the terms and conditions of the purchase or otherwise participate in negotiations relating to the sale of the time share.

**Sec. 13.** NRS 119A.190 is hereby amended to read as follows:

119A.190 **1.** The Division may:

~~{1.}~~ **(a)** Adopt regulations ~~{which}~~ :

~~{(a)}~~ **(1)** Which are necessary to carry out the provisions of this chapter.

~~{(b)}~~ **(2)** *Regarding the content of advertisements relating to time shares.*

~~{2. Publish on its official Internet website, or otherwise make public for at least 30 days before the adoption by the Division, any form proposed to be used by the Division under this chapter. The Division shall consider comments on any such proposed form before its adoption.}~~

~~{3.}~~ **(b)** Employ such legal counsel, investigators and other professional consultants as are necessary to carry out the provisions of this chapter ~~{1}~~ , *including, without limitation, for the review of a statement of record filed pursuant to NRS 119A.300 ~~{1}~~ or section 4.4 of this act.*

**2.** *The Division shall publish on its official Internet website, or otherwise make public for at least 30 days before the adoption by the Division, any form proposed to be used by the Division under this chapter. The Division shall consider comments on any such proposed form before its adoption.*

**Sec. 14.** NRS 119A.210 is hereby amended to read as follows:

119A.210 **1.** The Administrator shall issue a sales agent's license to each applicant who submits an application to the Division, in the manner provided by the Division, which includes:

(a) Satisfactory evidence, affirmed by the project broker or another acceptable source, that the applicant has completed 14 hours of instruction in:

- (1) Ethics.
- (2) The applicable laws and regulations relating to time shares.
- (3) Principles and practices of selling time shares.

(b) Satisfactory evidence that the applicant has a reputation for honesty, trustworthiness and competence.

(c) A designation of the ~~{developer for whom the applicant proposes to sell time shares.}~~ **project broker who will supervise the sales agent.**

(d) The social security number of the applicant.

(e) Any further information required by the Division, including the submission by the applicant to any investigation by the police or the Division.

**2.** In addition to or in lieu of the 14 hours of instruction required by paragraph (a) of subsection 1, the applicant may be required to pass an examination which may be adopted by the Division to examine satisfactorily

the knowledge of the applicant in those areas of instruction listed in paragraph (a) of subsection 1.

3. Each applicant must submit the statement required pursuant to NRS 119A.263 and pay the fees provided for in this chapter.

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 Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, 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 Division deems necessary.

5. The Division 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 Division deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.

6. A person who is licensed as a real estate salesperson pursuant to chapter 645 of NRS is not required to obtain a license pursuant to the provisions of this section.

7. ***A sales agent is not required to be licensed pursuant to the provisions of chapter 645 of NRS.***

8. Each sales agent's license issued pursuant to this section expires 2 years after the last day of the calendar month in which it was issued and must be renewed on or before that date. Each licensee who submits the statement required pursuant to NRS 119A.263 and meets the requirements for renewal may renew his or her license upon the payment of the renewal fee before his or her license expires.

~~{8-}~~ 9. If a licensee fails to renew his or her license before it expires, the license may be reinstated if the licensee submits the statement and pays the renewal fee and the penalty specified in NRS 119A.360 within 1 year after the license expires.

~~{9-}~~ 10. The Administrator may adopt regulations establishing and governing requirements for the continuing education of sales agents.

**Sec. 15.** NRS 119A.220 is hereby amended to read as follows:

119A.220 1. A sales agent may work for only one project broker at any one time at the location designated in the license.

2. A project broker shall give written notice to the Division of a change of association of any sales agent associated with the project broker within 10 days after that change.

3. The project broker, upon the termination of the employment of any sales agent associated with the project broker, shall submit that agent's license to the Division.

4. If a sales agent changes his or her association with any project broker or changes his or her location ~~{with the same project broker,}~~ **designated in the license**, the sales agent must apply to the Division for the reissuance of his or her license for its unexpired term. The application must be accompanied by a fee of \$10.

5. A sales agent may only become associated with a project broker who certifies to the sales agent's honesty, trustworthiness and good reputation.

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

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

**Sec. 18.** NRS 119A.240 is hereby amended to read as follows:

119A.240 1. The Administrator shall register as a representative each applicant who:

(a) Submits proof satisfactory to the Division that the applicant has a reputation for honesty, trustworthiness and competence;

(b) Applies for registration in the manner provided by the Division;

(c) Submits the statement required pursuant to NRS 119A.263; and

(d) Pays the fees provided for in this chapter.

2. An application for registration as a representative must include the social security number of the applicant.

**3. A representative is not required to be licensed pursuant to the provisions of chapter 645 of NRS.**

**Sec. 19.** NRS 119A.260 is hereby amended to read as follows:

119A.260 1. A representative shall not negotiate ~~for—make representations concerning the merits or value of a time share plan or a project—~~ **the sale of, or discuss prices of, a time share.** A representative may only induce and solicit persons to attend promotional meetings for the sale of time shares and distribute information on behalf of a developer.

2. The representative's activities must strictly conform to the methods for the procurement of prospective purchasers which have been approved by the Division.

3. The representative shall comply with ~~the same~~ **any applicable** standards for conducting business as are applied to real estate brokers and salespersons pursuant to chapter 645 of NRS and the regulations adopted pursuant thereto.

4. A representative shall not make targeted solicitations of purchasers or prospective purchasers of time shares in another project ~~it~~ ***with which the representative is not associated.*** A developer or project broker shall not pay or offer to pay a representative a bonus or other type of special compensation to engage in such activity.

**Sec. 20.** NRS 119A.270 is hereby amended to read as follows:

119A.270 A developer shall not:

1. Offer to sell any time shares in this state unless the developer holds either a preliminary permit to sell time shares or a permit to sell time shares issued by the Administrator ~~it~~ ***pursuant to the provisions of this chapter.***

2. Sell any time shares in this state unless the developer holds a permit to sell time shares issued by the Administrator ~~it~~ ***pursuant to the provisions of this chapter.***

3. Offer to sell or sell a time share in this state unless the developer has named a person to act as a project broker.

4. Offer to sell or sell a time share in this state except through a project broker.

**Sec. 21.** NRS 119A.280 is hereby amended to read as follows:

119A.280 1. The Administrator may issue an order directing a developer to cease engaging in activities for which the developer has not received ***or been deemed to have received*** a permit under this chapter or conducting activities in a manner not in compliance with the provisions of this chapter or the regulations adopted pursuant thereto.

2. The order to cease must be in writing and must ~~state that, in the opinion of the Administrator, the developer has not been issued a permit for the activity or the terms of the permit do not allow the developer to conduct the activity in that manner.~~ ***describe the violation in sufficient detail to inform the developer of the aspect in which it has failed to comply with the provisions of this chapter.*** The developer shall not engage in any activity regulated by this chapter after the developer receives such an order.

3. Within 30 days after receiving such an order, a developer may file a verified petition with the Administrator for a hearing. The Administrator shall hold a hearing within 30 days after the petition has been filed. If the Administrator fails to hold a hearing within 30 days, or does not render a

written decision within 45 days after the final hearing, the cease and desist order is rescinded.

4. If the decision of the Administrator after a hearing is against the person ordered to cease and desist, the person may appeal that decision by filing, within 30 days after the date on which the decision was issued, a petition in the district court for the county in which the person conducted the activity. The burden of proof in the appeal is on the appellant. The court shall consider the decision of the Administrator for which the appeal is taken and is limited solely to a consideration and determination of the question of whether there has been an abuse of discretion on the part of the Administrator in making the decision.

5. In lieu of the issuance of an order to cease such activities, the Administrator may enter into an agreement with the developer in which the developer agrees to:

- (a) Discontinue the activities that are not in compliance with this chapter;
- (b) Pay all costs incurred by the Division in investigating the developer's activities and conducting any necessary hearings; and
- (c) Return to the purchasers any money or property which the developer acquired through such violations.

➡ Except as otherwise provided in NRS 239.0115, the terms of such an agreement are confidential unless violated by the developer.

**Sec. 22.** NRS 119A.290 is hereby amended to read as follows:

119A.290 1. The Administrator shall issue a preliminary permit to sell time shares to each applicant who:

- (a) Submits proof satisfactory to the ~~{Division}~~ **Administrator** that all of the requirements for a permit to sell time shares will be met;
- (b) Applies for the preliminary permit in the manner provided by the Division; and
- (c) Pays the fee provided for in this chapter.

2. A preliminary permit entitles the developer to solicit and accept reservations to purchase time shares.

**Sec. 23.** NRS 119A.300 is hereby amended to read as follows:

119A.300 ~~{1}~~ Except as otherwise provided in NRS 119A.310, the Administrator shall issue ~~{a} {public offering statement and a}~~ **an initial** permit to sell time shares to each applicant who:

- 1. ~~{Submits an application,}~~  
~~{(a)}~~ **Files by electronic means or** in ~~{the}~~ **any other** manner ~~{provided}~~  
**prescribed** by the ~~{Division, which includes:~~  
~~—(a)}~~ **Administrator, a statement of record which includes:**  
~~{(1)}~~ **(a)** The name and address of the project broker;
- ~~{(b)}~~ **(b)** A copy of each time-share instrument that relates to the time-share plan;



(c) ~~[(3)]~~ A preliminary title report for the project issued within 30 days before submission of the application and copies of the documents listed as exceptions in the report;

(d) ~~[(4)]~~ Copies of any other documents which relate to the time-share plan or the project, including any contract, agreement or other document to be used to establish and maintain an association and to provide for the management of the time-share plan or the project, or both;

(e) ~~[(5)]~~ Copies of instructions for escrow, deeds, sales contracts and any other documents that will be used in the sale of the time shares;

(f) ~~[(6)]~~ A copy of any proposed trust agreement which establishes a trust for the time-share plan or the project, or both;

(g) ~~[(7)]~~ Documents which show the current assessments for property taxes on the project;

(h) ~~[(8)]~~ Documents which show compliance with local zoning laws;

(i) ~~[(9)]~~ If the units which are the subject of the time-share plan are in a condominium project, or other form of common-interest ownership of property, documents which show that use of the units is in compliance with the documents which created the common-interest ownership;

(j) ~~[(10)]~~ Copies of all documents which will be given to a purchaser who is interested in participating in a program for the exchange of occupancy rights among owners and copies of the documents which show acceptance of the time-share plan in such a program;

(k) ~~[(11)]~~ A copy of the budget or a projection of the operating expenses of the association, if applicable;

(l) ~~[(12)]~~ For a points-based time-share plan, a copy of the current point-value use directory and the rules and procedures for changes by the developer or the association to the manner in which point values may be used;

(m) A financial statement of the developer; and

~~[(m)] Such other information as the Division,~~

~~[(13)]~~ (n) A public offering statement in a form prescribed by regulation ~~[(13)]~~ of the Division; ~~and~~

2. ~~[(b)]~~ Pays the fee for an initial permit provided for in ~~[(b)]~~ this chapter.

~~2. In lieu of the statement of record required pursuant to subsection 1, the Division may accept an abbreviated registration from a developer of a time share plan in which some or all the units are located outside of this State if:~~

~~(a) The developer provides evidence that the time share plan is registered with the applicable regulatory agency in the state or jurisdiction where the time share plan is offered or sold or that the time share plan is in compliance with the laws and regulations of the state or jurisdiction in which some or all of the units are located; and~~

~~—(b) The disclosure requirements of the other state or jurisdiction are substantially equivalent to or greater than the information required to be disclosed to purchasers in this State pursuant to paragraph (a) of subsection 1.~~

~~—3. A developer who files an abbreviated registration pursuant to subsection 2 shall, in addition to paying the fee required by paragraph (b) of subsection 1, provide:~~

~~—(a) The developer's legal name, any assumed names used by the developer and the developer's principal office location, mailing address, primary contact person and telephone number;~~

~~—(b) The name, location, mailing address, primary contact person and telephone number of the time share plan;~~

~~—(c) The name and principal address of the developer's authorized project broker who must be a real estate broker licensed to maintain offices within this State;~~

~~—(d) The name and principal address of all entities who act as the manager of the time share plan;~~

~~—(e) Evidence of registration or compliance with the laws and regulations of the jurisdiction in which the time share plan is located, approved or accepted;~~

~~—(f) A brief description as to whether the time share plan is a single site time share plan or a time share plan with more than one location and a brief description of the types of time shares offered in the time share plan;~~

~~—(g) Disclosure of each jurisdiction in which the developer has applied for registration of the time share plan and whether the time share plan or its developer was denied registration or was the subject of any disciplinary proceeding;~~

~~—(h) Copies of any disclosure documents required to be given to purchasers or required to be filed with the state or jurisdiction in which the time share plan is located, approved or accepted;~~

~~—(i) A copy of the current annual or projected budget for the association if not otherwise included in the disclosure documents; and~~

~~—(j) Any other information regarding the developer, time share plan, project broker or managing entities as established by the Division by regulation;~~

~~—4. A developer of a time share plan with units located solely in this State may not file an abbreviated application.† NRS 119A.360; and~~

3. Corrects any deficiencies in the application, including, without limitation, any deficiencies in the public offering statement.

Sec. 24. NRS 119A.305 is hereby amended to read as follows:

119A.305 The terms and conditions of the documents and agreements submitted pursuant to NRS 119A.300 which relate to the creation and

management of the time-share plan and to the sale of time shares and to which the applicant or an affiliate of the applicant is a party must be described in the public offering statement and constitute ~~additional~~ **the** terms and conditions of the applicant's permit to sell time shares.

**Sec. 25.** NRS 119A.310 is hereby amended to read as follows:

119A.310 1. The Administrator shall deny an application for a permit to sell time shares if the Administrator finds that:

(a) The developer failed to comply with any of the provisions of this chapter or the regulations adopted by the Division; or

(b) The developer, any affiliate of the developer or any officer of the developer or an affiliate of the developer, has:

(1) Been convicted of or pleaded nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or other crime involving moral turpitude;

(2) Been the subject of a judgment in any civil or administrative action, including a proceeding to revoke or suspend a license, involving fraud or dishonesty;

(3) Been permanently enjoined by a court of competent jurisdiction from selling real estate, time shares or securities in an unlawful manner;

(4) Had a registration as a broker-dealer in securities or a license to act as a real estate broker or salesperson, project broker or sales agent revoked;

(5) Been convicted of or pleaded nolo contendere to selling time shares without a license; or

(6) Had a permit to sell time shares, securities or real estate revoked.

2. The Administrator may deny an application for a permit to sell time shares if the Administrator finds that the developer ~~or any affiliate of the developer,~~ has failed to offer satisfactory proof that it has a good reputation for honesty, trustworthiness, integrity and competence ~~and the developer is competent~~ to transact the business of a developer in a manner which safeguards the interests of the public.

3. The burden of proof is on the developer to establish to the satisfaction of the ~~Division~~ **Administrator** that the developer is ~~qualified to receive a license,~~ **competent to transact the business of the developer in a manner which safeguards the interests of the public.**

**4. If a developer has substantially complied with the provisions of this chapter in good faith, a nonmaterial error or omission is not sufficient grounds to deny a permit.**

**Sec. 26.** NRS 119A.320 is hereby amended to read as follows:

119A.320 1. The ~~Division~~ **Administrator** shall ~~, issue an order,~~ within ~~30~~ **60** days after the receipt of an **initial** application for a permit to sell time shares ~~notifying~~ **in a time-share plan containing only one component site, regardless of whether additional component sites may be**

*added later by an amendment to the filing, notify* the applicant of its decision to:

(a) *Issue a permit to sell time shares;*

(b) *Issue a preliminary permit to sell time shares, including a list of all deficiencies, if any, which must be corrected before a permit is issued; or*

~~{(b)}~~ (c) *Deny the application and in a notice of deficiency list all the reasons for denial ~~{ }~~ in sufficient detail to allow the developer to ~~correct~~ correct the deficiencies.*

2. *The Administrator shall, within 120 days after the receipt of an initial application for a permit to sell time shares in a time-share plan containing more than one component site, notify the applicant of its decision to:*

(a) *Issue a permit to sell time shares;*

(b) *Issue a preliminary permit to sell time shares, including a list of all deficiencies, if any, which must be corrected before a permit is issued; or*

(c) *Deny the application and in a notice of deficiency list all the reasons for denial in sufficient detail to allow the developer to ~~correct~~ correct the deficiencies.*

3. *The developer may submit evidence that the deficiencies in the application described in the notice of deficiency issued pursuant to paragraph (c) of subsection 1 or paragraph (c) of subsection 2, as applicable, have been corrected within 90 days after the developer receives the notice of deficiency or within such extended time period as approved by the Division in writing.*

4. ~~The {Division} Administrator~~ shall, within ~~{45}~~ 30 days after:

(a) *The receipt of evidence that the deficiencies in the application for a permit to sell time shares are ~~corrected,~~ corrected, issue a permit to sell time shares or deny the application and list the specific reasons for denial; or*

(b) *The issuance of a preliminary permit ~~{ }~~ and receipt of evidence that all the requirements for the issuance of a permit to sell time shares have been met, issue ~~{a}~~ the permit to sell time shares.*

~~{4.}~~ 5. *If it is in the public interest that the Administrator issue a second notice regarding the inadequate ~~correct~~ correction of any deficiencies in the application for a permit to sell time shares, then the Administrator shall issue such a second notice within ~~{15 business}~~ 30 days after the developer submits evidence to ~~correct~~ correct the deficiencies identified pursuant to paragraph (c) of subsection 1, ~~for~~ paragraph (c) of subsection 2 or subsection 3, as applicable.*

~~{5.}~~ 6. *If the developer fails to ~~correct~~ correct all the deficiencies after a second notice of deficiency is issued pursuant to subsection ~~{3.}~~ 5, the Administrator may deny the application and require the developer to pay a*

~~new~~ **filing fee pursuant to equal to one-half of the filing fee for an initial permit set forth in subsection 1 of NRS 119A.360.**

**Sec. 27.** NRS 119A.330 is hereby amended to read as follows:

119A.330 1. If the Administrator denies an application for a permit to sell time shares, ***an amendment to the statement of record or the renewal of a permit to sell time shares***, the applicant may, within 30 days, file a written request for a hearing. The Administrator shall set the matter for hearing to be conducted within 90 days after receipt of the applicant's request, unless the applicant requests a postponement of the hearing at least 3 working days before the date set for hearing. If such a request is made by the applicant, the date of the hearing must be agreed upon between the Division and the applicant.

2. If the Division fails to:

(a) Hold the hearing within 90 days or within the extended time if a postponement is requested;

(b) Render its decision within 60 days after the hearing; or

(c) Notify the applicant in writing, by its order, within 15 days after its decision was made,

→ the order of denial expires and the Division shall issue, within 15 days, a permit to sell time shares to the developer.

**Sec. 28.** NRS 119A.340 is hereby amended to read as follows:

119A.340 If a project has not been completed before the issuance of a permit to sell time shares, the ~~permit~~ ***public offering statement*** must state the estimated date of completion and:

1. The developer shall ~~deliver to the agency~~ ***establish to the satisfaction of the Administrator that*** a bond ***has been issued*** in an amount ~~and upon terms approved by the division~~ ***necessary*** to assure completion of the project free of any liens, ~~which is payable to the Division for the benefit of the purchasers of the time share property and~~ which remains in effect until the project is completed free of all liens;

2. A cash deposit to cover the estimated costs of completing the project must be deposited with an escrow agent under an agreement which is approved by the ~~Division;~~ ***Administrator;*** or

3. The developer shall make any other arrangement which is approved by the ~~Division;~~ ***Administrator and necessary to safeguard the interests of the public.***

**Sec. 29.** NRS 119A.350 is hereby amended to read as follows:

119A.350 1. The Division ~~shall,~~ ***may,*** before issuing any permit or license pursuant to the provisions of this chapter, fully investigate all information submitted to it as required by this chapter and , ~~may,~~ if necessary, inspect the property which is the subject of any application. All reasonable expenses incurred by the Division in carrying out the

investigation or inspection must be paid by the applicant and no license or permit may be issued until those expenses have been paid.

2. Payments received by the Division pursuant to this section must be deposited in the State Treasury for credit to the Real Estate Investigative Account. The Administrator shall use the money in the Account to pay the expenses of agents and employees of the Division making the investigations pursuant to this section. The Administrator may advance money to them for those expenses when appropriate.

**Sec. 30.** NRS 119A.355 is hereby amended to read as follows:

119A.355 1. A permit must be renewed annually by the developer by filing an application with and paying the fee for renewal to the Administrator. The application must be filed and the fee paid not later than 30 days before the date on which the permit expires. The application must include the budget of the association and any **material** change that has occurred in the information previously provided to the Administrator or in a **public offering** statement ~~for disclosure~~ provided to a prospective purchaser pursuant to the provisions of NRS 119A.400.

2. The renewal **of a permit with no material changes to the public offering statement** is effective on the 30th day after the filing of the application unless the Administrator:

(a) ~~Denies~~ **Issues a written denial of** the renewal pursuant to NRS 119A.654 ~~for for any other reason;~~ **describing the reasons for denial in sufficient detail to allow the developer to ~~fix~~ correct the deficiencies;**  
or

(b) Approves the renewal on an earlier date.

3. **The Division shall, within 30 days after the receipt of evidence that the deficiencies in the application for renewal of a permit to sell time shares are ~~fixed~~ corrected, renew the permit to sell time shares or deny the renewal and list the specific reasons for denial.**

4. **If the Administrator fails to take any action described in subsection 3, the renewal of the permit to sell time shares shall be deemed issued by the Division.**

**Sec. 31.** ~~NRS 119A.357 is hereby amended to read as follows:~~

~~119A.357 1. A sales agent, representative, manager, developer, [or] project broker or time share resale broker shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or any crime involving moral turpitude.~~

~~2. A sales agent, representative, manager, developer, [or] project broker or time share resale broker shall submit the notification required by subsection 1.~~

~~(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and~~

~~(b) When submitting an application to renew a license, registration or permit issued pursuant to this chapter.~~ **(Deleted by amendment.)**

**Sec. 32.** NRS 119A.360 is hereby amended to read as follows:

119A.360 1. The Division shall collect the following fees at ~~such times and upon such conditions as it may provide by regulation.~~ **the time of filing:**

|                                                                                                                                                                                                                                              |                             |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| For each application for the registration of a representative.....                                                                                                                                                                           | <del>85</del> <b>\$100</b>  |
| For each renewal of the registration of a representative .....                                                                                                                                                                               | <del>185</del> <b>100</b>   |
| For each transfer of the registration of a representative to a different developer.....                                                                                                                                                      | <del>20</del> <b>25</b>     |
| For each penalty for a late renewal of the registration of a representative.....                                                                                                                                                             | <del>40</del> <b>75</b>     |
| For each preliminary permit to sell time shares .....                                                                                                                                                                                        | <del>275</del> <b>400</b>   |
| For each <b>initial</b> permit to sell time shares <del>per subdivision</del> .....                                                                                                                                                          | <del>500</del> <b>1,500</b> |
| For each amendment to a <del>public offering</del> statement of <b>record</b> after the issuance of the <del>report</del> <b>permit to sell time shares, where no new component sites are added</b> .....                                    | <del>150</del> <b>200</b>   |
| <b>For each amendment to a statement of record after the issuance of the permit to sell time shares, where one or more new component sites are added, not including the addition of units to a component site previously permitted</b> ..... | <b>500</b>                  |
| <b>For each annual renewal of a permit to sell time shares with only one component site</b> .....                                                                                                                                            | <b>750</b>                  |
| For each <b>annual</b> renewal of a permit to sell time shares <b>with more than one component site</b> .....                                                                                                                                | <del>500</del> <b>1,500</b> |
| <b>For each initial registration of a time-share resale broker</b> .....                                                                                                                                                                     | <b>300</b>                  |
| <b>For each renewal of the registration of a time-share resale broker</b> .....                                                                                                                                                              | <b>150</b>                  |
| For each original and annual registration of a manager .....                                                                                                                                                                                 | <del>75</del> <b>100</b>    |
| For each application for an original license as a sales Agent .....                                                                                                                                                                          | <del>175</del> <b>200</b>   |
| For each renewal of a license as a sales agent.....                                                                                                                                                                                          | <del>175</del> <b>200</b>   |
| For each penalty for a late renewal of a license as a sales agent.....                                                                                                                                                                       | <del>75</del> <b>100</b>    |
| For each change of name or address of a licensee or status of a license .....                                                                                                                                                                | <del>20</del> <b>25</b>     |

|                                                                                                                                    |                      |
|------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| For each duplicate license, permit or registration where the original is lost or destroyed, and an affidavit is made thereof ..... | <del>[20]</del> 25   |
| For each annual approval of a course of instruction offered in preparation for an original license or permit .....                 | <del>[100]</del> 150 |
| For each original accreditation of a course of continuing education.....                                                           | <del>[100]</del> 150 |
| For each renewal of accreditation of a course of continuing education.....                                                         | <del>[50]</del> 75   |

2. ~~Each developer shall pay an additional fee for each time share the developer sells in a time share plan over 50 pursuant to the following schedule:~~

| Number of time shares |           | Amount to be paid per time share |
|-----------------------|-----------|----------------------------------|
| 51                    | 251.....  | \$5.00                           |
| 251                   | 500.....  | 4.00                             |
| 501                   | 750.....  | 3.00                             |
| 751                   | 1500..... | 2.50                             |
| over 1500.....        |           | 1.00                             |

*Within 10 days after receipt of written notification from the Administrator of the approval of the application for a permit to sell time shares and before the issuance of the permit to sell time shares, or within 10 days after an amendment that adds time shares to the time-share plan is approved or deemed approved, each developer shall, for each time share that the developer includes in the initial time-share plan or adds to the time-share plan by amendment, pay a one-time fee of:*

*(a) For each such time share up to and including 1,499 time shares, \$3.*

*(b) For each such time share over 1,499 time shares, \$1.50.*

*↪ For the purposes of calculating the amount of the fee payable under this subsection, "time share" means the right to use and occupy a unit for 7 days or more per calendar year.*

3. Except for the fees relating to the registration of a representative, the Administrator may reduce the fees established by this section if the reduction is equitable in relation to the costs of carrying out the provisions of this chapter.

4. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a license, including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.



**Sec. 33.** NRS 119A.380 is hereby amended to read as follows:

119A.380 1. Each time-share plan must be created by one or more time-share instruments.

2. A time-share instrument must provide:

- (a) A legal description and the physical address of the project;
- (b) The name of the time-share plan;
- (c) A system for establishing ~~the permanent~~ and identifying ~~numbers~~ of the time shares in the time-share plan;
- (d) For assessment of the expenses of the time-share plan and an allocation of those expenses among the time shares;
- (e) The voting rights which are assigned to each time share;
- (f) If applicable, the procedure to add units and other real estate to, and to withdraw units and other real estate from, the time-share plan, and the method of reallocating expenses among the time shares after any such addition or withdrawal;
- (g) The maximum number of time shares that may be created under the time-share plan;
- (h) For selection of the trustee for insurance which is required to be maintained by the association or the developer;
- (i) For maintenance of the units;
- (j) For management of the time-share plan;
- (k) A procedure to amend the time-share instrument; and
- (l) The rights of the purchaser relating to the occupancy of the unit.

3. A time-share instrument may provide for:

- (a) The developer's reserved rights;
- (b) Cumulative voting, but only for the purpose of electing the members of the board; and
- (c) The establishment of:

- (1) Separate voting classes based on the size or type of unit to which the votes are allocated; and

- (2) A separate voting class for the developer during the period in which the developer is in control.

4. The provisions of a time-share instrument are severable.

5. The rule against perpetuities and NRS 111.103 to 111.1039, inclusive, do not apply to defeat any provisions of a time-share instrument.

6. ***With respect to time-share plans governed by the law of another state or ~~units~~ component sites of a time-share plan located outside of this State, the instrument creating and governing the time-share plans or ~~units~~ such component sites must be in compliance with the applicable laws of the state or jurisdiction under which the time-share plan is formed or in which the ~~units~~ component sites are located. If the ~~standards set forth in the~~ laws of the state or jurisdiction under which the time-share plan is formed or in***

*which the ~~units~~ component sites of such time-share plan are located conflict with the requirements of this chapter, the laws of the other state or jurisdiction control. If the ~~association and the~~ time-share instrument ~~comply with~~ provides for the matters set forth in subsections 1 and 2, the association and the developer shall be deemed to be in compliance with the requirements of this section and are not required to revise a time-share instrument to comply with this chapter.*

Sec. 34. ~~NRS 119A.390 is hereby amended to read as follows:~~

~~119A.390 A reservation to purchase a time share must:~~

- ~~1. Be on a form approved by the Division;~~
- ~~2. Include a provision which grants the prospective purchaser the right to cancel the reservation at any time before the execution of the contract of sale with the full refund of any deposit;~~
- ~~3. Provide for the placement of any deposit in escrow until **the statement of record is approved** and a permit is issued by the Administrator pursuant to NRS 119A.300;~~
- ~~4. Guarantee the purchase price for the time share for a certain period after the ~~[issuance of] statement of record is approved and~~ the permit to sell time shares ~~[:] is issued by the Administrator;~~ and~~
- ~~5. Require that any interest earned on the deposit for the reservation be paid to the prospective purchaser. **(Deleted by amendment.)**~~

Sec. 35. NRS 119A.400 is hereby amended to read as follows:

119A.400 1. Each developer, through his or her project broker and sales agents, shall provide each prospective purchaser with a copy of the developer's public offering statement ~~[which must contain a copy of the developer's permit to sell time shares.]~~ **and an addendum to the public offering statement summarizing any pending amendments to the public offering statement that have been submitted to the Division but have not yet been approved, along with a statement to the purchaser that the amendment has been submitted to the Division for approval. The public offering statement must contain the date the permit was originally issued and its ~~annual expiration~~ effective date.** A prospective purchaser may request to receive the public offering statement in electronic format or paper format. *If the prospective purchaser requests the public offering statement in electronic format, the developer shall provide to the purchaser the statement of the right of cancellation pursuant to NRS 119A.410 in a single separate document.*

2. The project broker or sales agent shall review the public offering statement with each prospective purchaser before the execution of any contract for the sale of a time share and obtain a receipt signed by the purchaser for a copy of the public offering statement.

3. If a contract is signed by the purchaser, the signed receipt for a copy of the public offering statement must be kept by the project broker for 3 years and is subject to such inspections and audits as may be prescribed by regulations adopted by the Division.

**Sec. 36.** NRS 119A.420 is hereby amended to read as follows:

119A.420 All money, negotiable instruments or other deposits pertaining to the sale of a time share ***which are received from a purchaser*** must be placed in ***an*** escrow ~~to, pursuant to an agreement approved by the Division, with an escrow agent or a trustee.~~ ***account established to the satisfaction of the Division and held until such time as the right to cancel the contract of sale pursuant to NRS 119A.410 has expired and the purchaser has failed to cancel the contract of sale. In lieu of placing such deposits in an escrow account, the developer or project broker may establish to the satisfaction of the Division that a surety bond has been posted for the benefit of purchasers in the project in the amount of:***

- 1. Twenty-five thousand dollars; or***
- 2. The highest monthly total amount of deposits received by a project broker,***  
***↪ whichever is greater.***

**Sec. 37.** NRS 119A.430 is hereby amended to read as follows:

119A.430 ~~[Escrow]~~ ***The sale of a time share to a purchaser*** may not be closed unless the developer has provided satisfactory evidence to the Administrator that:

1. The project is free and clear of any blanket encumbrance;
2. Each person who holds an interest in the blanket encumbrance has executed an agreement, approved by the Administrator, to subordinate his or her rights to the rights of the purchaser;
3. Title to the project has been conveyed to a trustee;
4. All holders of a lien recorded against the project have recorded an instrument providing for the release and reconveyance of each time share from the lien upon the payment of a specified sum or the performance of a specified act;
5. The developer has obtained and recorded one or more binding nondisturbance agreements acceptable to the Administrator, that:
  - (a) Are executed by the developer, all holders of a lien recorded against the project and any other person whose interest in the project could defeat the rights or interests of any purchaser under the time-share instrument or contract of sale; and
  - (b) Provide that any person whose interest in the project could defeat the rights or interests of any purchaser under the time-share instrument or contract of sale takes title to the project subject to the rights of the purchasers; or

6. Alternative arrangements have been made which are adequate to protect the rights of the purchasers of the time shares and approved by the Administrator.

**Sec. 38.** NRS 119A.460 is hereby amended to read as follows:

119A.460 If a trust is created pursuant to ~~the requirement of this chapter,~~  
**subsection 3 of NRS 119A.430**, the:

1. Trustee must be approved by the Administrator.
2. Trust must be irrevocable, unless otherwise provided by the ~~Division,~~ **Administrator.**
3. Trustee must not be permitted to encumber the property unless permission to do so has been given by the ~~Division,~~ **Administrator.**
4. Association or each owner must be made a third-party beneficiary.
5. Trustee must be required to give at least 30 days' notice in writing of his or her intention to resign to the association, if it has been formed, and to the ~~Division,~~ **Administrator**, and the ~~Division,~~ **Administrator** must approve a substitute trustee before the resignation of the trustee may be accepted.

**Sec. 39.** NRS 119A.470 is hereby amended to read as follows:

119A.470 1. If title to a project is conveyed to a trustee pursuant to subsection 3 of NRS 119A.430, before escrow closes for the sale of the first time share, the developer must provide the ~~Division,~~ **Administrator** with satisfactory evidence that:

- (a) Title to the project has been conveyed to the trustee.
- (b) All proceeds received by the developer from the sales of time shares are being delivered to the trustee and deposited in a fund which has been established to provide for the payment of any taxes, costs of insurance or the discharge of any lien recorded against the project.

2. The trustee shall pay the charges against the trust in the following order:

- (a) Trustee's fees and costs.
- (b) Payment of taxes.
- (c) Payments due any holder of a lien recorded against the project.
- (d) Any other payments authorized by the document creating the trust.

3. The Administrator may inspect the records relating to the trust at any reasonable time.

**Sec. 40.** NRS 119A.475 is hereby amended to read as follows:

119A.475 1. Where any part of the statement of record, when that part became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein, the Administrator or any person acquiring a time share from the developer or his or her agent during the period the public offering statement remained uncorrected (unless it is proved that at the time of the acquisition the Administrator or purchaser

knew of the untruth or omission) may sue the developer in any court of competent jurisdiction.

2. Any developer or agent who sells a time share:

(a) In violation of this chapter; or

(b) By means of a public offering statement which contained an untrue statement of a material fact required to be stated therein,

➔ may be sued by the Administrator or purchaser of the time share.

3. If a suit authorized under subsection 1 or 2 is brought by the purchaser, the purchaser is entitled to recover such damages as represent the difference between the amount paid for the time share and the reasonable cost of any permanent improvements thereto, and the lesser of:

(a) The value thereof as of the time the suit was brought;

(b) The price at which the time share has been disposed of in a bona fide market transaction before suit; or

(c) The price at which the time share has been disposed of after suit in a bona fide market transaction but before judgment,

➔ or to rescission of the contract of sale and the refund of any consideration paid by the purchaser.

4. If a suit authorized under subsection 1 or 2 is brought by the Administrator, the Administrator may seek a declaration of the court that any person entitled to sue the developer or his or her agent under this section is entitled to the right of rescission and the refund of any consideration paid by him or her.

5. Every person who becomes liable to make any payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.

6. Reasonable attorney's fees may be awarded to the prevailing party in any action brought under this section. Any action to rescind a contract of sale under this section must be brought within 1 year after the date of purchase or within 1 year after the date of the discovery of the misrepresentation giving rise to the action for rescission.

7. The provisions of this section are in addition to and not a substitute for any other right of a person to bring an action in any court for any act involved in the offering or sale of time shares or the right of the state to punish any person for any violation of any law.

~~{8. For the purposes of this section, "statement of record" means the information submitted to the Administrator by the developer in its application for a permit to offer to sell or sell time shares.}~~

**Sec. 41.** NRS 119A.4771 is hereby amended to read as follows:

119A.4771 1. A person who, on behalf of an owner other than a developer ~~{, wishes}~~ **and for compensation, undertakes** to list, advertise, **transfer, assist in transferring** or promote for resale, or solicit prospective

purchasers of, **more than 12** ~~for more~~ time shares **in any 12-month period** that were previously sold must:

(a) Be licensed as a real estate broker pursuant to the provisions of chapter 645 of NRS; ~~and~~

(b) Register as a time-share resale broker with the Division by completing a form for registration provided by the Division ~~{}; and~~

**(c) Pay any applicable fees.**

2. A time-share resale broker shall renew his or her registration with the Division annually on a form provided by the Division ~~{} and~~ **pay any applicable fees.**

3. Unless the method of resales of time shares is made to evade the provisions of this chapter, a person is not required to register **pursuant to this section or to be licensed under chapter 645 of NRS** as a time-share resale broker if the person:

(a) ~~Has acquired fewer than 12 time shares and~~ **Is a purchaser who acquires time shares for his or her own use and occupancy and who** later ~~resells or~~ offers to resell ~~one or more~~ **12 or less** of those time shares ~~{} or~~ **in any one calendar year;**

(b) Is a project broker who resells or offers to resell a time share in a project as an agent for a developer who holds a permit for the project ~~{}; or~~

**(c) Is an owner, operator or publisher of a newspaper, periodical or Internet website, unless the owner, operator or publisher, alone or in combination with its affiliate, parent, subsidiary or agent, derives more than 10 percent of its gross revenue from providing advance fee listings. For the purposes of this paragraph, the calculation of gross revenue derived from providing advance fee listings includes the revenue of any affiliate, parent, agent and subsidiary of the owner, operator or publisher of the newspaper, periodical or Internet website. As used in this paragraph, "advance fee listings" has the meaning ascribed to it in NRS 645.004.**

Sec. 42. NRS 119A.4775 is hereby amended to read as follows:

119A.4775 1. ~~Before~~ **If the purchaser of a previously sold time share purchases the time share through a time-share resale broker, the contract of sale must provide, in not less than 12-point boldface type, that the purchaser may cancel, by written notice, the contract of sale until midnight of the fifth calendar day after the date of execution of the contract.**

2. **Regardless of whether a time-share resale broker charges or collects an advance fee, before** a purchaser signs any contract to purchase a time share that is offered for resale ~~{} through a time-share resale broker,~~ the ~~person who is reselling the time share,~~ **time-share resale broker,** other than a developer, shall disclose ~~by a written document separate from~~ **in** the contract to purchase ~~{} the~~ time share:

- (a) The period during which the purchaser may use the time share;
- (b) A legal description of the interest in the time share;
- (c) The earliest date that the prospective purchaser may use the time share;
- (d) The name, address and telephone number of the agent managing the time-share plan and the project;
- (e) The place where the documents of formation of the association and documents governing the time-share plan and the project may be obtained;
- (f) The amount of the annual assessment of the association of the time share for the current fiscal year, if any;
- (g) Whether all assessments against the time share are paid in full, and the consequences of failure to pay any assessment;
- (h) Whether participation in any program for the exchange of occupancy rights among owners or with the owners of time shares in other time-share plans is mandatory; ~~and~~
- (i) Any other information required to be disclosed pursuant to the regulations adopted by the Administrator pursuant to subsection ~~12-~~

~~—2.1~~ 4; and

(j) *The right to cancel the contract in subsection 1.*

3. ~~If the time share plan includes more than one component site, the~~  
*The purchaser must be provided, in either paper or electronic form, at the time the contract to purchase the previously sold time share is signed, copies of the time-share ~~(instrument)~~ instruments governing the time-share plan.*

4. The Administrator shall adopt regulations prescribing the form and contents of the ~~disclosure statement~~ **disclosures** described in this section.

**Sec. 43.** NRS 119A.4777 is hereby amended to read as follows:

119A.4777 1. An agreement for ~~a time share~~ **the resale of a time share** entered into by an owner **of that time share** and a ~~person~~ **time-share resale broker** who ~~resells a~~ **lists or offers to resell that** time share must:

- (a) Be in writing; ~~and~~
- (b) **Contain a provision in not less than 12-point boldface type that the owner may cancel, by written notice, the agreement with the time-share resale broker until midnight of the fifth calendar day after the date of execution of the agreement; and**
- (c) Contain a **written** disclosure that sets forth:
  - (1) Whether any person other than the purchaser may use the time share during the period before the time share is resold;
  - (2) Whether any person other than the purchaser may rent the use of the time share during the period before the time share is resold;
  - (3) The name of any person who will receive any rents or profits generated from the use of the time share during the period before the time share is resold; ~~and~~

(4) A detailed description of any relationship between the person who resells the time share and any other person who receives any benefit from the use of the time share ~~{-}~~; **and**

(5) ***The right to cancel the agreement provided pursuant to paragraph (b).***

2. ~~{A person}~~ ***The time-share resale broker*** who resells a time share shall provide a fully executed copy of the written agreement described in subsection 1 to the owner on the date that the owner signs the agreement.

3. ~~{A person}~~ ***The time-share resale broker*** who resells a time share shall make the disclosures required pursuant to paragraph ~~{(b)}~~ ***(c)*** of subsection 1 before accepting anything of value from the owner.

**Sec. 44.** NRS 119A.4779 is hereby amended to read as follows:

119A.4779 **1.** In addition to the provisions of NRS 645.322, 645.323 and 645.324, a time-share resale broker who charges or collects an advance fee shall place 80 percent of that fee into his or her trust account. If the time-share resale broker closes escrow on the time-share resale, the time-share resale broker shall be deemed to have earned the advance fee. If the listing of the time share expires before the time-share resale broker closes escrow on the time-share resale, the time-share resale broker must return the money held in the trust account to the owner of the time share within 10 days after the date of the expiration of the listing.

**2. *The contract for an advance fee listing must include the following disclosures to the owner of any previously sold time share:***

***(a) A description of any fees or costs related to the services that the owner or any other person is required to pay to the time-share resale broker or to any third party;***

***(b) A description of when any fees or costs are due; and***

***(c) The disclosures required by paragraph (c) of subsection 1 of NRS 119A.4777.***

**3. A time-share resale broker who charges or collects an advance fee shall not:**

***(a) State or imply to an owner that the time-share resale broker has identified a person interested in buying or renting the time share without providing the name, address and telephone number of such person;***

***(b) State or imply to an owner that the time share has a specific resale value;***

***(c) Fail to honor any cancellation notice sent by the owner by midnight of the fifth day after the date of execution of the contract; or***

***(d) Fail to provide a full refund of all money paid by an owner within 20 days after receipt of a notice of cancellation.***



4. *If a time-share resale broker executes a contract that fails to comply with the provisions of subsection 2, such contract is voidable at the option of the owner for a period of 1 year after the date of execution.*

5. *Notwithstanding the obligations placed upon any other person by this section, the time-share resale broker shall supervise, manage and control all aspects of the resale offering. Any violation of the provisions of this section that occurs during such offering shall be deemed a violation by the time-share resale broker and by the person who actually committed the violation.*

6. *The use of any unfair or deceptive act or practice by any person in connection with the offering of a time share for resale is a violation of this section.*

7. *A violation of this section is an unfair or deceptive act or practice pursuant to NRS 207.170, 207.171, 598.0915 to 598.0925, inclusive, and chapters 598A and 599A of NRS.*

8. *Notwithstanding any other penalty provided for in this chapter or chapter 645 of NRS, a person who violates any provision of NRS 119A.4771 to 119A.4779, inclusive, is subject to a civil penalty of not more than \$1,000 for each violation.*

Sec. 45. NRS 119A.480 is hereby amended to read as follows:

119A.480 1. If the interest of the developer is a leasehold interest, the lease, unless otherwise determined by the ~~{Division,}~~ **Administrator**, must provide that:

(a) The lessee must give notice of termination of the lease for any default by the lessor to the association.

(b) The lessor, upon any default of the lessee including bankruptcy of the lessee, shall enter into a new lease with the association upon the same terms and conditions as the lease with the developer.

2. The ~~{Division}~~ **Administrator** may require the developer to execute a bond or other type of security for the payment of the rental obligation.

Sec. 46. NRS 119A.530 is hereby amended to read as follows:

119A.530 1. ~~{A}~~ **During any period in which the developer holds a valid permit and the developer or an affiliate of the developer is the manager, the** developer or an affiliate of the developer shall provide for the management of the time-share plan and the project, by a written agreement with the association or, if there is no association, with the owners. The initial term of the agreement must expire upon the first annual meeting of the members of the association or at the end of 5 years, whichever comes first. All succeeding terms of the agreement must be renewed annually unless the manager refuses to renew the agreement or a majority of the members of the association who are entitled to vote, excluding the developer, notifies the manager of its refusal to renew the agreement.

2. The agreement must provide that:

(a) The manager or a majority of the owners may terminate the agreement for cause.

(b) The resignation of the manager will not be accepted until 90 days after receipt by the association, or if there is no association, by the owners, of the written resignation.

(c) A fidelity bond must be delivered by the manager to the association.

3. An agreement entered into or renewed on or after October 1, 2001, must contain a detailed, itemized schedule of all fees, compensation or other property that the manager is entitled to receive for services rendered to the association or any member of the association or otherwise derived from the manager's affiliation with the time-share plan or the project, or both, unless the manager is the developer or an affiliate of the developer. Upon the request of the association, the manager shall disclose to the association annual revenue received by the manager from the manager's affiliation with the time-share plan or the project, or both.

4. Except as otherwise provided in this subsection, if the developer retains a property interest in the project, the parties to such an agreement must include the developer, the manager and the association. In addition to the provisions required in subsections 1 and 2, the agreement must provide:

(a) That the project will be maintained in good condition. Except as otherwise provided in this paragraph, any defect which is not ~~repaired~~ corrected within 10 days after notification by the developer may be ~~repaired~~ corrected by the developer. In an emergency situation, notice is not required. The association must repay the developer for any cost of the repairs plus the legal rate of interest. Each owner must be assessed for his or her share of the cost of repairs.

(b) That, if any dispute arises between the developer and the manager or association, either party may request from the American Arbitration Association or the Nevada Arbitration Association a list of seven potential fact finders from which one must be chosen to settle the dispute. The agreement must provide for the method of selecting one fact finder from this list.

(c) For the collection of assessments from the owners to pay obligations which may be due to the developer for breach of the covenant to maintain the premises in good condition and repair.

➤ If the developer is not made a party to this agreement, the developer shall be considered to be a third-party beneficiary of such an agreement.

**5. The provisions of this section and NRS 119A.532 and 119A.534 do not apply to the management of a project located outside of this State.**

**Sec. 47.** NRS 119A.532 is hereby amended to read as follows:

119A.532 1. A person who wishes to engage in the business of, act in the capacity of, advertise or assume to act as a manager **of a project located in this State** shall register with the Division on a form prescribed by the Division.

2. The form for registration must include, without limitation:

(a) The registered name of ~~the~~ **each** time-share plan or ~~the~~ project, or both, that the manager will manage;

(b) The address and telephone number of the manager's principal place of business;

(c) The social security number of the manager; and

(d) The name of the manager's responsible managing employee.

3. The form for registration must be accompanied by:

(a) Satisfactory evidence, acceptable to the Division, that the manager and his or her employees have obtained fidelity bonds in accordance with regulations adopted by the Division; and

(b) The statement required pursuant to NRS 119A.263.

4. The Division shall collect the fee specified in NRS 119A.360 upon registering the manager and annually thereafter to maintain the registration.

5. As used in this section, "responsible managing employee" means the person designated by the manager to:

(a) Make technical and administrative decisions in connection with the manager's business; and

(b) Hire, superintend, promote, transfer, lay off, discipline or discharge other employees or recommend such action on behalf of the manager.

**Sec. 48.** NRS 119A.540 is hereby amended to read as follows:

119A.540 1. The association or, if there is no association, the developer shall adopt an annual budget for revenues, expenditures and reserves and collect assessments for the expenses of the time-share plan and the project from the owners. The annual budgets of ~~the~~ **an** association **governing a project within this State** must be submitted to ~~and approved by~~ the Division until such time as the association is controlled by members other than the developer.

2. ~~{The Administrator may require that the association or, if there is no association, the developer provide, at the association's or the developer's expense, an opinion from an independent professional consultant as to the sufficiency of the budget to sustain the time share plan offered by the association or the developer.}~~ The association or the developer shall place any money collected for assessments and any other revenues received by or on behalf of the association in an account established by the association.

3. The developer shall pay assessments for any time shares which are unsold or enter into an agreement with the association, in a form approved by

the Division, to pay the difference between the actual expenses incurred by the association and the sum of the amounts payable to the association as assessments by owners, other than the developer, and other revenues received by the association. The Division may require the developer to provide a surety bond or other form of security which is satisfactory to the Division, to guarantee payment of the developer's obligation.

**Sec. 49.** NRS 119A.670 is hereby amended to read as follows:

119A.670 The Real Estate Commission may take action pursuant to NRS 645.630 against any project broker ~~or time-share resale broker~~ **person who is licensed pursuant to chapter 645 of NRS and who is subject to the provisions of this chapter** who fails to adequately supervise the conduct of any sales agent or representative ~~if, as applicable,~~ with whom the project broker ~~or time-share resale broker~~ **person** is associated.

**Sec. 50.** NRS 119A.680 is hereby amended to read as follows:

119A.680 1. It is unlawful for any person to engage in the business of, act in the capacity of, advertise or assume to act as a:

(a) Project broker ~~, a person who is licensed pursuant to chapter 645 of NRS or sales agent~~ **a time-share resale broker** within the State of Nevada without first obtaining a license from the Division pursuant to chapter 645 of NRS. ~~for NRS 119A.210.~~

(b) **Sales agent for a project broker within this State without first obtaining a license from the Division pursuant to NRS 119A.210, unless he or she is licensed as a real estate salesperson pursuant to chapter 645 of NRS.**

(c) Representative, manager or time-share resale broker within the State of Nevada without first registering with the Division.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

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

**Sec. 52.** NRS 119A.370, 119A.4773 and 119A.490 are hereby repealed.

**Sec. 53.** **This act becomes effective on July 1, 2013.**

#### TEXT OF REPEALED SECTIONS

##### **119A.370 Filing of advertisement or offering.**

1. A time share must not be advertised or offered for sale within this state until the advertisement or offering is filed with the Division.

2. Each such filing must:

(a) Include the form and content of advertising to be used;

(b) Include the nature of the offer of gifts or other free benefits to be extended;

(c) Include the nature of promotional meetings involving any person or act described in NRS 119A.300; and

(d) Be accompanied by a filing fee of not more than \$200, to be established by the Division.

**119A.4773 Filing of advertisement or offering required.**

1. A time share must not be advertised or offered for resale within this state until the advertisement or offering is filed with the Division.

2. Each such filing must include:

(a) The form and content of advertising to be used;

(b) The nature of the offer of gifts or other free benefits to be extended; and

(c) The nature of promotional meetings involving any person or act described in NRS 119A.300.

**119A.490 Filing of amendment of time-share instrument required.**

1. Any proposed amendment by the developer of the provisions of a time-share instrument must be filed with the Division.

2. Unless the Division notifies the developer of its disapproval within 15 days, the amendments shall be deemed to be approved by the Division.

Assemblyman Bobzien moved that the Assembly concur in the Senate Amendment No. 957 to Assembly Bill No. 404.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

APPOINTMENT OF CONFERENCE COMMITTEES

Madam Speaker appointed Assemblymen Bustamante Adams, Healey, and Stewart as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 496.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblywoman Benitez-Thompson moved that the Assembly recede from its action on Amendment No. 915 to Senate Bill No. 44.

Motion carried.

REPORTS OF CONFERENCE COMMITTEES

*Madam Speaker:*

The Conference Committee concerning Senate Bill No. 364, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 722 of the Assembly be receded from and a 3rd reprint be created in accordance with this action.

DINA NEAL

JAMES HEALEY

MELISSA WOODBURY

*Assembly Conference Committee*

PAT SPEARMAN

DAVID PARKS

*Senate Conference Committee*

Assemblywoman Benitez-Thompson moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 364.

Motion carried by a constitutional majority.

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 273.

The following Senate amendment was read:

Amendment No. 979.

AN ACT relating to real property; revising provisions governing enrollment in the Foreclosure Mediation Program; **revising provisions governing the payment of certain obligations during participation in the Foreclosure Mediation Program;** revising provisions governing the foreclosure of liens by an association of a common-interest community; making an appropriation; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, the trustee under a deed of trust concerning owner-occupied housing has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085, 107.086) One such restriction requires the trustee under the deed of trust to include with the copy of the notice of default and election to sell which is mailed to the homeowner: (1) a notice provided by the Foreclosure Mediation Program Administrator indicating that the grantor or the person who holds the title of record has the right to seek mediation under rules adopted by the Nevada Supreme Court; and (2) a form on which a homeowner may request such mediation. Under existing law, a homeowner must elect to participate by: (1) completing and returning to the trustee a form upon which the homeowner elects to enter into mediation; and (2) paying his or her share of the fee established under the rules adopted by the Nevada Supreme Court. (NRS 107.080, 107.086)

This bill revises provisions governing enrollment in the Foreclosure Mediation Program. Under **sections 2 and 3** of this bill, a trustee under a deed of trust concerning owner-occupied housing must, in addition to including certain information concerning the Foreclosure Mediation Program with the copy of the notice of default and election which is mailed to the homeowner, send that information to the homeowner concurrently with, but separately from, the copy of the notice of default and election to sell. **Section 3** further provides that a homeowner will be enrolled in the Foreclosure Mediation Program unless: (1) he or she elects to waive mediation; or (2) fails to pay his or her share of the fee established under the rules adopted by the Nevada Supreme Court. If the homeowner waives mediation, fails to pay his or her share of the fee or, if the homeowner is enrolled in the Foreclosure

Mediation Program, fails to appear at a scheduled mediation, the Mediation Administrator must provide to the trustee a certificate authorizing the continuation of the process to exercise the power of sale. **Section 3** also : **(1)** establishes deadlines by which the Mediation Administrator must provide certain information to the trustee. ~~It~~ ; **(2) requires the trustee to provide notice of the compliance with the Foreclosure Mediation Program to a homeowners' association; and (3) requires a unit's owner to pay certain obligations during participation in the Foreclosure Mediation Program.**

**Section 4** of this bill prohibits a homeowners' association from foreclosing its lien on a unit constituting owner-occupied housing while the unit's owner is eligible to participate or is participating in the Foreclosure Mediation Program.

**Section 4.5** of this bill makes an appropriation of \$100 from the State General Fund to the Account for Foreclosure Mediation to support the Foreclosure Mediation Program.

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

**Section 1.** (Deleted by amendment.)

**Sec. 2.** NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003, and, on the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(bb), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32; or

(b) The trust agreement concerns owner-occupied housing as defined in NRS 107.086.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor or the person who holds the title of record a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor or the person who holds the title of record:

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor or the person who holds the title of record; or

(2) If the trust agreement concerns owner-occupied housing as defined in NRS 107.086:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his or her place of residence or from his or her usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his or her place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and, except as otherwise provided in subsection 4, a copy of the promissory note attached to the notice:

#### NOTICE

#### YOU ARE IN DANGER OF LOSING YOUR HOME!

~~YOU MAY HAVE A RIGHT TO PARTICIPATE IN THE STATE OF NEVADA FORECLOSURE MEDIATION PROGRAM IF THE TIME TO REQUEST MEDIATION HAS NOT EXPIRED!~~

Your home loan is being foreclosed. In not less than 60 days your home may be sold and you may be forced to move. For help, call:

~~{State of Nevada Foreclosure Mediation Program \_\_\_\_\_}~~

Consumer Credit Counseling \_\_\_\_\_

The Attorney General \_\_\_\_\_

The Division of Mortgage Lending \_\_\_\_\_

The Division of Financial Institutions \_\_\_\_\_

Legal Services \_\_\_\_\_

Your Lender \_\_\_\_\_

Nevada Fair Housing Center \_\_\_\_\_



4. The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.

5. This section does not prohibit a judicial foreclosure.

6. As used in this section, “unfair lending practice” means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

**Sec. 3.** NRS 107.086 is hereby amended to read as follows:

107.086 1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the grantor or the person who holds the title of record ~~has the right to seek~~ **will be enrolled to participate in** mediation pursuant to this section ~~;~~ **if he or she pays to the Mediation Administrator his or her share of the fee established pursuant to subsection 9;** and

(4) A form upon which the grantor or the person who holds the title of record may indicate an election ~~to enter into mediation or~~ to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) ***In addition to including the information described in paragraph (a) with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080, provides to the grantor or the person who holds the title of record the information described in paragraph (a) concurrently with, but separately from, the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080;***

(c) Serves a copy of the notice upon the Mediation Administrator; and

~~{{e}}~~ (d) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection ~~{3}~~ 4 or ~~{6}~~ 7 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection ~~{7}~~ 8 which provides that mediation has been completed in the matter.

3. ~~{The}~~ ***If the grantor or the person who holds the title of record elects to waive mediation, he or she*** shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and return the form to the trustee ***and the Mediation Administrator*** by certified mail, return receipt requested. If the grantor or the person who holds the title of record ~~{indicates on the form an election to enter into mediation, the trustee}~~ ***does not elect to waive mediation, he or she shall, not later than 30 days after the service of the notice in the manner required by NRS 107.080, pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 9. Upon receipt of the share of the fee established pursuant to subsection 9 owed by the grantor or the person who holds title of record, the Mediation Administrator*** shall notify the ~~{beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090,}~~ ***trustee***, by certified mail, return receipt requested, of the ~~{election of the grantor or the person who holds the title of record to enter into}~~ ***enrollment of the grantor or person who holds the title of record to participate in mediation pursuant to this section*** and ~~{file the form with the Mediation Administrator, who}~~ shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. ~~{No}~~ ***The trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the enrollment of the grantor or the person who holds the title of record to participate in mediation. If the grantor or person who holds the title of record is enrolled to participate in mediation pursuant to this section, no further action may be taken to exercise the power of sale until the completion of the mediation.***

4. If the grantor or the person who holds the title of record indicates on the form ***described in subparagraph (4) of paragraph (a) of subsection 2*** an election to waive mediation or fails to ~~{return the form to the trustee}~~ ***pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 9***, as required by ~~{this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or~~

~~the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service,]~~ **subsection 3**, the Mediation Administrator shall , ***not later than 60 days after the Mediation Administrator receives the form indicating an election to waive mediation or 90 days after the service of the notice in the manner required by NRS 107.080, whichever is earlier***, provide to the trustee a certificate which provides that no mediation is required in the matter.

~~[4.]~~ **5.** Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection ~~[8.]~~ **9**. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or ~~[a] his or her representative , [shall attend the mediation if the grantor elected to enter into mediation,]~~ or the person who holds the title of record or ~~[a] his or her representative ,~~ shall attend the mediation . ~~[if the person who holds the title of record elected to enter into mediation.]~~ The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

~~[5.]~~ **6.** If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection ~~[4]~~ **5** or does not have the authority or access to a person with the authority required by subsection ~~[4.]~~ **5**, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

~~[6.]~~ **7.** If the grantor or the person who holds the title of record ~~[elected to enter into mediation and]~~ **is enrolled to participate in mediation pursuant to this section but** fails to attend the mediation, the Mediation Administrator shall , ***not later than 30 days after the scheduled mediation***, provide to the trustee a certificate which states that no mediation is required in the matter.

~~[7.]~~ **8.** If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare

and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall , ***not later than 30 days after submittal of the mediator's recommendation that the matter be terminated,*** provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

~~{8.}~~ **9. Upon receipt of the certificate provided to the trustee by the Mediation Administrator pursuant to subsection 4, 7 or 8, if the property is located within a common-interest community, the trustee shall notify the unit-owner's association organized under NRS 116.3101 of the existence of the certificate.**

**10. During the pendency of any mediation pursuant to this section, a unit's owner must continue to pay any obligation, other than any past due obligation.**

**11.** The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

~~{9.}~~ ~~{10.}~~ **12.** Except as otherwise provided in subsection ~~{11.}~~ ~~{12.}~~ **14.** the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

~~{10.}~~ ~~{11.}~~ **13.** A noncommercial lender is not excluded from the application of this section.

~~{11.}~~ ~~{12.}~~ 14. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

~~{12.}~~ ~~{13.}~~ 15. As used in this section:

(a) *“Common-interest community” has the meaning ascribed to it in NRS 116.021.*

(b) “Mediation Administrator” means the entity so designated pursuant to subsection ~~{8.}~~ ~~{9.}~~

~~{10.}~~ 11.

(c) “Noncommercial lender” means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

~~{11.}~~ (d) “Obligation” has the meaning ascribed to it in NRS 116.310313.

(e) “Owner-occupied housing” means housing that is occupied by an owner as the owner’s primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(f) “Unit’s owner” has the meaning ascribed to it in NRS 116.095.

**Sec. 4.** NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 4 ~~{1.}~~ and 5, in a condominium, in a planned community, in a cooperative where the owner’s interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner’s interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit’s owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

- (1) Describe the deficiency in payment.
- (2) State the name and address of the person authorized by the association to enforce the lien by sale.
- (3) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

- (a) The date on which the notice of default is recorded; or
  - (b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,
- ↪ whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

- (a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or
- (b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

5. ***The association may not foreclose a lien by sale if:***

- (a) The unit is owner-occupied housing encumbered by a deed of trust;***
- (b) The beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee has recorded a notice of default and election to sell with respect to the unit pursuant to subsection 2 of NRS 107.080; and***

***(c) The trustee of record has not recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (d) of subsection 2 of NRS 107.086.***

↪ ***As used in this subsection, "owner-occupied housing" has the meaning ascribed to it in NRS 107.086.***

**Sec. 4.5.** 1. There is hereby appropriated from the State General Fund to the Account for Foreclosure Mediation created by NRS 107.080 the sum

of \$100 for the purpose of supporting the program of foreclosure mediation established by Supreme Court Rule.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, 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 18, 2015, 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 18, 2015.

**Sec. 5.** The amendatory provisions of this act apply only with respect to trust agreements for which a notice of default and election to sell is recorded on or after October 1, 2013.

**Sec. 6.** 1. This section and section 4.5 of this act become effective on July 1, 2013.

2. Sections 1 to 4, inclusive, and 5 of this act become effective on October 1, 2013.

Assemblyman Frierson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 273.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### REPORTS OF CONFERENCE COMMITTEES

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 313, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment Nos. 740 and 888 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 22, which is attached to and hereby made a part of this report.

OLIVIA DIAZ  
RICHARD CARRILLO  
MICHELE FIORE

*Assembly Conference Committee*

TICK SEGERBLOM  
RUBEN KIHUEN  
GREG BROWER

*Senate Conference Committee*

Conference Amendment No. CA22.

**ASSEMBLYWOMEN Pierce, DIAZ AND FIORE**

**SUMMARY**—Requires the Advisory Commission on the Administration of Justice to consider certain items regarding criminal procedure. (BDR ~~(S-421)~~ **14-421**)

AN ACT relating to criminal procedure; requiring the Advisory Commission on the Administration of Justice to ~~consider~~ **evaluate** issues concerning electronic surveillance by law enforcement, traffic laws and

certain laws relating to motor vehicles, and language access in the courts; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) This bill requires the Commission to: (1) ~~consider~~ **evaluate** issues concerning electronic surveillance by law enforcement; (2) evaluate issues related to certain traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, and the treatment of violations of such laws as criminal offenses or civil infractions; and (3) evaluate issues concerning language access in the courts. **This bill also eliminates a similar study required by section 10 of Assembly Bill No. 365 of this session.**

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.5. ~~The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123 shall, at a meeting held by the Commission, include as an item on the agenda a discussion of the following issues:~~

~~1. A review of the use of electronic surveillance by law enforcement, including, without limitation, access by a law enforcement agency to historical and prospective geolocation data generated by a telecommunications device for tracking purposes and the use of mobile tracking devices.~~

~~2. An evaluation of the policies and practices relating to criminal violations of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, with consideration as to whether it is feasible and advisable to treat such violations as civil matters and, if so, the issues involved in implementing a system to treat such violations as civil matters.~~

~~3. An evaluation of:~~

~~(a) The current system used in this State to provide court interpreters in criminal and civil proceedings;~~

~~(b) The systems used in other states to provide court interpreters in criminal and civil proceedings; and~~

~~(c) The current condition of federal and state laws regarding the provision of court interpreters in criminal and civil proceedings.~~

~~4. Recommendations regarding, without limitation:~~



~~(a) Necessary statutory changes to facilitate language access in the courts;~~  
~~(b) Necessary statutory changes to comply with any federal law related to language access in the courts; and~~  
~~(c) Methods for raising any revenue necessary to provide court interpreters in criminal and civil proceedings or to increase language access in the courts.] (Deleted by amendment.)~~

Sec. 2.6. **NRS 176.0125 is hereby amended to read as follows:**

176.0125 The Commission shall:

1. Identify and study the elements of this State's system of criminal justice which affect the sentences imposed for felonies and gross misdemeanors.

2. Evaluate the effectiveness and fiscal impact of various policies and practices regarding sentencing which are employed in this State and other states, including, but not limited to, the use of plea bargaining, probation, programs of intensive supervision, programs of regimental discipline, imprisonment, sentencing recommendations, mandatory and minimum sentencing, mandatory sentencing for crimes involving the possession, manufacture and distribution of controlled substances, structured or tiered sentencing, enhanced penalties for habitual criminals, parole, credits against sentences, residential confinement and alternatives to incarceration.

3. Recommend changes in the structure of sentencing in this State which, to the extent practicable and with consideration for their fiscal impact, incorporate general objectives and goals for sentencing, including, but not limited to, the following:

(a) Offenders must receive sentences that increase in direct proportion to the severity of their crimes and their histories of criminality.

(b) Offenders who have extensive histories of criminality or who have exhibited a propensity to commit crimes of a predatory or violent nature must receive sentences which reflect the need to ensure the safety and protection of the public and which allow for the imprisonment for life of such offenders.

(c) Offenders who have committed offenses that do not include acts of violence and who have limited histories of criminality must receive sentences which reflect the need to conserve scarce economic resources through the use of various alternatives to traditional forms of incarceration.

(d) Offenders with similar histories of criminality who are convicted of similar crimes must receive sentences that are generally similar.

(e) Offenders sentenced to imprisonment must receive sentences which do not confuse or mislead the public as to the actual time those offenders must serve while incarcerated or before being released from confinement or supervision.

(f) Offenders must not receive disparate sentences based upon factors such as race, gender or economic status.

(g) Offenders must receive sentences which are based upon the specific circumstances and facts of their offenses, including the nature of the offense and any aggravating factors, the savagery of the offense, as evidenced by the extent of any injury to the victim, and the degree of criminal sophistication demonstrated by the offender's acts before, during and after commission of the offense.

4. Evaluate the effectiveness and efficiency of the Department of Corrections and the State Board of Parole Commissioners with consideration as to whether it is feasible and advisable to establish an oversight or advisory board to perform various functions and make recommendations concerning:

- (a) Policies relating to parole;
- (b) Regulatory procedures and policies of the State Board of Parole Commissioners;
- (c) Policies for the operation of the Department of Corrections;
- (d) Budgetary issues; and
- (e) Other related matters.

5. Evaluate the effectiveness of specialty court programs in this State with consideration as to whether such programs have the effect of limiting or precluding reentry of offenders and parolees into the community.

6. Evaluate the policies and practices concerning presentence investigations and reports made by the Division of Parole and Probation of the Department of Public Safety, including, without limitation, the resources relied on in preparing such investigations and reports and the extent to which judges in this State rely on and follow the recommendations contained in such presentence investigations and reports.

7. Evaluate, review and comment upon issues relating to juvenile justice in this State, including, but not limited to:

- (a) The need for the establishment and implementation of evidence-based programs and a continuum of sanctions for children who are subject to the jurisdiction of the juvenile court; and
- (b) The impact on the criminal justice system of the policies and programs of the juvenile justice system.

8. Compile and develop statistical information concerning sentencing in this State.

9. Identify and study issues relating to the application of chapter 241 of NRS to meetings held by the:

- (a) State Board of Pardons Commissioners to consider an application for clemency; and
- (b) State Board of Parole Commissioners to consider an offender for parole.

10. Identify and study issues relating to the operation of the Department of Corrections, including, without limitation, the system for allowing credits

against the sentences of offenders, the accounting of such credits and any other policies and procedures of the Department which pertain to the operation of the Department.

11. Evaluate the policies and practices relating to the involuntary civil commitment of sexually dangerous persons.

12. Evaluate the use of electronic surveillance by law enforcement, including, without limitation, access by a law enforcement agency to historical and prospective geolocation data generated by a telecommunications device for tracking purposes and the use of mobile tracking devices.

13. Evaluate the policies and practices relating to criminal violations of traffic laws and laws relating to drivers' licenses and to the registration of and insurance for motor vehicles, with consideration as to whether it is feasible and advisable to treat such violations as civil matters and, if so, the issues involved in implementing a system to treat such violations as civil matters.

14. Evaluate the current system used in this State to provide court interpreters in criminal and civil proceedings, including, without limitation, an examination of:

(a) The systems used in other states to provide court interpreters in criminal and civil proceedings;

(b) The current condition of federal and state laws regarding the provision of court interpreters in criminal and civil proceedings;

(c) Necessary statutory changes to facilitate language access in the courts;

(d) Necessary statutory changes to comply with any federal law related to language access in the courts; and

(e) Methods for raising any revenue necessary to provide court interpreters in criminal and civil proceedings or to increase language access in the courts.

15. For each regular session of the Legislature, prepare a comprehensive report including the Commission's recommended changes pertaining to the administration of justice in this State, the Commission's findings and any recommendations of the Commission for proposed legislation. The report must be submitted to the Director of the Legislative Counsel Bureau for distribution to the Legislature not later than September 1 of each even-numbered year.

Sec. 2.7. Section 10 of Assembly Bill No. 365 of this session is hereby repealed.

Sec. 3. This act becomes effective ~~on July 1, 2013,~~ upon passage and approval.

**TEXT OF REPEALED SECTION****Section 10 of Assembly Bill No. 365 of this session:**

Sec. 10. 1. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123 shall appoint a subcommittee to conduct an interim study concerning language access in the courts of the State of Nevada, and make a report thereof.

2. The study and report must include, without limitation:

(a) An evaluation of:

(1) The current system used in this State to provide court interpreters in criminal and civil proceedings;

(2) The systems used in other states to provide court interpreters in criminal and civil proceedings; and

(3) The current condition of federal and state laws regarding the provision of court interpreters in criminal and civil proceedings.

(b) Recommendations regarding, without limitation:

(1) Necessary statutory changes to facilitate language access in the courts;

(2) Necessary statutory changes to comply with any federal law related to language access in the courts; and

(3) Methods for raising any revenue necessary to provide court interpreters in criminal and civil proceedings or to increase language access in the courts.

3. The subcommittee shall submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 78th Session of the Nevada Legislature and the Supreme Court.

Assemblyman Frierson moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 313.

Motion carried by a constitutional majority.

## CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 150.

The following Senate amendment was read:

Amendment No. 906.

SUMMARY—~~Enacts provisions relating to interim legislative committees.~~ **Creates the Legislative Committee on Governmental Oversight and Accountability.** (BDR 17-739)

AN ACT relating to legislative affairs; creating the Legislative Committee on Governmental Oversight and Accountability; prescribing the powers and duties of the Committee; ~~eliminating the Legislative Committee on High-Level Radioactive Waste; authorizing the Legislative Committee on Public~~

~~Lands to review issues relating to the disposal of high level radioactive waste,] and providing other matters properly relating thereto.~~

**Legislative Counsel's Digest:**

**Section 5** of this bill creates the Legislative Committee on Governmental Oversight and Accountability and provides for the appointment of its members. **Section 6** of this bill prescribes the manner in which meetings must be conducted by the Committee and provides for the compensation of its members. **Section 7** of this bill authorizes the Committee to study and comment upon issues relating to the operations and accountability of governmental agencies and to conduct investigations and hold hearings. **Section 8** of this bill authorizes the Committee to provide for the administration of oaths, the deposition of witnesses and the issuance of subpoenas in connection with those investigations and hearings.

~~[Under existing law, the Legislative Committee on Public Lands reviews issues relating to public lands in this State (NRS 218E.525), and the Legislative Committee on High Level Radioactive Waste reviews issues relating to the disposal of high level radioactive waste in this State. (NRS 459.0085) Section 12 of this bill eliminates the Legislative Committee on High Level Radioactive Waste, and section 10 of this bill authorizes the Legislative Committee on Public Lands to review issues relating to the disposal of high level radioactive waste.~~

~~Existing law requires the Executive Director of the Agency for Nuclear Projects to evaluate potentially adverse effects of a facility for the disposal of radioactive waste in this State and to submit semiannual reports to the Legislative Committee on High Level Radioactive Waste. (NRS 459.0094) Section 11 of this bill requires those reports to be submitted to the Legislative Committee on Public Lands.]~~

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

**Section 1.** Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 9, 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.** *“Committee” means the Legislative Committee on Governmental Oversight and Accountability created pursuant to section 5 of this act.*

**Sec. 4.** *“Governmental agency” means any agency, office, board, commission, department, division, bureau, authority, institution, district or other unit of the State or a political subdivision of the State.*

Sec. 5. 1. *The Legislative Committee on Governmental Oversight and Accountability, consisting of 10 legislative members, is hereby created. The membership of the Committee consists of:*

*(a) Five members appointed by the Majority Leader of the Senate, at least two of whom must be members of the minority political party.*

*(b) Five members appointed by the Speaker of the Assembly, at least two of whom must be members of the minority political party.*

2. *The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.*

3. *The Legislative Commission shall select the Chair and Vice Chair of the Committee from among the members of the Committee. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. The office of Chair of the Committee must alternate each biennium between the Houses. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.*

4. *A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session convenes.*

5. *A vacancy on the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term.*

Sec. 6. 1. *Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than November 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.*

2. *The Director or the Director's designee shall act as the nonvoting recording Secretary of the Committee.*

3. *Six members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.*

4. *Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the:*

*(a) Compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;*

*(b) Per diem allowance provided for state officers and employees generally; and*

*(c) Travel expenses provided pursuant to NRS 218A.655.*

5. *All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.*

*Sec. 7. The Committee may:*

*1. To fulfill the objectives and duties granted to the Legislative Commission pursuant to NRS 232B.010 to 232B.100, inclusive, and paragraph (b) of subsection 1 and paragraph (c) of subsection 2 of NRS 218E.175, evaluate, review and comment upon issues related to governmental agencies, including, but not limited to:*

- (a) Programs to enhance accountability in government;*
- (b) Legislative measures regarding governmental oversight;*
- (c) Methods of financing governmental agencies; and*
- (d) Any other matters that, in the determination of the Committee, affect governmental agencies.*

*2. Conduct investigations and hold hearings in connection with its duties pursuant to this section.*

*3. Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.*

*4. Make recommendations to the Legislature concerning the manner in which government may be improved.*

*Sec. 8. 1. If the Committee conducts investigations or holds hearings pursuant to section 7 of this act:*

*(a) The Secretary of the Committee or, in the Secretary's absence, a member designated by the Committee may administer oaths.*

*(b) The Secretary or Chair of the Committee may cause the deposition of witnesses, residing either within or without 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 of the Committee may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, accounts, department records and other documents.*

*2. If any witness fails or refuses to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena, the Chair of the Committee may report the failure or refusal to the district court by a petition which:*

*(a) Sets forth that:*

*(1) Due notice has been given of the time and place of the attendance of the witness or the production of the required books, papers, accounts, department records or other documents;*

*(2) The witness has been subpoenaed by the Committee pursuant to this section; and*

*(3) The witness has failed or refused to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena before the Committee named in the subpoena; and*

*(b) Asks for an order of the court compelling the witness to attend and testify or to produce the required books, papers, accounts, department records or other documents before the Committee.*

*3. Upon such a petition, the court shall:*

*(a) Enter an order directing the witness:*

*(1) 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*

*(2) To show cause why the witness has not attended or testified or produced the required books, papers, accounts, department records or other documents before the Committee; and*

*(b) Serve a certified copy of the order upon the witness.*

*4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness:*

*(a) Must appear before the Committee at the time and place fixed in the order;*

*(b) Must testify or produce the required books, papers, accounts, department records or other documents; and*

*(c) Upon failure to obey the order, must be dealt with as for contempt of court.*

Sec. 9. (Deleted by amendment.)

Sec. 10. ~~[NRS 218E.525 is hereby amended to read as follows:~~

~~218E.525 1. The Committee shall:~~

~~(a) Actively support the efforts of state and local governments in the western states regarding public lands and state sovereignty as impaired by federal ownership of land.~~

~~(b) Advance knowledge and understanding in local, regional and national forums of Nevada's unique situation with respect to public lands.~~

~~(c) Support legislation that will enhance state and local roles in the management of public lands and will increase the disposal of public lands.~~

~~2. The Committee:~~

~~(a) Shall review the programs and activities of:~~

~~(1) The Colorado River Commission of Nevada;~~

~~(2) All public water authorities, districts and systems in the State of Nevada, including, without limitation, the Southern Nevada Water Authority, the Truckee Meadows Water Authority, the Virgin Valley Water District, the Carson Water Subconservancy District, the Humboldt River Basin Water Authority and the Truckee-Carson Irrigation District; and~~

~~(3) All other public or private entities with which any county in the State has an agreement regarding the planning, development or distribution of water resources, or any combination thereof;~~



~~— (b) Shall, on or before January 15 of each odd numbered year, submit to the Director for transmittal to the Legislature a report concerning the review conducted pursuant to paragraph (a); [and]~~

~~— (c) May review and comment on other issues relating to water resources in this State, including, without limitation:~~

~~— (1) The laws, regulations and policies regulating the use, allocation and management of water in this State; and~~

~~— (2) The status of existing information and studies relating to water use, surface water resources and groundwater resources in this State [.] ; and~~

~~— (d) May review and comment on issues and policies relating to the disposal of high level radioactive waste, including, without limitation:~~

~~— (1) Issues and policies regarding the location in this State of a facility for the disposal of high level radioactive waste;~~

~~— (2) Any potentially adverse effects from the construction and operation of, and the transportation of high level radioactive waste to, such a facility and the ways of mitigating those effects; and~~

~~— (3) Any other issues and policies relating to the disposal of high level radioactive waste.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 459.0094 is hereby amended to read as follows:~~

~~459.0094 The Executive Director shall:~~

~~1. Appoint, with the consent of the Commission, an Administrator of each Division of the Agency.~~

~~2. Advise the Commission on matters relating to the potential disposal of radioactive waste in this State.~~

~~3. Evaluate the potentially adverse effects of a facility for the disposal of radioactive waste in this State.~~

~~4. Consult frequently with local governments and state agencies that may be affected by a facility for the disposal of radioactive waste and appropriate legislative committees.~~

~~5. Assist local governments in their dealings with the Department of Energy and its contractors on matters relating to radioactive waste.~~

~~6. Carry out the duties imposed on the State by 42 U.S.C. §§ 10101 to 10226, inclusive, as those sections existed on July 1, 1995.~~

~~7. Cooperate with any governmental agency or other person to carry out the provisions of NRS 459.009 to 459.0098, inclusive.~~

~~8. Provide semiannual written reports to the **Legislative** Committee on [High Level Radioactive Waste.] **Public Lands**. The reports must contain:~~

~~— (a) A summary of the status of the activities undertaken by the Agency since the previous report;~~

~~— (b) A description of all contracts the Agency has with natural persons or organizations, including, but not limited to, the name of the recipient of each contract, the amount of the contract, the duties to be performed under the~~

~~contract, the manner in which the contract assists the Agency in achieving its goals and responsibilities and the status of the performance of the terms of the contract;~~

~~—(c) The status of any litigation relating to the goals and responsibilities of the Agency to which the State of Nevada is a party; and~~

~~—(d) Any other information requested by the Legislative Committee.]~~

**(Deleted by amendment.)**

Sec. 12. ~~[NRS 459.0085 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 13. This act becomes effective on July 1, 2013.

†

### **TEXT OF REPEALED SECTION**

~~—459.0085 Creation; membership; duties; compensation and expenses of members.~~

~~—1. There is hereby created a Committee on High Level Radioactive Waste. It is a committee of the Legislature composed of:~~

~~—(a) Four members of the Senate, appointed by the Majority Leader of the Senate;~~

~~—(b) Four members of the Assembly, appointed by the Speaker.~~

~~—2. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program. The Legislative Commission shall select a Chair and a Vice Chair from the members of the Committee.~~

~~—3. Except as otherwise ordered by the Legislative Commission, the Committee shall meet not earlier than November 1 of each odd numbered year and not later than August 31 of the following even numbered year at the call of the Chair to study and evaluate:~~

~~—(a) Information and policies regarding the location in this State of a facility for the disposal of high level radioactive waste;~~

~~—(b) Any potentially adverse effects from the construction and operation of a facility and the ways of mitigating those effects; and~~

~~—(c) Any other policies relating to the disposal of high level radioactive waste.~~

~~—4. The Committee shall report the results of its studies and evaluations to the Legislative Commission and the Interim Finance Committee at such times as the Legislative Commission or the Interim Finance Committee may require.~~

~~—5. The Committee may recommend any appropriate legislation to the Legislature and the Legislative Commission.~~

~~—6. The Director of the Legislative Counsel Bureau shall provide a Secretary for the Committee on High Level Radioactive Waste. Except during a regular or special session of the Legislature, each member of the~~

~~Committee is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session for each day or portion of a day during which the member attends a Committee meeting or is otherwise engaged in the work of the Committee plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218A.655. Per diem allowances, salary and travel expenses of members of the Committee must be paid from the Legislative Fund.]~~

Assemblyman Ohrenschall moved that the Assembly concur in the Senate Amendment No. 906 to Assembly Bill No. 150.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 413.

The following Senate amendment was read:

Amendment No. 974.

AN ACT relating to taxation; authorizing certain larger counties to impose additional taxes on fuels for motor vehicles; providing for the imposition by the State of additional taxes on fuels for motor vehicles if a ballot question authorizing such additional taxes is approved by a majority of the voters in this State; providing for the imposition by the boards of county commissioners of certain counties of additional taxes on fuels for motor vehicles if a ballot question authorizing such additional taxes is approved by a majority of the voters in the county; requiring the approval by voters of additional ballot measures to continue the imposition of the additional taxes; **requiring certain persons who use special fuel in motor vehicles operated or intended to operate interstate to file certain returns with the Department of Motor Vehicles under certain circumstances;** requiring the Department ~~[of Motor Vehicles]~~ to adopt regulations establishing a system for ~~[the reimbursement and repayment]~~ **auditing of such returns to determine whether** any amounts **are owed by or to such persons** pursuant to certain cooperative agreements; **requiring the Department to charge and collect certain fees; authorizing the Department to enter into certain intergovernmental agreements or contracts under certain circumstances; creating an enterprise fund administered by the Director of the Department;** providing for the administration, allocation, disbursement and use of the additional taxes; removing the exemption for the sale of revenue bonds secured by county fuel taxes from certain requirements; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes counties to impose certain taxes on motor vehicle fuels and special fuels used in motor vehicles. (Chapter 373 of NRS) **Section**

**1.1** of this bill authorizes the board of county commissioners of a county whose population is 700,000 or more and in which a regional transportation commission has been created and a county tax is imposed on motor vehicle fuel (currently Clark County) to impose , **upon approval by a two-thirds majority of the members of the board,** additional county taxes on motor vehicle fuel and various special fuels used in motor vehicles. **Section 1.1** also authorizes the board of county commissioners to provide for annual increases in these taxes, for the period beginning on January 1, 2014, and ending on December 31, 2016, in an amount equal to the lesser of: (1) a percentage established by the ordinance imposing the tax; or (2) a percentage based on historical increases in the cost of highway and street construction. **Section 1.1** additionally provides that for the period beginning on January 1, 2017: (1) the board of county commissioners must not impose any additional increases in certain taxes authorized by that section; and (2) increases in the remainder of the taxes authorized by that section may not be effectuated unless a majority of the voters in the county at the general election in November 2016 authorize the board of county commissioners to continue to provide for the annual increases.

Upon approval by a majority of the voters in the State at the general election in November 2016, **section 1.2** of this bill requires the State to impose additional state taxes on motor vehicle fuel and various special fuels used in motor vehicles. **Section 1.2** also authorizes the Legislature to provide for annual increases in these taxes, for the period beginning on January 1, 2017, and ending on December 31, 2026. **Section 1.2** additionally provides that for the period beginning on January 1, 2027, the increases in these taxes may not be effectuated unless a majority of the voters in the State at the general election in November 2026 authorize the Legislature to continue to provide for the annual increases.

Upon approval by a majority of the voters in any county, other than Washoe County or, under certain circumstances, Clark County, at the general election in November 2016, **section 1.3** of this bill requires the board of county commissioners of the county to impose additional county taxes on motor vehicle fuel and various special fuels used in motor vehicles. **Section 1.3** also authorizes the board of county commissioners to provide for annual increases in these taxes, for the period beginning on January 1, 2017, and ending on December 31, 2026. **Section 1.3** additionally provides that for the period beginning on January 1, 2027, the increases in these taxes may not be effectuated unless a majority of the voters in the county at the general election in November 2026 authorize the board of county commissioners to continue to provide for the annual increases.

The Department of Motor Vehicles is a party to the International Fuel Tax Agreement, a multistate agreement which facilitates the calculation and

collection of certain fuel taxes from interstate trucking companies and others who use special fuel (primarily diesel fuel) in vehicles operated or intended to operate interstate. (NRS 366.175) **Sections 1.7- ~~1.9~~ 1.95** of this bill require **certain special fuel users to file a return with the Department and require the Department to adopt regulations establishing a system for ~~the reimbursement and repayment of~~ auditing such returns to determine whether any amounts are owed by or to the special fuel user pursuant to the International Fuel Tax Agreement as a result of any additional taxes on special fuels authorized or required by this bill. Sections 1.7, 1.8 and 1.9 require the Department to charge and collect certain fees from the special fuel users who are required to file returns with the Department and additionally authorize the Department to enter into certain intergovernmental agreements or contracts to pay for certain costs relating to establishing and administering the system. Sections 1.75, 1.85 and 1.95 create an enterprise fund known as the Local Fuel Tax Indexing Fund into which the Department is required to deposit money received from the fees collected pursuant to sections 1.7, 1.8 and 1.9.**

**Sections 2-2.7 and 4-11.3** of this bill require the administration, allocation, disbursement and use of these taxes in the same manner as certain existing fuel taxes. Additionally, **sections 2-2.7** require the annual review of these taxes by the regional transportation commission.

**Sections 3-3.9** of this bill apply the current exemptions from fuel taxes to the taxes authorized by this bill, other than the exemption for certain undyed special fuel which is sold or used for any purpose other than to propel a motor vehicle upon the public highways.

**Section 11.5** of this bill revises provisions of existing law to remove the exemption for the sale of revenue bonds that are secured by county fuel taxes from various requirements concerning the sale of bonds by competitive bid or negotiated sale.

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

**Section 1.** Chapter 373 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to ~~1.9~~ **1.95**, inclusive, of this act.

**Sec. 1.1. 1. Except as otherwise provided in this section, in a county whose population is 700,000 or more and in which a commission has been created and a tax is imposed pursuant to NRS 373.030:**

**(a) The board may by ordinance impose:**

**(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 3.6 cents per gallon by the lesser of the applicable percentage**

*or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 3.6 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(b) The board may by ordinance impose:*

*(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(c) The board may by ordinance impose:*

*(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1 cent per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1 cent per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(d) The board may by ordinance impose:*

(1) *An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 9 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 9 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(e) *The board may by ordinance impose:*

(1) *An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.455 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.455 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(f) *The board may by ordinance impose:*

(1) *An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the*

*applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(g) The board may by ordinance impose:*

*(1) An excise tax on each gallon of special fuel that consists of an emulsion of water-phased hydrocarbon fuel sold in the county in an amount equal to the product obtained by multiplying 19 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 19 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(h) The board may by ordinance impose:*

*(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained by multiplying 22 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 22 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(i) The board may by ordinance impose:*

*(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 21 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*



*(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 21 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(j) The board may by ordinance impose:*

*(1) An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph (g), (h) or (i), in an amount equal to the product obtained by multiplying 27.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 27.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(k) The board may by ordinance impose:*

*(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(l) The board may by ordinance impose:*

(1) *An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(m) *The board may by ordinance impose:*

(1) *An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph (k) or (l), which is taxed by the Federal Government at a rate per gallon or gallon equivalent of 24.4 cents or more, in an amount equal to the product obtained by multiplying 24.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 24.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

2. *An ordinance authorized by this section must be approved by a two-thirds majority of the members of the board. If the board adopts an ordinance authorized by this section, the ordinance must impose all of the taxes authorized by this section. Upon the adoption of such an ordinance, and except as otherwise provided in subsection 5, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.*

3. *If the board adopts an ordinance imposing the taxes authorized by this section, the ordinance:*

(a) *Must be adopted before October 1, 2013;*

*(b) Must become effective on January 1, 2014; and*

*(c) Is not affected by any changes in the population of the county which occur after the adoption of the ordinance.*

*4. The applicable percentage specified by the board for the taxes imposed pursuant to this section must be the same percentage for each tax imposed pursuant to this section. Except as otherwise provided in subsection 5, the board may amend the applicable percentage by ordinance from time to time, but any such amendment must not become effective earlier than 90 days after the date of the adoption of the ordinance amending the applicable percentage. Except as otherwise provided in subsection 4 of NRS 373.120, the applicable percentage must not be amended to reduce the applicable percentage at any time that bonds are outstanding secured by the taxes imposed pursuant to this section.*

*5. Upon the adoption of an ordinance authorized by this section:*

*(a) For the period beginning on January 1, 2014, and ending on December 31, 2016, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.*

*(b) For the period beginning on January 1, 2017:*

*(1) The board shall not impose any additional annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 and imposed by the ordinance after November 8, 2016, but any annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 and imposed by the ordinance on or before November 8, 2016, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 and imposed by the ordinance.*

*(2) The annual increases in the taxes authorized by paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1 and imposed by the ordinance may not be effectuated unless a question is placed on the ballot at the general election on November 8, 2016, which asks the voters in the county whether to authorize the board to impose, for the period beginning on January 1, 2017, the increases authorized by paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1 in the taxes imposed by the ordinance and the question is approved by a majority of the registered voters voting on the question. If the question is approved by a majority of such voters, no further action by the board is necessary to effectuate the annual increases in the taxes authorized by paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1 and imposed by the ordinance. If the question is not approved by a majority of such voters, the board shall not impose any additional annual increases in the taxes authorized by paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1 and*

imposed by the ordinance after November 8, 2016, but any annual increases in such taxes imposed by the ordinance on or before November 8, 2016, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by such taxes imposed by the ordinance.

6. As used in this section:

(a) *“Adjusted average highway and street construction inflation index”* means:

(1) For the fiscal year in which an ordinance adopted pursuant to this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero; and

(2) For each fiscal year following the fiscal year in which the ordinance becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the adjusted average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero.

(b) *“Applicable percentage”* means the lesser of 7.8 percent or the percentage specified by the board in any ordinance imposing a tax pursuant to this section.

(c) *“Average highway and street construction inflation index”* means for a fiscal year the average percentage increase in the highway and street construction inflation index for the 10 calendar years immediately preceding the beginning of that fiscal year.

(d) *“Highway and street construction inflation index”* means:

(1) The Producer Price Index for Highway and Street Construction until that index ceased to be published; and

*(2) The Producer Price Index for Other Nonresidential Construction thereafter or, if that index ceases to be published by the United States Department of Labor, the published index that most closely measures inflation in the costs of highway and street construction, as determined by the commission.*

*(e) "Special fuel" has the meaning ascribed to it in NRS 366.060.*

Sec. 1.2. 1. In addition to any other tax imposed pursuant to chapter 365 or 366 of NRS:

*(a) There is hereby imposed:*

*(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in this State in an amount equal to the product obtained by multiplying 18.455 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and*

*(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.455 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(b) There is hereby imposed:*

*(1) An excise tax on each gallon of special fuel that consists of an emulsion of water-phased hydrocarbon fuel sold in this State in an amount equal to the product obtained by multiplying 19 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and*

*(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 19 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(c) There is hereby imposed:*

*(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in this State in an amount equal to the product obtained by multiplying 22 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and*

*(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 22 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(d) There is hereby imposed:*

*(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in this State in an amount equal to the product obtained by multiplying 21 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and*

*(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 21 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(e) There is hereby imposed:*

*(1) An excise tax on each gallon of special fuel sold in this State, other than any special fuel described in paragraph (b), (c) or (d), in an amount equal to the product obtained by multiplying 27.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and*

*(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 27.75 cents per gallon to the amount of*

*the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*2. The applicable percentage for the taxes imposed pursuant to this section must be the same percentage for each tax imposed pursuant to this section. Except as otherwise provided in subsection 3, the Legislature may amend the applicable percentage from time to time, but any such amendment must not become effective earlier than 90 days after the date of the action by the Legislature amending the applicable percentage. Except as otherwise provided in section 1.5 of this act, the applicable percentage must not be amended to reduce the applicable percentage at any time that bonds are outstanding which are secured by the taxes imposed pursuant to this section.*

*3. For the period:*

*(a) Beginning on January 1, 2017, and ending on December 31, 2026, no further action by the Legislature is necessary to effectuate the annual increases in the taxes imposed by this section.*

*(b) Beginning on January 1, 2027, the annual increases in the taxes imposed by this section must not be effectuated unless a question is placed on the ballot at the general election on November 3, 2026, which asks the voters in this State whether to authorize the Legislature to impose, for the period beginning on January 1, 2027, the increases authorized by this section in the taxes imposed by this section and the question is approved by a majority of the registered voters in this State voting on the question. If the question is approved by a majority of such voters, no further action by the Legislature is necessary to effectuate the annual increases in the taxes imposed by this section. If the question is not approved by a majority of such voters, the Legislature shall not impose any additional annual increases in the taxes imposed by this section after November 3, 2026, but any annual increases in the taxes imposed by this section in effect on or before November 3, 2026, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes imposed by this section.*

*4. All money received from the taxes imposed pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.*

*5. As used in this section:*

*(a) "Adjusted average highway and street construction inflation index" means:*

(1) For the fiscal year in which this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero; and

(2) For each fiscal year following the fiscal year in which this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the adjusted average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero.

(b) "Applicable percentage" means the lesser of 7.8 percent or the percentage specified by the Legislature in any act amending the applicable percentage of a tax imposed pursuant to this section.

(c) "Average highway and street construction inflation index" means for a fiscal year the average percentage increase in the highway and street construction inflation index for the 10 calendar years immediately preceding the beginning of that fiscal year.

(d) "Highway and street construction inflation index" means:

(1) The Producer Price Index for Highway and Street Construction until that index ceased to be published; and

(2) The Producer Price Index for Other Nonresidential Construction thereafter or, if that index ceases to be published by the United States Department of Labor, the published index that most closely measures inflation in the costs of highway and street construction, as determined by the Legislature.

(e) "Special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.3. 1. In addition to any other tax imposed pursuant to this chapter:

(a) The board shall by ordinance impose:



(1) *An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 3.6 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 3.6 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(b) *The board shall by ordinance impose:*

(1) *An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(c) *The board shall by ordinance impose:*

(1) *An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1 cent per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1 cent per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street*

*construction inflation index for the fiscal year in which the increase becomes effective.*

*(d) The board shall by ordinance impose:*

*(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 9 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 9 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(e) The board shall by ordinance impose:*

*(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(f) The board shall by ordinance impose:*

*(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in*

*the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(g) The board shall by ordinance impose:*

*(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*(h) The board shall by ordinance impose:*

*(1) An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph (f) or (g), which is taxed by the Federal Government at a rate per gallon or gallon equivalent of 24.4 cents or more, in an amount equal to the product obtained by multiplying 24.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

*(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 24.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

*2. Upon the adoption of the ordinance required by subsection 1, and except as otherwise provided in subsection 4, no further action by the board*

*is necessary to effectuate the annual increases in the taxes imposed by the ordinance.*

3. *The applicable percentage specified by the board for the taxes imposed pursuant to this section must be the same percentage for each tax imposed by the board pursuant to this section. Except as otherwise provided in subsection 4, the board may amend the applicable percentage by ordinance from time to time, but any such amendment must not become effective earlier than 90 days after the date of the adoption of the ordinance amending the applicable percentage. Except as otherwise provided in subsection 4 of NRS 373.120, the applicable percentage must not be amended to reduce the applicable percentage at any time that bonds are outstanding which are secured by the taxes imposed pursuant to this section.*

4. *Upon the adoption of an ordinance authorized by this section:*

(a) *For the period beginning on January 1, 2017, and ending on December 31, 2026, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.*

(b) *For the period beginning on January 1, 2027, the annual increases in the taxes imposed by the ordinance may not be effectuated unless a question is placed on the ballot at the general election on November 3, 2026, which asks the voters in the county whether to authorize the board to impose, for the period beginning on January 1, 2027, the increases authorized by this section in the taxes imposed by the ordinance and the question is approved by a majority of the registered voters in the county voting on the question. If the question is approved by a majority of such voters, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance. If the question is not approved by a majority of such voters, the board shall not impose any additional annual increases in the taxes imposed by the ordinance after November 3, 2026, but any annual increases in the taxes imposed by the ordinance in effect on or before November 3, 2026, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes imposed by the ordinance.*

5. *As used in this section:*

(a) *“Adjusted average highway and street construction inflation index” means:*

(1) *For the fiscal year in which an ordinance adopted pursuant to this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:*

(I) *If the average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable*

percentage, the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero; and

(2) For each fiscal year following the fiscal year in which the ordinance becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the adjusted average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero.

(b) “Applicable percentage” means the lesser of 7.8 percent or the percentage specified by the board in any ordinance imposing a tax pursuant to this section.

(c) “Average highway and street construction inflation index” means for a fiscal year the average percentage increase in the highway and street construction inflation index for the 10 calendar years immediately preceding the beginning of that fiscal year.

(d) “Highway and street construction inflation index” means:

(1) The Producer Price Index for Highway and Street Construction until that index ceased to be published; and

(2) The Producer Price Index for Other Nonresidential Construction thereafter or, if that index ceases to be published by the United States Department of Labor, the published index that most closely measures inflation in the costs of highway and street construction, as determined by the commission.

(e) “Special fuel” has the meaning ascribed to it in NRS 366.060.

Sec. 1.5. 1. Except as otherwise provided in subsection 2, any continuing increases in any taxes imposed pursuant to section 1.2 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations which are secured by the taxes imposed pursuant to section 1.2 of this act are issued or incurred, but the taxes imposed pursuant to section 1.2 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.

2. At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.2 of this act, the Legislature may, except as otherwise provided in paragraph (b) of subsection 3 of section 1.2 of this act:

(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.2 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.2 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the action by the Legislature authorized by this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.2 of this act have been paid in full.

(b) Specify a different applicable percentage, including an applicable percentage of zero, but:

(1) The applicable percentage must not exceed 7.8 percent;

(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of any action of the Legislature authorized by this subsection; and

(3) The effective date of any action by the Legislature reducing the applicable percentage must not be sooner than the later of:

(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.2 of this act are issued or incurred; or

(II) June 30 of the fiscal year that is 5 full fiscal years after the date of any action by the Legislature authorized by paragraph (a).

3. As used in this section, "applicable percentage" has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.2 of this act.

Sec. 1.7. 1. A person who uses special fuel in a motor vehicle operated or intended to operate interstate and who pays any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 of this act shall file with the Department a return for the purpose of the Department determining whether any amounts are owed by or to the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 of this act. The Department shall adopt regulations establishing a system to provide for the reimbursement and repayment of auditing of the records of a person who files such a return to determine whether the person is entitled to reimbursement of or owes any amounts owed by any person} pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 of this act. The system established by the Department:

~~1.1.~~ (a) Must ~~provide that any~~ authorize a person who uses special fuel in motor vehicles operated or intended to operate interstate to file a request for reimbursement of any amounts owed to ~~any~~ the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 of this act;

(b) Must provide that any reimbursement authorized by the Department be paid from only money received by a county pursuant to any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 of this act;

(c) Must provide that the total amount of money which must be paid by any county in any fiscal year to reimburse any amounts owed to persons who use special fuel in motor vehicles operated or intended to operate interstate must not exceed 20 percent of the total amount of money collected by that county from any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 of this act; and

~~1.2.~~ (d) Must not ~~be administered in a manner that directly or indirectly impairs adversely~~ apply to any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding ~~bonds issued under this chapter or other obligations incurred under this chapter~~ on the effective date of this section secured by those taxes or of any bonds that refund such bonds provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

2. The Department shall charge and collect a fee in an amount not to exceed \$100 for each request for reimbursement filed by a person pursuant to the system established by the Department pursuant to subsection 1. All money from the fees collected by the Department pursuant to this subsection must be deposited in the Local Fuel Tax Indexing Fund created by section 1.75 of this act.

3. The Department and a commission which has been created in a county whose population is 700,000 or more and in which a tax is imposed pursuant to section 1.1 of this act may enter into an intergovernmental agreement or contract pursuant to which:

(a) The commission agrees to pay for the costs incurred by the Department to establish the system pursuant to subsection 1 and administer the system until the amount of money received by the Department from the fees collected by the Department pursuant to subsection 2 is sufficient to pay the costs incurred by the Department to administer the system; and

(b) The Department agrees to reimburse the commission for any money paid by the commission pursuant to paragraph (a) from a portion of the money received by the Department from the fees collected by the Department pursuant to subsection 2.

4. As used in this section, "special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.75. 1. The Local Fuel Tax Indexing Fund is hereby created as an enterprise fund. The Department shall deposit in the Fund all fees collected by the Department pursuant to subsection 2 of section 1.7 of this act. The Director of the Department shall administer the Fund.

2. Money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

3. Money deposited in the Fund must only be expended:

(a) To administer the system established by the Department pursuant to section 1.7 of this act; and

(b) To reimburse a commission for any amounts paid by the commission pursuant to an intergovernmental agreement or contract entered into pursuant to subsection 3 of section 1.7 of this act.

4. The Director may maintain a reserve of not more than \$500,000 in the Fund. The reserve must be accounted for separately in the Fund and must only be expended to administer the system established by the Department pursuant to section 1.7 of this act.

5. Any balance remaining in the Fund at the end of any fiscal year:

(a) Does not revert to the State General Fund; and

(b) Must be carried forward to the next fiscal year.

Sec. 1.8. 1. A person who uses special fuel in a motor vehicle operated or intended to operate interstate and who pays any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act shall file with the Department a return for the purpose of the Department determining whether any amounts are owed by or to the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act. The Department shall adopt regulations establishing a system to provide for the ~~reimbursement and repayment of~~ auditing of the records of a person who files such a return to determine whether the person is entitled to reimbursement of or owes any amounts ~~owed by any person~~ pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act. The system established by the Department:

~~It~~ (a) Must ~~provide that any~~ authorize a person who uses special fuel in motor vehicles operated or intended to operate interstate to file a request for reimbursement of any amounts owed to ~~any~~ the person pursuant to an



agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act;

(b) Must provide that any reimbursement authorized by the Department be paid from only money received by a county pursuant to any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act;

(c) Must provide that the total amount of money which must be paid by any county in any fiscal year to reimburse any amounts owed to persons who use special fuel in motor vehicles operated or intended to operate interstate must not exceed 20 percent of the total amount of money collected by that county from any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act; and

~~{2.} (d) Must not be administered in a manner that directly or indirectly impairs adversely}~~ ~~apply to any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding {bonds issued under this chapter or other obligations incurred under this chapter.}~~ on January 1, 2017, secured by those taxes or of any bonds that refund such bonds provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

2. The Department shall charge and collect a fee in an amount not to exceed \$100 for each request for reimbursement filed by a person pursuant to the system established by the Department pursuant to subsection 1. All money from the fees collected by the Department pursuant to this subsection must be deposited in the Local Fuel Tax Indexing Fund created by section 1.85 of this act.

3. The Department and a commission which has been created in a county whose population is 700,000 or more and in which a tax is imposed pursuant to section 1.1 or 1.3 of this act may enter into an intergovernmental agreement or contract pursuant to which:

(a) The commission agrees to pay for the costs incurred by the Department to establish the system pursuant to subsection 1 and administer the system until the amount of money received by the Department from the fees collected by the Department pursuant to subsection 2 is sufficient to pay the costs incurred by the Department to administer the system; and

(b) The Department agrees to reimburse the commission for any money paid by the commission pursuant to paragraph (a) from a portion of the money received by the Department from the fees collected by the Department pursuant to subsection 2.

4. As used in this section, "special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.85. 1. The Local Fuel Tax Indexing Fund is hereby created as an enterprise fund. The Department shall deposit in the Fund all fees

collected by the Department pursuant to subsection 2 of section 1.8 of this act. The Director of the Department shall administer the Fund.

2. Money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

3. Money deposited in the Fund must only be expended:

(a) To administer the system established by the Department pursuant to section 1.8 of this act; and

(b) To reimburse a commission for any amounts paid by the commission pursuant to an intergovernmental agreement or contract entered into pursuant to subsection 3 of section 1.8 of this act.

4. The Director may maintain a reserve of not more than \$500,000 in the Fund. The reserve must be accounted for separately in the Fund and must only be expended to administer the system established by the Department pursuant to section 1.8 of this act.

5. Any balance remaining in the Fund at the end of any fiscal year:

(a) Does not revert to the State General Fund; and

(b) Must be carried forward to the next fiscal year.

Sec. 1.9. 1. A person who uses special fuel in a motor vehicle operated or intended to operate interstate and who pays any tax imposed on special fuels pursuant to NRS 373.066 or section 1.3 of this act shall file with the Department a return for the purpose of the Department determining whether any amounts are owed by or to the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.3 of this act. The Department shall adopt regulations establishing a system to provide for the ~~reimbursement and repayment of~~ auditing of the records of a person who files such a return to determine whether the person is entitled to reimbursement of or owes any amounts ~~owed by any person~~ pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.3 of this act. The system established by the Department:

~~1.1~~ (a) Must ~~provide that any~~ authorize a person who uses special fuel in motor vehicles operated or intended to operate interstate to file a request for reimbursement of any amounts owed to ~~any~~ the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.3 of this act;

(b) Must provide that any reimbursement authorized by the Department be paid from only money received by a county pursuant to any tax imposed on special fuels pursuant to NRS 373.066 or section 1.3 of this act;

(c) Must provide that the total amount of money which must be paid by any county in any fiscal year to reimburse any amounts owed to persons who use special fuel in motor vehicles operated or intended to operate interstate must not exceed 20 percent of the total amount of money collected by that county from any tax imposed on special fuels pursuant to NRS 373.066 or section 1.3 of this act; and

~~{2.} (d) Must not be administered in a manner that directly or indirectly impairs adversely}~~ apply to any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding ~~bonds issued under this chapter or other obligations incurred under this chapter,~~ on January 1, 2017, secured by those taxes or of any bonds that refund such bonds provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

2. The Department shall charge and collect a fee in an amount not to exceed \$100 for each request for reimbursement filed by a person pursuant to the system established by the Department pursuant to subsection 1. All money from the fees collected by the Department pursuant to this subsection must be deposited in the Local Fuel Tax Indexing Fund created by section 1.95 of this act.

3. The Department and a commission which has been created in a county whose population is 700,000 or more and in which a tax is imposed pursuant to section 1.3 of this act may enter into an intergovernmental agreement or contract pursuant to which:

(a) The commission agrees to pay for the costs incurred by the Department to establish the system pursuant to subsection 1 and administer the system until the amount of money received by the Department from the fees collected by the Department pursuant to subsection 2 is sufficient to pay the costs incurred by the Department to administer the system; and

(b) The Department agrees to reimburse the commission for any money paid by the commission pursuant to paragraph (a) from a portion of the money received by the Department from the fees collected by the Department pursuant to subsection 2.

4. As used in this section, "special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.95. 1. The Local Fuel Tax Indexing Fund is hereby created as an enterprise fund. The Department shall deposit in the Fund all fees collected by the Department pursuant to subsection 2 of section 1.9 of this act. The Director of the Department shall administer the Fund.

2. Money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

3. Money deposited in the Fund must only be expended:

(a) To administer the system established by the Department pursuant to section 1.9 of this act; and

(b) To reimburse a commission for any amounts paid by the commission pursuant to an intergovernmental agreement or contract entered into pursuant to subsection 3 of section 1.9 of this act.

4. The Director may maintain a reserve of not more than \$500,000 in the Fund. The reserve must be accounted for separately in the Fund and must only be expended to administer the system established by the Department pursuant to section 1.9 of this act.

5. Any balance remaining in the Fund at the end of any fiscal year:

(a) Does not revert to the State General Fund; and

(b) Must be carried forward to the next fiscal year.

Sec. 2. NRS 373.067 is hereby amended to read as follows:

373.067 1. Any ordinance that imposes a tax pursuant to:

(a) The provisions of paragraph (a) of subsection 1 of NRS 373.066 **or paragraph (a) of subsection 1 of section 1.1 of this act** must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180.

(b) The provisions of paragraph (b) of subsection 1 of NRS 373.066 **or paragraph (b) of subsection 1 of section 1.1 of this act** must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190.

(c) The provisions of paragraph (c) of subsection 1 of NRS 373.066 **or paragraph (c) of subsection 1 of section 1.1 of this act** must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192.

(d) Any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act** must, except as otherwise required by subsection 6 of NRS 373.140, require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 373.030.

2. Any ordinance adopted pursuant to NRS 373.066 **or section 1.1 of this act** must:

(a) Include a provision prohibiting the imposition of any penalties and interest for the failure to make any payments of any tax imposed by the ordinance which become due within the initial 6 months after the ordinance becomes effective. This provision must apply only to taxes imposed pursuant to NRS 373.066 **or section 1.1 of this act** and must not apply to any tax imposed pursuant to any other ordinance.

(b) Require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

**Sec. 2.3.** NRS 373.067 is hereby amended to read as follows:

373.067 1. Any ordinance that imposes a tax pursuant to:

(a) The provisions of paragraph (a) of subsection 1 of NRS 373.066 , **paragraph (a) of subsection 1 of section 1.1 of this act or paragraph (a) of subsection 1 of section 1.3 of this act** must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180.

(b) The provisions of paragraph (b) of subsection 1 of NRS 373.066 , **paragraph (b) of subsection 1 of section 1.1 of this act or paragraph (b) of subsection 1 of section 1.3 of this act** must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190.

(c) The provisions of paragraph (c) of subsection 1 of NRS 373.066 , **paragraph (c) of subsection 1 of section 1.1 of this act or paragraph (c) of subsection 1 of section 1.3 of this act** must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192.

(d) Any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , ***paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*** must, except as otherwise required by subsection 6 of NRS 373.140, require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 373.030.

2. Any ordinance adopted pursuant to NRS 373.066 ***or section 1.1 or 1.3 of this act*** must:

(a) Include a provision prohibiting the imposition of any penalties and interest for the failure to make any payments of any tax imposed by the ordinance which become due within the initial 6 months after the ordinance becomes effective. This provision must apply only to taxes imposed pursuant to NRS 373.066 ***or section 1.1 or 1.3 of this act*** and must not apply to any tax imposed pursuant to any other ordinance.

(b) Require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

**Sec. 2.7.** NRS 373.067 is hereby amended to read as follows:

373.067 1. Any ordinance that imposes a tax pursuant to:

(a) The provisions of paragraph (a) of subsection 1 of NRS 373.066 ***or paragraph (a) of subsection 1 of section 1.3 of this act*** must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180.

(b) The provisions of paragraph (b) of subsection 1 of NRS 373.066 ***or paragraph (b) of subsection 1 of section 1.3 of this act*** must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190.

(c) The provisions of paragraph (c) of subsection 1 of NRS 373.066 **or paragraph (c) of subsection 1 of section 1.3 of this act** must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192.

(d) Any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act** must, except as otherwise required by subsection 6 of NRS 373.140, require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 373.030.

2. Any ordinance adopted pursuant to NRS 373.066 **or section 1.3 of this act** must:

(a) Include a provision prohibiting the imposition of any penalties and interest for the failure to make any payments of any tax imposed by the ordinance which become due within the initial 6 months after the ordinance becomes effective. This provision must apply only to taxes imposed pursuant to NRS 373.066 **or section 1.3 of this act** and must not apply to any tax imposed pursuant to any other ordinance.

(b) Require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

**Sec. 3.** NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (a) to (f), inclusive, of subsection 1 of section 1.1 of this act** does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (g) to (m), inclusive, of subsection 1 of section 1.1 of this act** does not apply to any sales or uses described in NRS 366.200, except to any

sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 **or section 1.1 of this act** is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

**Sec. 3.1.** NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 , **paragraphs (a) to (f), inclusive, of subsection 1 of section 1.1 of this act, paragraph (a) of subsection 1 of section 1.2 of this act or paragraphs (a) to**



*(e), inclusive, of subsection 1 of section 1.3 of this act* does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (g) to (m), inclusive, of subsection 1 of section 1.1 of this act, paragraphs (b) to (e), inclusive, of subsection 1 of section 1.2 of this act or paragraphs (f), (g) and (h) of subsection 1 of section 1.3 of this act* does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 *or section 1.1, 1.2 or 1.3 of this act* is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to

that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

**Sec. 3.2.** NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 , ***paragraphs (a) to (f), inclusive, of subsection 1 of section 1.1 of this act or paragraph (a) of subsection 1 of section 1.2 of this act*** does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 , ***paragraphs (g) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (b) to (e), inclusive, of subsection 1 of section 1.2 of this act*** does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 ***or section 1.1 or 1.2 of this act*** is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

**Sec. 3.3.** NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 , ***paragraphs (a) to (f), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (a) to (e), inclusive, of subsection 1 of section 1.3 of this act*** does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 , ***paragraphs (g) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (f), (g) and (h) of subsection 1 of section 1.3 of this act*** does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 ***or section 1.1 or 1.3 of this act*** is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of

subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

**Sec. 3.5.** NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 , **paragraph (a) of subsection 1 of section 1.2 of this act or paragraphs (a) to (e), inclusive, of subsection 1 of section 1.3 of this act** does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 , **paragraphs (b) to (e), inclusive, of subsection 1 of section 1.2 of this act or paragraphs (f), (g) and (h) of subsection 1 of section 1.3 of this act** does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 **or section 1.2 or 1.3 of this act** is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to

that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

**Sec. 3.7.** NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 **or paragraph (a) of subsection 1 of section 1.2 of this act** does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (b) to (e), inclusive, of subsection 1 of section 1.2 of this act** does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 **or section 1.2 of this act** is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of

subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

**Sec. 3.9.** NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (a) to (e), inclusive, of subsection 1 of section 1.3 of this act** does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (f), (g) and (h) of subsection 1 of section 1.3 of this act** does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 **or section 1.3 of this act** is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

**Sec. 4.** NRS 373.070 is hereby amended to read as follows:

373.070 1. Any fuel tax ordinance enacted under this chapter must include provisions in substance as follows:

(a) A provision imposing the additional excise tax and stating the amount of the tax per gallon of fuel.

(b) If the ordinance imposes a tax on motor vehicle fuel:

(1) Provisions identical to those contained in chapter 365 of NRS on the date of enactment of the ordinance, insofar as applicable, except that:

(I) The name of the county as taxing agency must be substituted for that of the State; and

(II) An additional supplier's license is not required.

(2) A provision that all amendments to chapter 365 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the motor vehicle fuel tax ordinance of the county.

(c) If the ordinance imposes a tax on special fuel:

(1) Provisions identical to those contained in chapter 366 of NRS on the date of enactment of the ordinance, insofar as applicable and not inconsistent with this chapter, except that:

(I) The name of the county as taxing agency must be substituted for that of the State;

(II) An additional special fuel supplier's license is not required;

(III) The ordinance must not include any provisions identical to NRS 366.175 other than the provisions relating to auditing; and

(IV) The ordinance must include provisions which carry out the requirements of paragraph (b) of subsection 1 of NRS 373.068 and which prohibit the refund of any tax paid on any taxable sales or uses described in that paragraph.

(2) A provision that all amendments to chapter 366 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the special fuel tax ordinance of the county.

(d) A provision that the county shall contract before the effective date of the county fuel tax ordinance with the Department to perform all functions incident to the administration or operation of the fuel tax ordinance of the county, including, if the ordinance is enacted pursuant to NRS 373.065 or 373.066, **or section 1.1 of this act**, the calculation of each annual increase in the tax imposed pursuant to the ordinance.

2. The provisions of this section do not subject any county fuel taxes imposed pursuant to this chapter to the provisions of NRS 366.175 or any agreement made pursuant thereto, except for those provisions of NRS 366.175 and any agreement made pursuant thereto which relate to auditing. The administration, collection and distribution of any county fuel taxes imposed pursuant to this chapter do not affect, and are not affected by, the administration, collection and distribution of any fuel taxes under any agreement made pursuant to NRS 366.175.

**Sec. 4.3.** NRS 373.070 is hereby amended to read as follows:

373.070 1. Any fuel tax ordinance enacted under this chapter must include provisions in substance as follows:

(a) A provision imposing the additional excise tax and stating the amount of the tax per gallon of fuel.

(b) If the ordinance imposes a tax on motor vehicle fuel:

(1) Provisions identical to those contained in chapter 365 of NRS on the date of enactment of the ordinance, insofar as applicable, except that:

(I) The name of the county as taxing agency must be substituted for that of the State; and

(II) An additional supplier's license is not required.

(2) A provision that all amendments to chapter 365 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the motor vehicle fuel tax ordinance of the county.

(c) If the ordinance imposes a tax on special fuel:

(1) Provisions identical to those contained in chapter 366 of NRS on the date of enactment of the ordinance, insofar as applicable and not inconsistent with this chapter, except that:

(I) The name of the county as taxing agency must be substituted for that of the State;



(II) An additional special fuel supplier's license is not required;

(III) The ordinance must not include any provisions identical to NRS 366.175 other than the provisions relating to auditing; and

(IV) The ordinance must include provisions which carry out the requirements of paragraph (b) of subsection 1 of NRS 373.068 and which prohibit the refund of any tax paid on any taxable sales or uses described in that paragraph.

(2) A provision that all amendments to chapter 366 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the special fuel tax ordinance of the county.

(d) A provision that the county shall contract before the effective date of the county fuel tax ordinance with the Department to perform all functions incident to the administration or operation of the fuel tax ordinance of the county, including, if the ordinance is enacted pursuant to NRS 373.065 or 373.066, **or section 1.1 or 1.3 of this act**, the calculation of each annual increase in the tax imposed pursuant to the ordinance.

2. The provisions of this section do not subject any county fuel taxes imposed pursuant to this chapter to the provisions of NRS 366.175 or any agreement made pursuant thereto, except for those provisions of NRS 366.175 and any agreement made pursuant thereto which relate to auditing. The administration, collection and distribution of any county fuel taxes imposed pursuant to this chapter do not affect, and are not affected by, the administration, collection and distribution of any fuel taxes under any agreement made pursuant to NRS 366.175.

**Sec. 4.7.** NRS 373.070 is hereby amended to read as follows:

373.070 1. Any fuel tax ordinance enacted under this chapter must include provisions in substance as follows:

(a) A provision imposing the additional excise tax and stating the amount of the tax per gallon of fuel.

(b) If the ordinance imposes a tax on motor vehicle fuel:

(1) Provisions identical to those contained in chapter 365 of NRS on the date of enactment of the ordinance, insofar as applicable, except that:

(I) The name of the county as taxing agency must be substituted for that of the State; and

(II) An additional supplier's license is not required.

(2) A provision that all amendments to chapter 365 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the motor vehicle fuel tax ordinance of the county.

(c) If the ordinance imposes a tax on special fuel:

(1) Provisions identical to those contained in chapter 366 of NRS on the date of enactment of the ordinance, insofar as applicable and not inconsistent with this chapter, except that:

(I) The name of the county as taxing agency must be substituted for that of the State;

(II) An additional special fuel supplier's license is not required;

(III) The ordinance must not include any provisions identical to NRS 366.175 other than the provisions relating to auditing; and

(IV) The ordinance must include provisions which carry out the requirements of paragraph (b) of subsection 1 of NRS 373.068 and which prohibit the refund of any tax paid on any taxable sales or uses described in that paragraph.

(2) A provision that all amendments to chapter 366 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the special fuel tax ordinance of the county.

(d) A provision that the county shall contract before the effective date of the county fuel tax ordinance with the Department to perform all functions incident to the administration or operation of the fuel tax ordinance of the county, including, if the ordinance is enacted pursuant to NRS 373.065 or 373.066, **or section 1.3 of this act**, the calculation of each annual increase in the tax imposed pursuant to the ordinance.

2. The provisions of this section do not subject any county fuel taxes imposed pursuant to this chapter to the provisions of NRS 366.175 or any agreement made pursuant thereto, except for those provisions of NRS 366.175 and any agreement made pursuant thereto which relate to auditing. The administration, collection and distribution of any county fuel taxes imposed pursuant to this chapter do not affect, and are not affected by, the administration, collection and distribution of any fuel taxes under any agreement made pursuant to NRS 366.175.

**Sec. 5.** NRS 373.080 is hereby amended to read as follows:

373.080 All fuel taxes collected during any month by the Department pursuant to a contract with a county must be transmitted each month by the Department to the county and the Department shall, in accordance with the terms of the contract, charge the county for the Department's services specified in this section and in NRS 373.070, except that in the case of a fuel tax imposed pursuant to NRS 373.065 or 373.066, **or section 1.1 of this act**, the charge must not exceed 1 percent of the tax collected by the Department.

**Sec. 5.3.** NRS 373.080 is hereby amended to read as follows:

373.080 All fuel taxes collected during any month by the Department pursuant to a contract with a county must be transmitted each month by the Department to the county and the Department shall, in accordance with the terms of the contract, charge the county for the Department's services

specified in this section and in NRS 373.070, except that in the case of a fuel tax imposed pursuant to NRS 373.065 or 373.066, **or section 1.1 or 1.3 of this act**, the charge must not exceed 1 percent of the tax collected by the Department.

**Sec. 5.7.** NRS 373.080 is hereby amended to read as follows:

373.080 All fuel taxes collected during any month by the Department pursuant to a contract with a county must be transmitted each month by the Department to the county and the Department shall, in accordance with the terms of the contract, charge the county for the Department's services specified in this section and in NRS 373.070, except that in the case of a fuel tax imposed pursuant to NRS 373.065 or 373.066, **or section 1.3 of this act**, the charge must not exceed 1 percent of the tax collected by the Department.

**Sec. 6.** NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act** which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065 or paragraph (a), (b) or (c) of subsection 1 of NRS 373.066 **or paragraph (a), (b) or (c) of subsection 1 of section 1.1 of this act** which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

**Sec. 6.3.** NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~for~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , **paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act** which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065 , ~~or~~ paragraph (a), (b) or (c) of subsection 1 of NRS 373.066 , **paragraph (a), (b) or (c) of subsection 1 of section 1.1 of this act or paragraph (a), (b) or (c) of subsection 1 of section 1.3 of this act** which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

**Sec. 6.7.** NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act** which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065 or paragraph (a), (b) or (c) of subsection 1 of NRS 373.066 **or paragraph (a), (b) or (c) of subsection 1 of section 1.3 of this act** which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

**Sec. 7.** NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act** that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

**Sec. 7.3.** NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , ***paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*** that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

**Sec. 7.7.** NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 ***or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*** that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

**Sec. 8.** NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but

the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, **or section 1.1 of this act**, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. *Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.1 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred, but the taxes imposed pursuant to section 1.1 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.*

4. *At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.1 of this act, the board may, except as otherwise provided in subsection 5 of section 1.1 of this act, by ordinance:*

*(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.1 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act have been paid in full.*

*(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:*

*(1) The applicable percentage must not exceed 7.8 percent;*

*(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and*

*(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:*

*(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred; or*

*(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).*

*5. As used in this section, “applicable percentage” has the meaning ascribed to it in paragraph (b) of subsection 6 of section 1.1 of this act.*

**Sec. 8.1.** NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, **or section 1.1, 1.2 or 1.3 of this act**, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. *Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.1 or 1.3 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred, but the taxes imposed pursuant to section 1.1 or 1.3 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.*

4. *At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.1 or 1.3 of this act, the board may, except as otherwise provided in subsection 5 of section 1.1 of this act or subsection 4 of section 1.3 of this act, as applicable, by ordinance:*

*(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, have been paid in full.*

*(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:*

*(1) The applicable percentage must not exceed 7.8 percent;*

*(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and*

*(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:*

*(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred; or*

*(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).*

*5. As used in this section, "applicable percentage":*

*(a) With regard to any tax imposed pursuant to section 1.1 of this act, has the meaning ascribed to it in paragraph (b) of subsection 6 of section 1.1 of this act.*

*(b) With regard to any tax imposed pursuant to section 1.3 of this act, has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.3 of this act.*

**Sec. 8.2.** NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any



county designated in NRS 373.030, 373.065 or 373.066, **or section 1.1 or 1.2 of this act**, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

**3. Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.1 or 1.3 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred, but the taxes imposed pursuant to section 1.1 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.**

**4. At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.1 of this act, the board may, except as otherwise provided in subsection 5 of section 1.1 of this act, by ordinance:**

**(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.1 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act have been paid in full.**

**(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:**

**(1) The applicable percentage must not exceed 7.8 percent;**

**(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and**

**(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:**

**(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred; or**

**(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).**

**5. *As used in this section, “applicable percentage” has the meaning ascribed to it in paragraph (b) of subsection 6 of section 1.1 of this act.***

**Sec. 8.3.** NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, **or section 1.1 or 1.3 of this act**, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

**3. *Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.1 or 1.3 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred, but the taxes imposed pursuant to section 1.1 or 1.3 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.***

**4. *At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.1 or 1.3 of this act, the board may, except as otherwise provided in subsection 5 of section 1.1 of this act or subsection 4 of section 1.3 of this act, as applicable, by ordinance:***

**(a) *Continue the pledge of the increase in taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred, but not beyond June 30 of the fiscal year that is 5***

*full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, have been paid in full.*

*(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:*

*(1) The applicable percentage must not exceed 7.8 percent;*

*(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and*

*(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:*

*(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred; or*

*(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).*

*5. As used in this section, “applicable percentage”:*

*(a) With regard to any tax imposed pursuant to section 1.1 of this act, has the meaning ascribed to it in paragraph (b) of subsection 6 of section 1.1 of this act.*

*(b) With regard to any tax imposed pursuant to section 1.3 of this act, has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.3 of this act.*

**Sec. 8.5.** NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, **or section 1.2 or 1.3 of this act**, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations

for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

**3. Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.3 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred, but the taxes imposed pursuant to section 1.3 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.**

**4. At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.3 of this act, the board may, except as otherwise provided in subsection 4 of section 1.3 of this act, by ordinance:**

**(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.3 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act have been paid in full.**

**(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:**

**(1) The applicable percentage must not exceed 7.8 percent;**

**(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and**

**(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:**

**(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred; or**

**(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).**

**5. As used in this section, "applicable percentage" has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.3 of this act.**

**Sec. 8.7.** NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other

obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, **or section 1.2 of this act**, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

**Sec. 8.9.** NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, **or section 1.3 of this act**, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. **Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.3 of this act must not**

*be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred, but the taxes imposed pursuant to section 1.3 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.*

*4. At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.3 of this act, the board may, except as otherwise provided in subsection 4 of section 1.3 of this act, by ordinance:*

*(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.3 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act have been paid in full.*

*(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:*

*(1) The applicable percentage must not exceed 7.8 percent;*

*(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and*

*(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:*

*(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred; or*

*(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).*

*5. As used in this section, "applicable percentage" has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.3 of this act.*

**Sec. 9.** NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board

may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board or, in a county whose population is 100,000 or more, a commission, may, after the enactment of any ordinance authorized by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, ***or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act,*** issue revenue bonds and other revenue securities, on the behalf and in the name of the county or the commission, as the case may be:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~and~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , ~~and~~ ***paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act and, with respect to notes, warrants or interim debentures described in paragraphs (a) and (b) of subsection 6, the proceeds of bonds or interim debentures;***

(b) Which must not be general obligations of the county or the commission or a charge on any real estate within the county; and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county or a commission as provided in subsection 2 is authorized to issue bonds or other securities without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, or, in a county whose population is 100,000 or more, a commission may, on behalf and in the name of the commission, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county or commission securities, and in connection with the undertaking or project, the board or the commission, as the case may be, may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

➡ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065 and paragraphs (a) and (b) of subsection 1 of NRS 373.066 **and paragraphs (a) and (b) of subsection 1 of section 1.1 of this act** may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board of the county consents to such use. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing the issuance of any bond or other revenue security under this section must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board or commission, as the case may be, of details



as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified, if such bond or other security is issued by the county and not the commission.

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

**Sec. 9.3.** NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board or, in a county whose population is 100,000 or more, a commission, may, after the enactment of any ordinance authorized **or required** by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~for~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, **paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act**, issue revenue bonds and other revenue securities, on the behalf and in the name of the county or the commission, as the case may be:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~and~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 ~~and~~ **paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act and, with respect to notes, warrants or interim debentures described in**

***paragraphs (a) and (b) of subsection 6, the proceeds of bonds or interim debentures;***

(b) Which must not be general obligations of the county or the commission or a charge on any real estate within the county; and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county or a commission as provided in subsection 2 is authorized to issue bonds or other securities without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, or, in a county whose population is 100,000 or more, a commission may, on behalf and in the name of the commission, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county or commission securities, and in connection with the undertaking or project, the board or the commission, as the case may be, may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

➡ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065, ~~and~~ paragraphs (a) and (b) of subsection 1 of NRS 373.066, ***paragraphs (a) and (b) of subsection 1 of section 1.1 of this act and paragraphs (a) and (b) of subsection 1 of section 1.3 of this act*** may be used

by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board of the county consents to such use. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing the issuance of any bond or other revenue security under this section must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board or commission, as the case may be, of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified, if such bond or other security is issued by the county and not the commission.

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

**Sec. 9.7.** NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to

NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board or, in a county whose population is 100,000 or more, a commission, may, after the enactment of any ordinance authorized **or required** by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, **or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act**, issue revenue bonds and other revenue securities, on the behalf and in the name of the county or the commission, as the case may be:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, ~~and~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 ~~and~~ **paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act and, with respect to notes, warrants or interim debentures described in paragraphs (a) and (b) of subsection 6, the proceeds of bonds or interim debentures;**

(b) Which must not be general obligations of the county or the commission or a charge on any real estate within the county; and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county or a commission as provided in subsection 2 is authorized to issue bonds or other securities without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, or, in a county whose population is 100,000 or more, a commission may, on behalf and in the name of the commission, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county or commission securities, and in

connection with the undertaking or project, the board or the commission, as the case may be, may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

➡ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065 and paragraphs (a) and (b) of subsection 1 of NRS 373.066 **and paragraphs (a) and (b) of subsection 1 of section 1.3 of this act** may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board of the county consents to such use. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing the issuance of any bond or other revenue security under this section must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board or commission, as the case may be, of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified, if such bond or other security is issued by the county and not the commission.

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

**Sec. 10.** NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 ***or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act*** must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

- (a) The priorities established by the plan;
- (b) The relation of the proposed work to other projects already constructed or authorized;
- (c) The relative need for the project in comparison with others proposed; and
- (d) The money available.

➡ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of

subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, **or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act**, except as otherwise required by subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred under this chapter, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➡ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act**

must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

**Sec. 10.3.** NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~for~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , **paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act** must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

- (a) The priorities established by the plan;
- (b) The relation of the proposed work to other projects already constructed or authorized;
- (c) The relative need for the project in comparison with others proposed; and
- (d) The money available.

➤ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~for~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, **paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act**, except as otherwise required by subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred under this chapter, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.



3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➔ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , ***paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*** must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

**Sec. 10.7.** NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 ***or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*** must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

(a) The priorities established by the plan;

(b) The relation of the proposed work to other projects already constructed or authorized;

(c) The relative need for the project in comparison with others proposed; and

(d) The money available.

➔ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, **or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act**, except as otherwise required by subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred under this chapter, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

↪ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 **or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act** must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

**Sec. 11.** NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances, or the resolution or resolutions, providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board or, in the case of bonds or other securities issued by a commission, the commission, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, **and paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act**, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.

2. If the board or, in the case of bonds or other securities issued by a commission, the commission, determines in any ordinance or resolution authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 **and paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act** are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131, may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance or resolution under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131,

but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

**Sec. 11.1.** NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances, or the resolution or resolutions, providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board or, in the case of bonds or other securities issued by a commission, the commission, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, ***paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act***, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.

2. If the board or, in the case of bonds or other securities issued by a commission, the commission, determines in any ordinance or resolution authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , ***paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*** are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131, may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance

or resolution under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

**Sec. 11.3.** NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances, or the resolution or resolutions, providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board or, in the case of bonds or other securities issued by a commission, the commission, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, **and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act**, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.

2. If the board or, in the case of bonds or other securities issued by a commission, the commission, determines in any ordinance or resolution authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 **and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act** are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131, may additionally secure the

payment of any bonds or other securities issued pursuant to the ordinance or resolution under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

**Sec. 11.5.** NRS 350.155 is hereby amended to read as follows:

350.155 1. Except as otherwise provided in subsection 2, a municipality shall sell the bonds it issues by competitive bid if the credit rating for the bonds or any other bonds of the municipality with the same security, determined without regard to insurance for the bonds or any other independent enhancement of credit, is rated by a nationally recognized rating service as "A-," "A," "AA," "AAA," or their equivalents, 90 days before and on the day the bonds are sold and:

- (a) The bonds are general obligation bonds;
- (b) The primary security for the bonds is an excise tax; or
- (c) The bonds are issued pursuant to chapter 271 of NRS and are secured by a pledge of the taxing power and the general fund of the municipality.

2. The provisions of subsection 1 and NRS 350.175 and 350.185 do not apply to:

- (a) Any bond which is issued with a variable rate of interest.
- (b) A bond issue whose principal amount is \$1,000,000 or less.
- (c) A bond issue with a term of 3 years or less.
- (d) A bond issue for which an invitation for competitive bids was issued and for which no bids were received or all bids were rejected.
- (e) Leases, contracts for purchase by installment and certificates of participation if the obligations of the municipality thereunder will terminate when the municipality fails to appropriate money to pay that obligation for the next fiscal year.
- (f) Economic development revenue bonds issued pursuant to the city economic development revenue bond law or the county economic development revenue bond law.
- (g) Bonds sold by the municipality to:

- (1) The United States or any agency or instrumentality thereof;
- (2) The State of Nevada;
- (3) Any other municipality; or
- (4) Not more than 10 investors, each of whom certifies that he or she:
  - (I) Has a net worth of \$500,000 or more; and
  - (II) Is purchasing for investment and not for resale.

(h) Bonds which require unusual methods of financing, if the chief administrative officer of the municipality certifies in writing that the proposed method of financing:

- (1) Has not been used previously by any municipality in this state; and
- (2) May provide a substantial benefit to the municipality.

(i) Refunding bonds, if the chief administrative officer of the municipality certifies in writing that the use of a negotiated sale may provide a substantial benefit to the municipality which would not be available if the bonds were sold by competitive bid.

(j) Bonds which are sold at a time when, because of particular conditions in the market, a negotiated sale may provide a benefit to the municipality which would not be available if the bonds were sold by competitive bid, if the chief administrative officer of the municipality so certifies in writing.

(k) Bonds which are issued pursuant to chapter 271 of NRS and are not secured by a pledge of the taxing power and general fund of the municipality.

(l) Revenue bonds which are issued pursuant to chapter 350A of NRS and are secured by a pledge of the allocable local revenues of the municipality.

~~[(m) Revenue bonds which are sold pursuant to chapter 373 of NRS.]~~

3. The certificate required by paragraph (h) of subsection 2 must specifically describe the proposed method of financing. The certificate required by paragraph (i) of subsection 2 must specifically describe the circumstances that may provide a substantial benefit if the refunding bonds are negotiated. The certificate required by paragraph (j) of subsection 2 must specifically describe the particular conditions in the market which indicate that a negotiated sale of the bonds may provide a benefit to the municipality. Each certificate required pursuant to subsection 2 must be submitted to the governing body of the municipality at a regularly scheduled meeting of that body and include:

(a) The estimated amount of the benefit which will accrue to the municipality.

(b) If the municipality has a financial adviser, a written report prepared by that financial adviser which specifically describes the method of sale which will be used for the proposed financing.

4. A copy of:

- (a) The certificate required by paragraph (h), (i) or (j) of subsection 2; and
- (b) The report required pursuant to subsection 3,

↪ must be filed with the debt management commission of the county where the municipality is located, the county clerk and the Department of Taxation. Before entering into a contract to sell bonds, at least two-thirds of the members of the governing body of the municipality must approve the certificate.

5. If a municipality is required to sell the bonds it issues by competitive bid pursuant to the provisions of this section, it must cause an invitation for competitive bids, or notice thereof, to be published before the date of the sale in the daily or weekly version of the Bond Buyer, published at One State Street Plaza in New York City, New York, or any successor publication.

6. As used in this section, “invitation for competitive bids” means a process by which sealed bids or the reasonable equivalent thereof, as approved by the governing body of a municipality, are solicited, received and publicly opened at a specified time, place and date.

**Sec. 12.** If an ordinance authorized by section 1.1 of this act is not adopted before October 1, 2013:

1. A question must be placed on the ballot at the general election on November 8, 2016, in each county in this State which asks the voters whether to authorize the State to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes authorized by section 1.2 of this act and the increases in those taxes authorized by that section.

2. A question must be placed on the ballot at the general election on November 8, 2016, in each county in this State other than Washoe County, which asks the voters in the county whether to authorize the board of county commissioners of the county to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes authorized by section 1.3 of this act and the additional annual increases in those taxes authorized by that section.

**Sec. 13.** If an ordinance authorized by section 1.1 of this act is adopted before October 1, 2013:

1. A question must be placed on the ballot at the general election on November 8, 2016, in each county in this State which asks the voters whether to authorize the State to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes authorized by section 1.2 of this act and the increases in those taxes authorized by that section.

2. A question must be placed on the ballot at the general election on November 8, 2016, in each county in this State other than Clark County and Washoe County, which asks the voters in the county whether to authorize the board of county commissioners of the county to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes authorized by section 1.3 of this act and the additional annual increases in those taxes authorized by that section.



**Sec. 14.** 1. This section and sections 1, 1.1, 1.7, 1.75, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 11.5 of this act become effective upon passage and approval.

2. Section 12 of this act becomes effective on October 1, 2013, if and only if a board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013.

3. Section 13 of this act becomes effective on October 1, 2013, if and only if a board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013.

4. Sections 1.2, 1.5, 3.2 and 8.2 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 13 of this act is approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 13 of this act is not approved by a majority of the registered voters in every county in this State voting on the question.

5. Sections 1.2, 1.3, 1.5, 1.8, 1.85, 2.3, 3.1, 4.3, 5.3, 6.3, 7.3, 8.1, 9.3, 10.3 and 11.1 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 13 of this act is approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 13 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

6. Sections 1.3, 1.8, 1.85, 2.3, 3.3, 4.3, 5.3, 6.3, 7.3, 8.3, 9.3, 10.3 and 11.1 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 13 of this act is not approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 13 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

7. Sections 1.2, 1.5, 3.7 and 8.7 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 12 of this act is approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 12 of this act is not approved by a majority of the registered voters in every county in this State voting on the question.

8. Sections 1.2, 1.3, 1.5, 1.9, 1.95, 2.7, 3.5, 4.7, 5.7, 6.7, 7.7, 8.5, 9.7, 10.7 and 11.3 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 12 of this act is approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 12 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

9. Sections 1.3, 1.9, 1.95, 2.7, 3.9, 4.7, 5.7, 6.7, 7.7, 8.9, 9.7, 10.7 and 11.3 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 12 of this act is not approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 12 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

10. Sections 1.1, 1.7, 1.75, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of this act expire by limitation on October 1, 2013, if a board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013.

Assemblywoman Bustamante Adams moved that the Assembly concur in the Senate Amendment No. 974 to Assembly Bill No. 413.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

## REPORTS OF COMMITTEES

*Madam Speaker:*

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 239, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES OHRENSCHALL, *Chair*

*Madam Speaker:*

Your Committee on Ways and Means, to which was referred Senate Bill No. 517, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

## GENERAL FILE AND THIRD READING

Senate Bill No. 239.

Bill read third time.

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

Amendment No. 987.

AN ACT relating to elections; ~~requiring~~ **authorizing** the Secretary of State to obtain certain information from the Social Security Administration relating to deceased residents; requiring county clerks to cancel the voter registrations of such persons under certain circumstances; **authorizing county and city clerks to establish a program to distribute sample ballots to registered voters by electronic mail;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Secretary of State to establish and maintain an official statewide voter registration list, in consultation with each county and city clerk, which must be regularly maintained to ensure the integrity of the voter registration and election processes. (NRS 293.675) Existing law also requires a county clerk to cancel the registration of a person if: (1) the county clerk has personal knowledge of the death of the person; or (2) an authenticated certificate of death of the person is filed in the county clerk's office. (NRS 293.540)

**Section 3** of this bill ~~requires~~ **authorizes** the Secretary of State to obtain available information from the Social Security Administration relating to deceased residents of this State and to compare that information to the statewide voter registration list. **Section 3** also provides that if it appears after such comparison that a person on the statewide voter registration list is deceased, the Secretary of State shall provide written notification to the appropriate county clerk. **Section 1.5** of this bill requires the county clerk to cancel the voter registration of such a person if the county clerk has independently verified the person's death.

Under existing law, each county and city clerk is required to mail a sample ballot to each registered voter in the applicable county or city. (NRS 293.565, 293C.530) Sections 2.5 and 5 of this bill authorize each county and city clerk to establish a program to distribute sample ballots by electronic mail. If a clerk establishes such a program, the clerk will be required to distribute sample ballots by electronic mail to each registered voter who elects to receive sample ballots in that manner. Sections 1, 4 and 6-10 of this bill make conforming changes.

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

**Section 1. NRS 293.097 is hereby amended to read as follows:**

293.097 "Sample ballot" means a document distributed by a county or city clerk upon which is ~~printed~~ **included** a list of the offices, candidates and ballot questions that will appear on a ballot. The term includes any such document which is **generated or** printed by a computer ~~or~~ **and which is distributed by mail or electronic mail.**

~~{Section 1.}~~ **Sec. 1.5.** NRS 293.540 is hereby amended to read as follows:

293.540 The county clerk shall cancel the registration:

1. If the county clerk has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in the county clerk's office. ***For purposes of this subsection, a county clerk does not have personal knowledge of the death of a person registered if that knowledge is based solely on notification received from the Secretary of State pursuant to paragraph (b) of subsection 4 of NRS 293.675.***

2. ***If the county clerk receives notification of the death of a person registered from the Secretary of State pursuant to paragraph (b) of subsection 4 of NRS 293.675 and the county clerk has independently verified the person's death. For purposes of this subsection, the county clerk may use any reasonable and reliable means of independent verification.***

3. If the insanity or mental incompetence of the person registered is legally established.

~~{3.}~~ **4.** Upon the determination that the person registered has been convicted of a felony unless:

(a) If the person registered was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of NRS 213.090, 213.155 or 213.157.

(b) If the person registered was convicted of a felony in another state, the right to vote of the person has been restored pursuant to the laws of the state in which the person was convicted.

~~{4-}~~ 5. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

~~{5-}~~ 6. Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.

~~{6-}~~ 7. At the request of the person registered.

~~{7-}~~ 8. If the county clerk has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530 or 293.535 and the elector has failed to respond or appear to vote within the required time.

~~{8-}~~ 9. As required by NRS 293.541.

~~{9-}~~ 10. Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.

**Sec. 2.** NRS 293.543 is hereby amended to read as follows:

293.543 1. If the registration of an elector is cancelled pursuant to subsection ~~{2}~~ 3 of NRS 293.540, the county clerk shall reregister the elector upon notice from the clerk of the district court that the elector has been declared sane or mentally competent by the district court.

2. If the registration of an elector is cancelled pursuant to subsection ~~{3}~~ 4 of NRS 293.540, the elector may reregister after presenting satisfactory evidence which demonstrates that the elector's:

(a) Conviction has been overturned; or

(b) Civil rights have been restored:

(1) If the elector was convicted in this State, pursuant to the provisions of NRS 213.090, 213.155 or 213.157.

(2) If the elector was convicted in another state, pursuant to the laws of the state in which he or she was convicted.

3. If the registration of an elector is cancelled pursuant to the provisions of subsection ~~{5}~~ 6 of NRS 293.540, the elector may reregister immediately.

4. If the registration of an elector is cancelled pursuant to the provisions of subsection ~~{6}~~ 7 of NRS 293.540, after the close of registration for a primary election, the elector may not reregister until after the primary election.

**Sec. 2.5. NRS 293.565 is hereby amended to read as follows:**

293.565 1. Except as otherwise provided in subsection 3, sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note or description of anticipated financial effect, as provided pursuant to NRS 218D.810, 293.250, 293.481, 293.482, 295.015 or 295.095 for each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218D.810, 293.250, 293.481, 293.482 or 295.121, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218D.810, 293.250, 293.252, 293.481, 293.482 or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. If, pursuant to the provisions of NRS 293.2565, the word "Incumbent" must appear on the ballot next to the name of the candidate who is the incumbent, the word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent.

3. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

4. **The county clerk may establish a program to distribute sample ballots to registered voters by electronic mail pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State.**

5. **If the county clerk establishes a program pursuant to subsection 4 to distribute sample ballots to registered voters by electronic mail, a registered voter may elect to receive a sample ballot by electronic mail. If a registered voter elects to receive a sample ballot by electronic mail, the county clerk shall distribute the sample ballot to the registered voter by electronic mail pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State. If a registered voter does not elect to receive a sample ballot by electronic mail, the county clerk shall distribute the sample ballot to the registered voter by mail.**

6. Before the period for early voting for any election begins, the county clerk shall cause to be ~~mailed~~ **distributed by mail or electronic mail, as applicable,** to each registered voter in the county ~~for the~~ sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before ~~mailing~~ **distributing** the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE  
HAS CHANGED SINCE THE LAST ELECTION

~~15-1 7.~~ **8.** Except as otherwise provided in subsection ~~16-1 8.~~ a sample ballot ~~required to be mailed~~ **distributed** pursuant to this section must:

- (a) Be ~~printed~~ **prepared** in at least 12-point type; and
- (b) Include on the front page, in a separate box created by bold lines, a notice ~~printed~~ **prepared** in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN  
LARGE TYPE, CALL (Insert appropriate telephone number)

~~16-1 8.~~ **8.** A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~17-1 9.~~ **9.** The sample ballot ~~mailed~~ **distributed** to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be ~~printed~~ **prepared** in at least 14-point type, or larger when practicable.

~~18-1 10.~~ **10.** If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots ~~mailed~~ **distributed** to that person from the county are in large type.

~~19-1 11.~~ **11.** The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and

(c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at his or her regularly designated polling place.

~~10.~~ **12.** The cost of ~~mailing~~ distributing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

**Sec. 3.** NRS 293.675 is hereby amended to read as follows:

293.675 1. The Secretary of State shall establish and maintain an official statewide voter registration list, which may be maintained on the Internet, in consultation with each county and city clerk.

2. The statewide voter registration list must:

- (a) Be a uniform, centralized and interactive computerized list;
- (b) Serve as the single method for storing and managing the official list of registered voters in this State;
- (c) Serve as the official list of registered voters for the conduct of all elections in this State;
- (d) Contain the name and registration information of every legally registered voter in this State;
- (e) Include a unique identifier assigned by the Secretary of State to each legally registered voter in this State;
- (f) Except as otherwise provided in subsection 6, be coordinated with the appropriate databases of other agencies in this State;
- (g) Be electronically accessible to each state and local election official in this State at all times;
- (h) Except as otherwise provided in subsection 7, allow for data to be shared with other states under certain circumstances; and
- (i) Be regularly maintained to ensure the integrity of the registration process and the election process.

3. Each county and city clerk shall:

- (a) Electronically enter into the statewide voter registration list all information related to voter registration obtained by the county or city clerk at the time the information is provided to the county or city clerk; and
- (b) Provide the Secretary of State with information concerning the voter registration of the county or city and other reasonable information requested by the Secretary of State in the form required by the Secretary of State to establish or maintain the statewide voter registration list.

4. In establishing and maintaining the statewide voter registration list, the Secretary of State ~~shall enter~~ :

(a) ~~Enter~~ Shall enter into a cooperative agreement with the Department of Motor Vehicles to match information in the database of the statewide voter registration list with information in the appropriate database of the



Department of Motor Vehicles to verify the accuracy of the information in an application to register to vote. ~~It~~; and

~~(b) Obtain~~ ***May obtain from the Social Security Administration available information relating to deceased residents of this State and compare the information received to the statewide voter registration list. If it appears based on information received pursuant to this paragraph that a registered voter is deceased, the Secretary of State shall provide written notification to the appropriate county clerk.***

5. The Department of Motor Vehicles shall enter into an agreement with the Social Security Administration pursuant to 42 U.S.C. § 15483, to verify the accuracy of information in an application to register to vote.

6. Except as otherwise provided in NRS 481.063 or any provision of law providing for the confidentiality of information, the Secretary of State may enter into an agreement with an agency of this State pursuant to which the agency provides to the Secretary of State any information in the possession of the agency that the Secretary of State deems necessary to maintain the statewide voter registration list.

7. The Secretary of State may:

(a) Request from the chief officer of elections of another state any information which the Secretary of State deems necessary to maintain the statewide voter registration list; and

(b) Provide to the chief officer of elections of another state any information which is requested and which the Secretary of State deems necessary for the chief officer of elections of that state to maintain a voter registration list, if the Secretary of State is satisfied that the information provided pursuant to this paragraph will be used only for the maintenance of that voter registration list.

**Sec. 4. NRS 293.780 is hereby amended to read as follows:**

293.780 1. A person who is entitled to vote shall not vote or attempt to vote more than once at the same election. Any person who votes or attempts to vote twice at the same election is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. Notice of the provisions of subsection 1 must be given by the county or city clerk as follows:

(a) ~~Printed~~ **Stated** on all sample ballots ~~mailed;~~ **distributed by mail or electronic mail;**

(b) Posted in boldface type at each polling place; and

(c) Posted in boldface type at the office of the county or city clerk.

**Sec. 5. NRS 293C.530 is hereby amended to read as follows:**

293C.530 1. **The city clerk may establish a program to distribute sample ballots to registered voters by electronic mail pursuant to the**

procedures and requirements set forth by regulations adopted by the Secretary of State.

2. If the city clerk establishes a program pursuant to subsection 1 to distribute sample ballots to registered voters by electronic mail, a registered voter may elect to receive a sample ballot by electronic mail. If a registered voter elects to receive a sample ballot by electronic mail, the city clerk shall distribute the sample ballot to the registered voter by electronic mail pursuant to the procedures and requirements set forth by regulations adopted by the Secretary of State. If a registered voter does not elect to receive a sample ballot by electronic mail, the city clerk shall distribute the sample ballot to the registered voter by mail.

3. Before the period for early voting for any election begins, the city clerk shall cause to be ~~mailed~~ **distributed by mail or electronic mail, as applicable,** to each registered voter in the city ~~for the~~ sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

(a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before ~~mailing~~ **distributing** the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE  
HAS CHANGED SINCE THE LAST ELECTION

~~2-4~~ 4. Except as otherwise provided in subsection ~~4-4~~ 6, a sample ballot ~~required to be mailed~~ **distributed** pursuant to this section must:

(a) Be ~~printed~~ **prepared** in at least 12-point type;

(b) Include the description of the anticipated financial effect and explanation of each citywide measure and advisory question, including arguments for and against the measure or question, as required pursuant to NRS 293.481, 293.482, 295.205 or 295.217; and

(c) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN  
LARGE TYPE, CALL (Insert appropriate telephone number)

~~3-4~~ 5. The word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent, if required pursuant to NRS 293.2565.

~~4-4~~ 6. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point

type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~15.1~~ 7. The sample ballot ~~mailed~~ **distributed** to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.

~~16.1~~ 8. If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots mailed to that person from the city are in large type.

~~17.1~~ 9. The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

- (a) The addresses of such centralized voting locations;
- (b) The types of specially equipped voting devices available at such centralized voting locations; and
- (c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at the voter's regularly designated polling place.

~~18.1~~ 10. The cost of ~~mailing~~ **distributing** sample ballots for a city election must be borne by the city holding the election.

**Sec. 6. NRS 244A.785 is hereby amended to read as follows:**

244A.785 1. The board of county commissioners of a county whose population is 700,000 or more may, by ordinance, create one or more districts within the unincorporated area of the county for the support of public parks. Such a district may include territory within the boundary of an incorporated city if so provided by interlocal agreement between the county and the city.

2. The ordinance creating a district must specify its boundaries. The area included within the district may be contiguous or noncontiguous. The boundaries set by the ordinance are not affected by later annexations to or incorporation of a city.

3. The alteration of the boundaries of such a district may be initiated by:

- (a) A petition proposed unanimously by the owners of the property which is located in the proposed area which was not previously included in the district; or

(b) A resolution adopted by the board of county commissioners on its own motion.

↪ If the board of county commissioners proposes on its own motion to alter the boundaries of a district for the support of public parks, it shall, at the next primary or general election, submit to the registered voters who reside in the proposed area which was not previously included in the district, the question of whether the boundaries of the district shall be altered. If a majority of the voters approve the question, the board shall, by ordinance, alter the boundaries of the district as approved by the voters.

4. The sample ballot required to be ~~mailed~~ **distributed** pursuant to NRS 293.565 must include for the question described in subsection 3, a disclosure of any future increase or decrease in costs which may be reasonably anticipated in relation to the purposes of the district for the support of public parks and its probable effect on the district's tax rate.

**Sec. 7. NRS 266.0325 is hereby amended to read as follows:**

266.0325 1. At least 10 days before an election held pursuant to NRS 266.029, the county clerk or registrar of voters shall cause to be ~~mailed~~ **distributed** to each qualified elector **by mail or electronic mail, as applicable**, a sample ballot for the elector's precinct with a notice informing the elector of the location of the polling place for that precinct.

2. The sample ballot must:

(a) Be in the form required by NRS 266.032.

(b) Include the information required by NRS 266.032.

(c) Except as otherwise provided in subsection 3, be ~~printed~~ **prepared** in at least 12-point type.

(d) Describe the area proposed to be incorporated by assessor's parcel maps, existing boundaries of subdivision or parcel maps, identifying visible ground features, extensions of the visible ground features, or by any boundary that coincides with the official boundary of the State, a county, a city, a township, a section or any combination thereof.

(e) Contain a copy of the map or plat that was submitted with the petition pursuant to NRS 266.019 and depicts the existing dedicated streets, sewer interceptors and outfalls and their proposed extensions.

(f) Include on the front page, in a separate box created by bold lines, a notice ~~printed~~ **prepared** in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN

LARGE TYPE, CALL (Insert appropriate telephone number)

3. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on ~~the pages of~~ the sample ballot.

4. The sample ballot ~~mailed~~ **distributed** to a person who requests a sample ballot in large type by exercising the option provided pursuant to

NRS 293.508, or in any other manner, must be ~~printed~~ prepared in at least 14-point type, or larger when practicable.

5. If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots ~~mailed~~ distributed to that person from the county are in large type.

**Sec. 8. NRS 349.015 is hereby amended to read as follows:**

349.015 1. Except as otherwise provided in subsection 3, the sample ballot required to be ~~mailed~~ distributed pursuant to NRS 293.565 or 293C.530, and the notice of election must contain:

- (a) The time and places of holding the election.
- (b) The hours during the day in which the polls will be open, which must be the same as provided for general elections.
- (c) The purposes for which the bonds are to be issued.
- (d) A disclosure of any:

(1) Future increase or decrease in costs which can reasonably be anticipated in relation to the purposes for which the obligations are to be issued and its probable effect on the tax rate; and

(2) Requirement relating to the bond question which is imposed pursuant to a court order or state or federal statute and the probable consequences which will result if the bond question is not approved by the voters.

(e) An estimate of the annual cost to operate, maintain and repair any buildings, structures or other facilities or improvements to be constructed or acquired with the proceeds of the bonds.

(f) The maximum amount of the bonds.

(g) The maximum rate of interest.

(h) The maximum number of years which the bonds are to run.

2. Any election called pursuant to NRS 349.010 to 349.070, inclusive, may be consolidated with a primary or general election.

3. If the election is consolidated with a general election, the notice of election need not set forth the places of holding the election, but may instead state that the places of holding the election will be the same as those provided for the general election.

**Sec. 9. NRS 350.024 is hereby amended to read as follows:**

350.024 1. The ballot question for a proposal submitted to the electors of a municipality pursuant to subsection 1 of NRS 350.020 must contain the principal amount of the general obligations to be issued or incurred, the purpose of the issuance or incurrence of the general obligations and an estimate established by the governing body of:

(a) The duration of the levy of property tax that will be used to pay the general obligations; and

(b) The average annual increase, if any, in the amount of property taxes that an owner of a new home with a fair market value of \$100,000 will pay for debt service on the general obligations to be issued or incurred.

2. Except as otherwise provided in subsection 4, the sample ballot required to be ~~mailed~~ **distributed** pursuant to NRS 293.565 or 293C.530 and the notice of election must contain:

(a) The time and places of holding the election.

(b) The hours during the day in which the polls will be open, which must be the same as provided for general elections.

(c) The ballot question.

(d) The maximum amount of the obligations, including the anticipated interest, separately stating the total principal, the total anticipated interest and the anticipated interest rate.

(e) An estimate of the range of property tax rates stated in dollars and cents per \$100 of assessed value necessary to provide for debt service upon the obligations for the dates when they are to be redeemed. The municipality shall, for each such date, furnish an estimate of the assessed value of the property against which the obligations are to be issued or incurred, and the governing body shall estimate the tax rate based upon the assessed value of the property as given in the assessor's estimates.

3. If an operating or maintenance rate is proposed in conjunction with the question to issue obligations, the questions may be combined, but the sample ballot and notice of election must each state the tax rate required for the obligations separately from the rate proposed for operation and maintenance.

4. Any election called pursuant to NRS 350.020 to 350.070, inclusive, may be consolidated with a primary or general municipal election or a primary or general state election. The notice of election need not set forth the places of holding the election, but may instead state that the places of holding the election will be the same as those provided for the election with which it is consolidated.

5. If the election is a special election, the clerk shall cause notice of the close of registration to be published in a newspaper printed in and having a general circulation in the municipality once in each calendar week for 2 successive calendar weeks next preceding the close of registration for the election.

**Sec. 10. NRS 350.027 is hereby amended to read as follows:**

350.027 1. In addition to any requirements imposed pursuant to NRS 350.024, any sample ballot required to be ~~mailed~~ **distributed** pursuant to NRS 293.565 or 293C.530 and any notice of election, for an election that includes a proposal for the issuance by any municipality of any bonds or other securities, including an election that is not called pursuant to NRS 350.020 to 350.070, inclusive, must contain an estimate of the annual

cost to operate, maintain and repair any buildings, structures or other facilities or improvements to be constructed or acquired with the proceeds of the bonds or other securities.

2. For the purposes of this section, “municipality” has the meaning ascribed to it in NRS 350.538.

**Sec. 11. 1. This section and sections 1, 2.5 and 4 to 10, inclusive, of this act become effective upon passage and approval for purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of those sections and on January 1, 2014, for all other purposes.**

**2. Sections 1.5, 2 and 3 of this act become effective on October 1, 2013.**

Assemblyman Ohrenschall moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 74.

The following Senate amendment was read:

Amendment No. 981.

AN ACT relating to public affairs; requiring that document preparation services be registered with the Secretary of State; establishing qualifications for registration; requiring the filing of a bond; regulating the business practices of document preparation services; authorizing disciplinary action and other remedies in specified circumstances; providing civil and criminal penalties; ~~making an appropriation;~~ **revising provisions relating to the Notary Public Training Account in the State General Fund;** and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law prohibits a person who is not an active member of the State Bar of Nevada or otherwise authorized to practice law in this State from engaging in the practice of law. (NRS 7.285) However, so long as he or she does not engage in the practice of law, there is currently no statutory provision governing a person who provides assistance in a legal matter, for compensation, to another person who is acting without the assistance of an attorney. This bill generally provides that any person engaged in the business of providing such assistance (a “document preparation service”) must register with the Secretary of State and comply with various additional requirements set forth in this bill.

**Section 4** of this bill defines a “document preparation service” as any person who, for compensation and at the direction of a client, provides

assistance to the client in a legal matter, including, without limitation, preparing or completing a pleading or other document for the client or securing supporting documents. **Section 4** excludes from this definition, among others: (1) an attorney authorized to practice law in this State, or an employee of such an attorney who is paid directly by the attorney or law firm with whom the attorney is associated and who is acting in the course and scope of that employment; (2) a governmental entity or an employee of such an entity; (3) a nonprofit, tax-exempt organization which provides legal services to persons free of charge; (4) certain legal aid offices and lawyer referral services; (5) a person who provides certain services regulated by federal law; (6) a corporation or other entity representing or acting for itself through an officer or employee, or any such officer or employee; (7) a commercial wedding chapel; (8) a person who provides legal forms or computer programs that enable another person to create legal documents; and (9) a commercial registered agent.

**Section 5** of this bill broadly defines “legal matter” to mean the preparation of any will or trust, any immigration or citizenship proceeding, or any other proceeding, filing or action affecting the legal rights, duties, obligations or liabilities of a person.

**Sections 7 and 8** of this bill provide that any person wishing to engage in the business of a document preparation service must register with the Secretary of State and renew that registration annually. **Section 7** establishes certain qualifications for registration and provides for the disqualification of any person who has been convicted of certain criminal offenses or has been adjudged to have engaged in certain kinds of misconduct.

**Section 9** of this bill requires a document preparation service to file and maintain with the Secretary of State a cash bond or surety bond, to provide a means of indemnifying a client or other person for damage caused by fraud, incompetency or certain other misconduct, or providing payment to the Secretary of State for any civil penalty or award of attorney’s fees or costs made against the document preparation service.

**Sections 12-15** of this bill impose various requirements relating to advertising and the establishment of the relationship between a document preparation service and a client. **Section 13.5** requires: (1) a registrant required to obtain a state business license to obtain and maintain a state business license; and (2) each registrant to conspicuously display at the registrant’s place of business a copy of any state and local business license issued to the registrant or the registrant’s employer. **Section 15** provides that: (1) there must be a written contract between the client and the document preparation service; and (2) the contract must contain certain terms and disclosures.



**Sections 16-20** of this bill set forth various required and prohibited practices applicable to a document preparation service. **Section 17** provides for the return to the client of any original documents provided by the client. **Section 18** requires the release of a client's file to any law enforcement agency on demand, with the authorization of the client. **Section 19** imposes certain requirements relating to payments made by a client for services rendered by a document preparation service.

**Section 21** of this bill authorizes the Secretary of State to adopt regulations to carry out the provisions of this bill, and also requires the Secretary of State to take certain actions to facilitate the submission of complaints relating to a document preparation service.

**Section 22** of this bill authorizes the Secretary of State to investigate any suspected violation of the provisions of the bill. If a violation is found, the Secretary of State may: (1) issue a cease-and-desist order; (2) initiate disciplinary proceedings; (3) refer the matter to the Attorney General or a district attorney for the commencement of a civil action or criminal prosecution; or (4) take any combination of these actions. Pursuant to **section 25** of this bill, a willful violation of any of the provisions of this bill, or of a regulation or order of the Secretary of State, is a misdemeanor except that a second or subsequent offense occurring within 5 years is a gross misdemeanor. In addition, **section 26** of this bill provides a private right of action to any person who suffers a pecuniary loss as the result of a violation.

~~{Section 28 of this bill makes an appropriation to the Office of the Secretary of State for certain purposes relating to carrying out the provisions of this bill.}~~ **Existing law authorizes the Secretary of State to provide courses of study for notaries public, and to charge a fee for such instruction. The fees collected are deposited in the Notary Public Training Account in the State General Fund. (NRS 240.018) Section 27.5 of this bill requires the Secretary of State annually to reconcile the fees received and the expenses related to administering the training of notaries, and deposit any excess fees with the State Treasurer for credit to the State General Fund.**

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

**Section 1.** Title 19 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Client” means a person who:*

1. *Represents or otherwise acts for himself or herself in a legal matter without the services of an attorney authorized to practice law in this State; and*

2. *Receives the services of a document preparation service in that legal matter or enters into a contract with a document preparation service to receive such services.*

Sec. 4. 1. *“Document preparation service” means a person who:*

*(a) For compensation and at the direction of a client, provides assistance to the client in a legal matter, including, without limitation:*

*(1) Preparing or completing any pleading, application or other document for the client;*

*(2) Translating an answer to a question posed in such a document;*

*(3) Securing any supporting document, such as a birth certificate, required in connection with the legal matter; or*

*(4) Submitting a completed document on behalf of the client to a court or administrative agency; or*

*(b) Holds himself or herself out as a person who provides such services.*

2. *The term does not include:*

*(a) A person who provides only secretarial or receptionist services.*

*(b) An attorney authorized to practice law in this State, or an employee of such an attorney who is paid directly by the attorney or law firm with whom the attorney is associated and who is acting in the course and scope of that employment.*

*(c) A law student certified by the State Bar of Nevada for training in the practice of law.*

*(d) A governmental entity or an employee of such an entity who is acting in the course and scope of that employment.*

*(e) A nonprofit organization which qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c) and which provides legal services to persons free of charge, or an employee of such an organization who is acting in the course and scope of that employment.*

*(f) A legal aid office or lawyer referral service operated, sponsored or approved by a duly accredited law school, a governmental entity, the State Bar of Nevada or any other bar association which is representative of the general bar of the geographical area in which the bar association exists, or an employee of such an office or service who is acting in the course and scope of that employment.*

*(g) A military legal assistance office or a person assigned to such an office who is acting in the course and scope of that assignment.*

*(h) A person licensed by or registered with an agency or entity of the United States Government acting within the scope of his or her license or registration, including, without limitation, an accredited immigration*

*representative and an enrolled agent authorized to practice before the Internal Revenue Service, but not including a bankruptcy petition preparer as defined by section 110 of the United States Bankruptcy Code, 11 U.S.C. § 110.*

*(i) A corporation, limited-liability company or other entity representing or acting for itself through an officer, manager, member or employee of the entity, or any such officer, manager, member or employee who is acting in the course and scope of that employment.*

*(j) A commercial wedding chapel.*

*(k) A person who provides legal forms or computer programs that enable another person to create legal documents.*

*(l) A commercial registered agent.*

*(m) A person who holds a license, permit, certificate, registration or any other type of authorization required by chapter 645 or 692A of NRS, or any regulation adopted pursuant thereto, and is acting within the scope of that authorization.*

3. As used in this section:

*(a) "Commercial registered agent" has the meaning ascribed to it in NRS 77.040.*

*(b) "Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.*

Sec. 5. *"Legal matter" means:*

1. *The preparation of any will or trust;*

2. *Any proceeding, filing or action affecting the immigration or citizenship status of a person and arising under:*

*(a) Immigration and naturalization law;*

*(b) An executive order or presidential proclamation; or*

*(c) An action of the United States Citizenship and Immigration Services of the Department of Homeland Security, the United States Department of State or the United States Department of Labor; or*

3. *Any proceeding, filing or action otherwise affecting the legal rights, duties, obligations or liabilities of a person.*

Sec. 6. *"Registrant" means a document preparation service registered pursuant to this chapter.*

Sec. 7. 1. *A person who wishes to engage in the business of a document preparation service must be registered by the Secretary of State pursuant to this chapter. An applicant for registration must be a citizen or legal resident of the United States and at least 18 years of age.*

2. *The Secretary of State shall not register as a document preparation service any person:*

(a) Who is suspended or has previously been disbarred from the practice of law in any jurisdiction;

(b) Whose registration as a document preparation service has previously been revoked by the Secretary of State;

(c) Who has previously been convicted of a gross misdemeanor pursuant to paragraph (b) of subsection 1 of section 25 of this act; or

(d) Who has, within the 10 years immediately preceding the date of the application for registration as a document preparation service, been:

(1) Convicted of a crime involving theft, fraud or dishonesty;

(2) Convicted of the unauthorized practice of law pursuant to NRS 7.285 or the corresponding statute of any other jurisdiction; or

(3) Adjudged by the final judgment of any court to have committed an act involving theft, fraud or dishonesty.

3. An application for registration as a document preparation service must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by a cash bond or surety bond meeting the requirements of section 9 of this act.

4. After the investigation of the history of the applicant is completed, the Secretary of State shall issue a certificate of registration if the applicant is qualified for registration and has complied with the requirements of this section. Each certificate of registration must bear the name of the registrant and a registration number unique to that registrant. The Secretary of State shall maintain a record of the name and registration number of each registrant.

Sec. 8. 1. The registration of a document preparation service is valid for 1 year after the date of issuance of the certificate of registration, unless the registration is suspended or revoked. Except as otherwise provided in this section, the registration may be renewed subject to the same conditions as the initial registration. An application for renewal must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by a cash bond or surety bond meeting the requirements of section 9 of this act, unless the bond previously filed by the registrant remains on file and in effect.

2. The Secretary of State may:

(a) Conduct any investigation of a registrant that the Secretary of State deems appropriate.

(b) Require a registrant to submit a complete set of fingerprints and written permission authorizing the Secretary of State to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. *After any investigation of the history of a registrant is completed, unless the Secretary of State elects or is required to deny renewal pursuant to this section or section 23 of this act, the Secretary of State shall renew the registration if the registrant is qualified for registration and has complied with the requirements of this section.*

Sec. 9. 1. *A registrant shall file with the Secretary of State a cash bond or surety bond in the penal sum of \$50,000 which is approved as to form by the Attorney General and conditioned to provide:*

*(a) Indemnification to a client or any other person who is determined in an action or proceeding to have suffered damage as a result of:*

*(1) An act or omission of the registrant, or an agent or employee of the registrant, which violates a provision of this chapter or a regulation or order adopted or issued pursuant thereto;*

*(2) A wrongful failure or refusal by the registrant, or an agent or employee of the registrant, to provide services in accordance with a contract entered into pursuant to section 15 of this act;*

*(3) The fraud, dishonesty, negligence or other wrongful conduct of the registrant or an agent or employee of the registrant; or*

*(4) An act or omission of the registrant in violation of any other federal or state law for which the return of fees, an award of damages or the imposition of sanctions have been awarded by a court of competent jurisdiction in this State; or*

*(b) Payment to the Secretary of State for any civil penalty or award of attorney's fees or costs of suit owing and unpaid by the registrant to the Secretary of State pursuant to this chapter.*

2. *No part of the bond may be withdrawn while the registration of the registrant remains in effect, or while a proceeding to suspend or revoke the registration is pending.*

3. *If a surety bond is filed pursuant to subsection 1:*

*(a) The bond must be executed by the registrant as principal and by a surety company qualified and authorized to do business in this State.*

*(b) The bond must cover the period of the registration of the registrant, except when the surety is released in accordance with this section.*

*(c) The surety shall pay any final, nonappealable judgment of a court of this State that has jurisdiction, upon receipt of written notice that the judgment is final.*

*(d) The bond may be continuous, but regardless of the duration of the bond, the aggregate liability of the surety does not exceed the penal sum of the bond.*

*(e) If the penal sum of the bond is exhausted, the surety shall give written notice to the Secretary of State and the registrant within 30 days after its exhaustion.*

*(f) The surety may be released after giving 30 days' written notice to the Secretary of State and the registrant, but the release does not discharge or otherwise affect any claim resulting from an act or omission which is alleged to have occurred while the bond was in effect.*

*4. Except as otherwise provided in this subsection, if a cash bond is filed pursuant to subsection 1, the Secretary of State may retain the bond until the expiration of 3 years after the date the registrant has ceased to do business, or 3 years after the date of the expiration or revocation of the registration, to ensure that there are no outstanding claims against the bond. A court of competent jurisdiction may order the return of the bond, or any part of the bond, at an earlier date upon evidence satisfactory to the court that there are no outstanding claims against the bond or that the part of the bond retained by the Secretary of State is sufficient to satisfy any outstanding claims. Interest on a cash bond filed pursuant to subsection 1 must accrue to the account of the depositor.*

*5. The registration of a registrant is suspended by operation of law when the registrant is no longer covered by a bond or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 3 that the penal sum of a surety bond is exhausted or that the surety is being released, the Secretary of State shall immediately notify the registrant in writing that his or her registration is suspended by operation of law until another bond is filed in the same manner and amount as the former bond.*

*6. The Secretary of State may reinstate the registration of a registrant whose registration has been suspended pursuant to subsection 5 if, before the current term of the registration expires, the registrant files with the Secretary of State a new bond meeting the requirements of this section.*

*7. Except as specifically authorized or required by this chapter, a registrant shall not make or cause to be made any oral or written reference to the registrant's compliance with the requirements of this section.*

*Sec. 10. 1. In addition to any other requirements set forth in this chapter:*

*(a) A natural person who applies for registration or the renewal of registration as a document preparation service pursuant to section 7 or 8 of this act must include the social security number of the applicant in the application submitted to the Secretary of State.*

*(b) An applicant described in paragraph (a) shall submit to the Secretary of State 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 Secretary of State shall include the statement required pursuant to subsection 1 in:*

*(a) The application or any other forms that must be submitted for registration or the renewal of registration; or*

*(b) A separate form prescribed by the Secretary of State.*

3. *Registration as a document preparation service may not be issued or renewed by the Secretary of State if the applicant:*

*(a) Fails to submit the statement required pursuant to subsection 1; or*

*(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

4. *If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Secretary of State shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

Sec. 11. 1. *If the Secretary of State 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 natural person who is registered as a document preparation service, the Secretary of State shall deem the registration to be suspended at the end of the 30th day after the date on which the court order was issued unless the Secretary of State receives a letter issued to the registrant by the district attorney or other public agency pursuant to NRS 425.550 stating that the registrant has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

2. *The Secretary of State shall reinstate a registration as a document preparation service that has been suspended by a district court pursuant to NRS 425.540 if the Secretary of State receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the natural person whose registration was suspended stating that the person whose registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 12. 1. *Any advertisement for the services of a registrant which the registrant disseminates or causes to be disseminated must include a clear and conspicuous statement that the registrant is not an attorney*

*authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.*

*2. The statement required by subsection 1 to be included in an advertisement must:*

- (a) Be in the same language as the rest of the advertisement; and*
- (b) Be in the form prescribed by regulation of the Secretary of State.*

*3. A person shall not disseminate or cause to be disseminated any advertisement or other statement that he or she is engaged in the business of a document preparation service in this State unless he or she has complied with all the applicable requirements of this chapter.*

*Sec. 13. 1. Each registrant shall display conspicuously in his or her place of business a copy of his or her certificate of registration and a written notice meeting the requirements of this section.*

*2. The notice must:*

*(a) Be not less than 12 by 20 inches in size, and each character of text in the notice must be not less than 1 inch in height and 1 inch in width.*

*(b) Be written in English and in each other language in which the registrant transacts business with the registrant's clients.*

*(c) Contain a statement that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.*

*(d) Contain the full name of the registrant or, if more than one registrant is providing services at that place of business, the full name of each such registrant.*

*(e) Contain a list of the services provided by the registrant and the fee charged for each such service.*

*(f) Contain a statement that the registrant has filed with the Secretary of State a cash bond or surety bond, stating the amount and any identifying number of the bond.*

*Sec. 13.5. 1. A registrant required to obtain a state business license issued by the Secretary of State pursuant to chapter 76 of NRS shall:*

*(a) Obtain a state business license before offering a document preparation service; and*

*(b) Maintain a state business license during the period of the registrant's registration as a document preparation service.*

*2. Each registrant shall display conspicuously in the registrant's place of business a copy of:*

*(a) The state business license issued to the registrant or the registrant's employer, as applicable, by the Secretary of State pursuant to chapter 76 of NRS; and*

*(b) Any business license issued to the registrant or the registrant's employer, as applicable, by a local government in this State.*



Sec. 14. 1. *Before providing any services to a client or presenting a client with the contract required by section 15 of this act, a registrant must:*

*(a) Furnish the client with a written form of disclosure meeting the requirements of this section, with a copy for the client to retain; and*

*(b) Require the client to read and sign the disclosure, acknowledging that the client has read and understands it.*

2. *The disclosure must be written in English and, if different, the language in which the registrant transacts business with the client and must include:*

*(a) The full name, business address and telephone number and registration number of the registrant.*

*(b) The name and business address of the registrant's agent for service of process, if any, in this State.*

*(c) A statement that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.*

*(d) Unless the registrant is an attorney licensed to practice in another state or other jurisdiction, a statement that any communication between the client and the registrant is not protected from disclosure by any privilege.*

*(e) A statement that the registrant has posted or filed with the Secretary of State a cash bond or surety bond, stating the amount of the bond and any identifying number of the bond.*

*(f) The expiration date of:*

*(1) The state business license issued to the registrant or the registrant's employer, as applicable, by the Secretary of State pursuant to chapter 76 of NRS; and*

*(2) Any business license issued to the registrant or the registrant's employer, as applicable, by a local government in this State.*

Sec. 15. 1. *Before a registrant provides any services to a client, the registrant and the client must enter into a written contract meeting the requirements of this section. The registrant shall provide the client with a copy of the contract.*

2. *The contract must:*

*(a) Be written in English and, if different, in the language in which the registrant transacts business with the client, and be printed or typewritten in not less than 12-point type.*

*(b) Explain the services to be performed by the registrant and state the total price to be paid by the client for all such services.*

*(c) With respect to any document to be prepared by the registrant:*

*(1) State the estimated date by which the document is to be completed;*

*(2) Identify the court or agency with which the document is to be filed or submitted; and*

(3) *If applicable, identify any associated deadlines or hearing dates of the court or agency with which the document is to be filed or submitted.*

(d) *Include on the first page of the contract a statement in boldface type that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.*

(e) *Include a statement that any complaint concerning the registrant may be directed to:*

(1) *If the complaint involves an alleged violation of this chapter, the Secretary of State; or*

(2) *If the complaint involves an allegation that the registrant is engaged in the unauthorized practice of law, the office of Bar Counsel of the State Bar of Nevada,*

*↪ with the toll-free telephone number and Internet address for making the complaint.*

(f) *State the date of the client's signature on the contract, if the client agrees to the terms of the contract.*

3. *A contract between a registrant and a client that does not comply with any requirement of this section is voidable by the client.*

Sec. 16. *Any document prepared for a client by a registrant must include, below any required signature of the client, the name, business address and telephone number and registration number of the registrant.*

Sec. 17. 1. *A registrant shall take reasonable measures to safeguard from loss or damage any document provided to the registrant by a client in connection with services rendered by the registrant.*

2. *Except as otherwise provided in subsection 3, a registrant shall immediately return to a client any original document provided by the client:*

(a) *Upon the request of the client;*

(b) *If the contract required by section 15 of this act is not signed or is cancelled for any reason; or*

(c) *If the document is no longer needed for the services rendered by the registrant.*

3. *If a copy of any original document provided by a client is sufficient for the purposes of a legal matter, the registrant shall make or cause to be made a copy of the original document and immediately return the original to the client.*

4. *The duties of a registrant pursuant to this section are not affected by a dispute existing between the registrant and the client over the registrant's fees or costs.*

Sec. 18. 1. *Upon the presentation to a registrant of a written form of authorization signed by a client, the registrant shall provide a complete*

*copy of the client's file to an agent or employee of the Secretary of State or the Attorney General, or to an agent or employee of a law enforcement agency, without the necessity of a warrant or subpoena.*

2. A registrant shall retain a copy of any document prepared for a client for not less than 3 years after the date of the last service performed for the client. At the end of that period, unless the client requests that the document be given to the client, the document may be destroyed by the registrant. Any method of destruction used by a registrant must ensure the complete and confidential destruction of the document.

Sec. 19. A registrant shall provide a signed receipt to a client for each payment made to the registrant by the client. The receipt must be printed or typewritten on the letterhead of the registrant and must include the name, business address and telephone number, registration number and taxpayer identification number of the registrant.

Sec. 20. A registrant shall not:

1. After the date of the last service performed for a client, retain any fees or costs for services not performed or costs not incurred.

2. Make, orally or in writing:

(a) A promise of the result to be obtained by the filing or submission of any document, unless the registrant has some basis in fact for making the promise;

(b) A statement that the registrant has some special influence with or is able to obtain special treatment from the court or agency with which a document is to be filed or submitted; or

(c) A false or misleading statement to a client if the registrant knows that the statement is false or misleading or knows that the registrant lacks a sufficient basis for making the statement.

3. In any advertisement or written description of the registrant or the services provided by the registrant, or on any letterhead or business card of the registrant, use the term "legal aid," "legal services," "law office," "notary public," "notary," "licensed," "attorney," "lawyer" or any similar term, in English or in any other language, which implies that the registrant:

(a) Offers services without charge if the registrant does not do so; or

(b) Is an attorney authorized to practice law in this State.

4. Negotiate with another person concerning the rights or responsibilities of a client, communicate the position of a client to another person or convey the position of another person to a client.

5. Appear on behalf of a client in a court proceeding or other formal adjudicative proceeding, unless the registrant is ordered to appear by the court or presiding officer.

6. *Provide any advice, explanation, opinion or recommendation to a client about possible legal rights, remedies, defenses, options or the selection of documents or strategies, except that a registrant may provide to a client published factual information, written or approved by an attorney, relating to legal procedures, rights or obligations.*

7. *Seek or obtain from a client a waiver of any provision of this chapter. Any such waiver is contrary to public policy and void.*

Sec. 21. 1. *In addition to the regulations which the Secretary of State is required to adopt pursuant to this chapter, the Secretary of State may adopt any other regulations necessary to carry out the provisions of this chapter.*

2. *The Secretary of State shall:*

(a) *Establish a toll-free telephone number which may be used by any person to make a complaint about a registrant or an alleged violation of this chapter.*

(b) *Post on the Internet website of the Secretary of State information concerning making such a complaint, which must include the telephone number established pursuant to paragraph (a).*

Sec. 22. 1. *If the Secretary of State obtains information that a provision of this chapter or a regulation or order adopted or issued pursuant thereto has been violated by a registrant or another person, the Secretary of State may conduct or cause to be conducted an investigation of the alleged violation.*

2. *If, after investigation, the Secretary of State determines that a violation has occurred, the Secretary of State may:*

(a) *Serve, by certified mail addressed to the person who has committed the violation, a written order directing the person to cease and desist from the conduct constituting the violation. The order must notify the person that any willful violation of the order may subject the person to prosecution and criminal penalties pursuant to section 25 of this act.*

(b) *If a registrant has committed the violation, begin proceedings pursuant to section 23 of this act to revoke or suspend the registration of the registrant.*

(c) *Refer the alleged violation to the Attorney General or a district attorney for commencement of a civil action against the person pursuant to section 24 of this act.*

(d) *Refer the alleged violation to the Attorney General or a district attorney for prosecution of the person pursuant to section 25 of this act.*

(e) *Take any combination of the actions described in this subsection.*

Sec. 23. 1. *The Secretary of State may deny, suspend, revoke or refuse to renew the registration of any person who violates a provision of this chapter or a regulation or order adopted or issued pursuant thereto.*

*Except as otherwise provided in subsection 2, a suspension or revocation may be imposed only after a hearing.*

*2. The Secretary of State shall immediately revoke the registration of a registrant upon the receipt of an official document or record showing:*

*(a) The entry of a judgment or conviction; or*

*(b) The occurrence of any other event,*

*↪ that would disqualify the registrant from registration pursuant to subsection 2 of section 7 of this act.*

*Sec. 24. 1. Upon referral by the Secretary of State, the Attorney General or the district attorney of the county in which the defendant resides or maintains a place of business may bring an action in the name of the State of Nevada in a court of competent jurisdiction:*

*(a) For injunctive relief against any person who violates or threatens to violate a provision of this chapter or a regulation or order adopted or issued pursuant thereto;*

*(b) For the recovery of a civil penalty against the defendant of not less than \$100 or more than \$5,000 for each such violation;*

*(c) For an order directing restitution to be made by the defendant to any person who suffers pecuniary loss as a result of such a violation; or*

*(d) For any combination of the remedies described in this subsection.*

*2. Any civil penalty recovered pursuant to this section must be paid to the Secretary of State and deposited in the State General Fund.*

*3. If the court determines that the State of Nevada is the prevailing party in an action brought pursuant to this section, the court shall award the State the costs of suit and reasonable attorney's fees incurred in the action.*

*Sec. 25. 1. A person who willfully violates a provision of this chapter or a regulation or order adopted or issued pursuant thereto:*

*(a) For the first offense within the immediately preceding 5 years, is guilty of a misdemeanor.*

*(b) For a second or subsequent offense within the immediately preceding 5 years, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$10,000, or by both fine and imprisonment.*

*2. In addition to the penalties prescribed by subsection 1, the court may order a person described in that subsection to pay restitution to any person who has suffered a pecuniary loss as a result of the violation.*

*3. For the purposes of subsections 1 and 2, evidence that a person has been served with an order by the Secretary of State pursuant to section 22 of this act before the date of the alleged violation is evidence that the alleged violation is intentional if it involves a repetition or a continuation of conduct of the kind described in the order.*

**Sec. 26. Notwithstanding the provisions of sections 22 to 25, inclusive, of this act, any person who suffers a pecuniary loss as a result of a violation of this chapter or a regulation or order adopted or issued pursuant thereto by a registrant or other person may bring an action against that person in any court of competent jurisdiction and may recover the sum of \$500 or twice the amount of the pecuniary loss sustained, whichever is greater. If the court determines that the plaintiff is the prevailing party in an action brought pursuant to this section, the court shall award the plaintiff the costs of suit and reasonable attorney's fees incurred in the action.**

**Sec. 27. The provisions of this chapter do not:**

**1. Authorize the practice of law by any person who is not an active member of the State Bar of Nevada or otherwise authorized to practice law in this State; or**

**2. Prohibit a person from representing or otherwise acting for himself or herself in a legal matter without the services of an attorney.**

**Sec. 27.5. NRS 240.018 is hereby amended to read as follows:**

240.018 1. The Secretary of State may:

(a) Provide courses of study for the mandatory training of notaries public. Such courses of study must include at least 4 hours of instruction relating to the functions and duties of notaries public.

(b) Charge a reasonable fee to each person who enrolls in a course of study for the mandatory training of notaries public.

2. A course of study provided pursuant to this section must comply with the regulations adopted pursuant to subsection 1 of NRS 240.017.

3. The following persons are required to enroll in and successfully complete a course of study provided pursuant to this section:

(a) A person applying for appointment as a notary public for the first time.

(b) A person renewing his or her appointment as a notary public, if the appointment has expired for a period greater than 1 year.

(c) A person renewing his or her appointment as a notary public, if during the immediately preceding 4 years the person has been fined for failing to comply with a statute or regulation of this State relating to notaries public.

➤ A person who holds a current appointment as a notary public is not required to enroll in and successfully complete a course of study provided pursuant to this section if the person is in compliance with all of the statutes and regulations of this State relating to notaries public.

4. The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 1 in the ~~following manner:~~

~~(a) Seventy five percent of the fees collected must be deposited in the State General Fund.~~

~~(b) Twenty five percent of the fees collected must be deposited in the~~ Notary Public Training Account which is hereby created in the State General Fund. The Account must be administered by the Secretary of State. Any interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward. All claims against the Account must be paid as other claims against the State are paid. The money in the Account may be expended:

~~1. (a)~~ **(a)** To pay for expenses related to providing courses of study for the mandatory training of notaries public, including, without limitation, the rental of rooms and other facilities, advertising, travel and the printing and preparation of course materials; or

~~2. (b)~~ **(b)** For any other purpose authorized by the Legislature.

**5. At the end of each fiscal year, the Secretary of State shall reconcile the amount of the fees collected pursuant to paragraph (b) of subsection 1 and the expenses related to administering the training of notaries public pursuant to this chapter and deposit any excess fees received with the State Treasurer for credit to the State General Fund.**

~~Sec. 28. 1. There is hereby appropriated from the State General Fund to the Office of the Secretary of State the sum of \$150,000 for the development of internal and external applications on the Internet website of the Office of the Secretary of State to carry out the provisions of this act.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, by the Office of the Secretary of State 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 18, 2015, by either the Office of the Secretary of State 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 18, 2015.~~

**(Deleted by amendment.)**

~~Sec. 29. 1. This section and section 28 of this act become effective upon passage and approval.~~

~~2. Sections 1 to 27, inclusive, of this act become~~ **act becomes** 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 this act; and

(b) On ~~January~~ **March** 1, 2014, for all other purposes.

~~3. 2.~~ **2.** Sections 10 and 11 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to

restrict the use of professional, occupational and recreational licenses of persons who:

- (a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or
- (b) Are in arrears in the payment for the support of one or more children, ➔ are repealed by the Congress of the United States.

Assemblyman Frierson moved that the Assembly concur in the Senate Amendment No. 981 to Assembly Bill No. 74.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

#### REPORTS OF CONFERENCE COMMITTEES

*Madam Speaker:*

The Conference Committee concerning Assembly Bill No. 496, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 676 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 24, which is attached to and hereby made a part of this report.

IRENE BUSTAMANTE ADAMS

JAMES HEALEY

LYNN STEWART

*Assembly Conference Committee*

RUBEN KIHUEN

DAVID PARKS

MARK HUTCHISON

*Senate Conference Committee*

Conference Amendment No. CA24.

AN ACT relating to taxation; providing the legislative approval required for an increase in the tax imposed pursuant to the Clark County Sales and Use Tax Act of 2005; **imposing certain conditions on the allotment and use of the proceeds of the increase of the tax;** suspending temporarily the application of certain provisions of the Act; and providing other matters properly relating thereto.

#### **Legislative Counsel's Digest:**

Existing law authorizes the Board of County Commissioners of Clark County to impose a sales and use tax in Clark County of one-quarter of 1 percent to employ and equip additional police officers for the Boulder City Police Department, Henderson Police Department, Las Vegas Metropolitan Police Department, Mesquite Police Department and North Las Vegas Police Department, and allows the imposition of an increase in that tax of not more than one-quarter of 1 percent if the date on which the increased rate is first imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate. (Clark County Sales and Use Tax Act of 2005) **Section 3** of this bill provides the legislative approval required for the imposition of an increase in that tax of not more than fifteen-hundredths of 1 percent on or after October 1, 2013, if the increase is approved by two-thirds of the



members of the Board of County Commissioners of Clark County and if the increased rate ~~expires on or before September 30, 2017,~~ **is first imposed before July 1, 2016. Section 3.5 of this bill imposes conditions on allotments to police departments of the proceeds of the increase in the tax. Section 3.7 of this bill imposes conditions on the use by police departments of the proceeds of the increase in the tax, authorizes the Committee on Local Government Finance to grant waivers of those conditions and requires the Committee to submit annual reports to the Legislative Commission concerning any waivers granted by the Committee.**

**Section 1** of this bill amends the Clark County Sales and Use Tax Act of 2005 to suspend temporarily certain provisions of the Act which require a governing body to approve expenditures by a police department of proceeds received from the taxes imposed pursuant to the Act if the governing body determines that the proposed expenditure will not replace or supplant existing funding for the police department. **Section 1** also requires that certain periodic reports required by the Act include a separate detailed description of any expenditures as a result of the temporary suspension of those provisions of the Act. Additionally, **section 1** requires that a copy of the separate detailed description be submitted to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee. **Section 2** of this bill amends the Act to specify the method for calculating the base fiscal year for certain purposes of the Act.

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

**Section 1.** The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 13.3, immediately following section 13, to read as follows:

***Sec. 13.3. 1. The provisions of paragraph (b) of subsection 1 and subsections 3 to 8, inclusive, of section 13 of this act do not apply to any expenditure of proceeds from any sales and use tax imposed pursuant to this act on or after July 1, 2013, but before July 1, 2016.***

***2. In addition to the requirements of section 13.5 of this act:***

***(a) The periodic reports required by that section must include, with respect to the period covered by the report, a separate detailed description of the expenditure of any proceeds from the sales and use tax imposed pursuant to this act as a result of the provisions of subsection 1; and***

***(b) A governing body that is required to submit a report pursuant to section 13.5 of this act shall submit a copy of the separate detailed***

*description required by paragraph (a) for the period covered by the report to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee on or before the date by which the governing body is required to submit the report for that period to the Department pursuant to section 13.5 of this act.*

**Sec. 2.** The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 13.7, immediately following section 13.5, to read as follows:

**Sec. 13.7.** *Notwithstanding the provisions of subsection 8 of section 13 of this act, for Fiscal Year 2015-2016, the base fiscal year for each body must be adjusted for the purposes of section 13 of this act as provided in this section, and that adjusted base fiscal year must be used as the base fiscal year for all purposes, including future calculations of base fiscal years. To determine the adjusted base fiscal year for Fiscal Year 2015-2016, any expenditures authorized as a result of the provisions of subsection 1 of section 13.3 of this act must not be included when calculating the amount of money received or expended in that fiscal year.*

**Sec. 3.** The Legislature hereby approves an increase, pursuant to paragraph (b) of subsection 1 of section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, in the rate of the tax imposed pursuant to that Act in the amount of not more than fifteen-hundredths of 1 percent, if:

1. The increase authorized by this section is enacted by an ordinance approved by a two-thirds majority of the members of the Board of County Commissioners of Clark County; **and**

2. The date on which that increased rate is first imposed is on or after October 1, 2013, ~~and~~

~~3. That increased rate expires on or before September 30, 2017, ]~~ **but before July 1, 2016.**

**Sec. 3.5. 1. If the increase in the rate of the tax authorized by section 3 of this act is enacted pursuant to that section, the County Treasurer of Clark County shall not make any allotment to a police department pursuant to section 9 of the Clark County Sales and Use Tax Act of 2005 of any portion of the proceeds of the increase unless the County Treasurer is satisfied that the police department will meet the requirements of subsection 1 of section 3.7 of this act.**

**2. If the County Treasurer determines pursuant to subsection 1 that an allotment will not be made to a police department, any other police department may apply to the County Treasurer requesting approval for the use by the requesting police department of the unused allotment. If**

the County Treasurer is satisfied that the requesting police department will meet the requirements of subsection 1 of section 3.7 of this act, the County Treasurer shall make the requested allotment to the requesting police department.

Sec. 3.7. 1. A police department shall not expend any portion of an allotment made to it by the County Treasurer pursuant to section 3.5 of this act to employ and equip additional police officers unless:

(a) The police department employs and equips an equal number of police officers in unfilled budgeted positions for police officers using money other than the proceeds of the increase in the rate of the tax authorized by section 3 of this act; or

(b) If, based on the number of budgeted positions for police officers in the police department for the 2013-2014 fiscal year, the police department does not have a sufficient number of unfilled budgeted positions for police officers to match all of the positions that are available for funding with the proceeds of the increase in the rate of the tax authorized by section 3 of this act, the police department applies for and is granted a waiver from the requirements of paragraph (a) by the Committee on Local Government Finance.

2. The Committee on Local Government Finance shall, on or before September 1 of each year, submit a report to the Legislative Commission that sets forth the number of waivers granted by the Committee pursuant to this section during the immediately preceding fiscal year and the reasons for each such waiver.

Sec. 4. ~~{1.}~~ This act becomes effective upon passage and approval ~~of~~ ~~2. Sections 1 and 2 of this act expire}~~ and expires by limitation on October 1, 2025.

Assemblywoman Bustamante Adams moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 496.

Motion carried by a constitutional majority.

#### MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 3, 2013

*To the Honorable the Assembly:*

It is my pleasure to inform your esteemed body that the Senate on this day passed Assembly Bills Nos. 33, 167, 239, 335, 360, 447, 461, 462, 463, 466, 467, 468, 469, 470, 474, 475, 477, 501, 503, 506, 509, 512.

Also, it is my pleasure to inform your esteemed body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 415.

Also, it is my pleasure to inform your esteemed body that the Senate on this day adopted the reports of the Conference Committees concerning Assembly Bill No. 66; Assembly Bill No. 181; Assembly Bill No. 202; Assembly Bill No. 205; Assembly Bill No. 223; Assembly Bill No. 262; Assembly Bill No. 283.

Also, it is my pleasure to inform your esteemed body that the Senate on this day refused to adopt the report of the Conference Committee concerning Assembly Bill No. 378.

Also, it is my pleasure to inform your esteemed body that the Senate on this day adopted, as amended, Senate Concurrent Resolution No. 9.

Also, it is my pleasure to inform your esteemed body that the Senate on this day concurred in the Assembly Amendment No. 950 to Senate Bill No. 3; Assembly Amendment No. 632 to Senate Bill No. 109; Assembly Amendment No. 964 to Senate Bill No. 165; Assembly Amendment No. 961 to Senate Bill No. 374; Assembly Amendment No. 963 to Senate Bill No. 406; Assembly Amendment No. 948 to Senate Bill No. 407; Assembly Amendment No. 911 to Senate Joint Resolution No. 8.

Also, it is my pleasure to inform your esteemed body that the Senate on this day appointed Senators Manendo, Spearman and Gustavson as a Conference Committee concerning Senate Bill No. 508.

SHERRY L. RODRIGUEZ  
*Assistant Secretary of the Senate*

#### UNFINISHED BUSINESS

##### SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 1, 31, 50, 67, 80, 228, 311, 344, 362, 370, 408, 414, 419, 436, 444, 480, and 499.

##### GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Ellison, the privilege of the floor of the Assembly Chamber for this day was extended to Judge Mason Simon, Judge Brian Boatman, and Andy Mierins.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to Laura Bledsoe and Monte Bledsoe.

On request of Assemblyman Martin, the privilege of the floor of the Assembly Chamber for this day was extended to John Wall.

Madam Speaker appointed Assemblymen Horne, Frierson, and Hickey as a committee to wait upon His Excellency, Governor Brian Sandoval, Governor of the State of Nevada, and to inform him that the Assembly was ready to adjourn *sine die*.

Madam Speaker appointed Assemblymen Aizley, Carlton, and Hardy a committee to wait upon the Senate and to inform that honorable body that the Assembly was ready to adjourn *sine die*.

A committee from the Senate, consisting of Senators Spearman, Parks, and Hardy appeared before the bar of the Assembly and announced that the Senate was ready to adjourn *sine die*.

Assemblywoman Carlton reported that his committee had informed the Senate that the Assembly was ready to adjourn *sine die*.

Assemblyman Horne reported that his committee had informed the Governor that the Assembly was ready to adjourn *sine die*.

Assemblyman Horne moved that the 77th Session of the Assembly of the Legislature of the State of Nevada adjourn *sine die*.

Motion carried.

Assembly adjourned at 12:24 a.m.

Approved:

MARILYN K. KIRKPATRICK  
*Speaker of the Assembly*

Attest: SUSAN FURLONG

*Chief Clerk of the Assembly*