THE ONE HUNDRED AND SEVENTH DAY

CARSON CITY (Tuesday), May 21, 2013

Senate called to order at 2:01 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Mr. Baba Anal.

Sanskrit:

Aum. Asato Ma Sad Gamaya. Tamaso Ma Jyotir Gamaya. Mritor Ma Amritam Gamaya.

English:

O' Lord, guide us from untruthfulness to truthfulness, from darkness to light and from death to life.

Sanskrit:

Aum. Prajapate Na Tv Adeta Naynyo Vishva Jatani Parita Babhuva Yat-Ka-Maste Juhumastanno Astu Vayam Syam Patayo Rayeenam.

English:

O' Lord of Creatures, Thou art the supporter and protector of every creature. We as human beings have many desires but we pray Thou satisfy only our righteous desires; that we may possess necessary material wealth and—in abundance—spiritual wealth.

Sanskrit:

Aum. Agne Naya Supatha Raye Asman Vishvani Deva Vayunani Vidvan. Yuyo Dhyasma Juhurana Meno Bhuyishthan Te Nama Uktim Vidhema.

English:

O' Supreme Wisdom, actuate our intellectual capacities that we may follow the path offered by righteous persons for the attainment of knowledge in science and enable us to abstain from vices, sinful habits and irresponsible deeds.

Sanskrit:

Aum. Purnamadah Purnamidam Purnat Purnamudachyate Purnasya Purnamadaya Purnamevavasisyate.

English:

This is complete, and what comes out of it is complete. Complete comes out from complete, still it remains complete and that remains complete too. When completeness is removed from completeness, what remains is completeness. When completeness is added to completeness, what comes out is completeness.

Sanskrit:

Aum. Sarve Bhavantu Sukhinah, Sarve Santu Niramayah Sarve Bhadrani Pasyantu, Maa Kaschit Dukh Bhag Bhavet.

English:

Everybody on this planet be happy, everybody be free from diseases, everybody achieve tranquility and no one should suffer in pain.

Sanskrit:

Aum, Shanti Shanti Shanti, Aum.

English:

Om, peace, peace, peace, Om.

Namaste. I bow to the divine light in You.

Pledge of Allegiance to the Flag.

The President announced that under previous order, the reading of the Journal is waived for the remainder of the 77th Legislative Session and the

President and Secretary are authorized to make any necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 456, 494, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 44, 98, 116, 207, 240, 300, 378, 395, 415, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TICK SEGERBLOM, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 440, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAT SPEARMAN, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 14, 236, 379, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARK A. MANENDO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 20, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 73, 78, 101, 133, 134, 143, 167, 178, 180, 181, 206, 233.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Senate Joint Resolution No. 14.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 151.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 1, 31, 139.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 4, Amendment No. 602; Senate Bill No. 31, Amendment No. 659; Senate Bill No. 100, Amendment No. 606; Senate Bill No. 106, Amendment No. 624; Senate Bill No. 170, Amendment No. 631; Senate Bill No. 176, Amendment No. 665; Senate Bill No. 217, Amendment No. 630; Senate Bill No. 243, Amendment No. 661, and respectfully requests your honorable body to concur in said amendments.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

May 21, 2013

A Waiver requested by Assemblywoman Kirkpatrick

For: Assembly Joint Resolution No. 9.

To Waive:

Subsection 1 of Joint Standing Rule No. 14 and Subsection 1 of Joint Standing Rule No. 14.2 and Subsections 1, 2, 3, and 4 of Joint Standing Rule No. 14.3.

Has been granted effective: Friday, May 10, 2013.

MOISES DENIS
Senate Majority Leader

MARILYN KIRKPATRICK
Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that all bills and resolutions reported out of Committee for this legislative day be immediately placed on the appropriate reading files.

Motion carried.

Senator Smith moved that Assembly Bills Nos. 35, 48, 365, 487, be taken from the General File and placed on the Secretary's Desk.

Motion carried.

Senator Smith moved that Assembly Bill No. 321 be taken from the Secretary's Desk and placed on the General File for this legislative day.

Motion carried.

Senator Smith moved that Assembly Bill No. 54 be taken from the General File and placed on the Secretary's Desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 1.

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

Motion carried.

Assembly Bill No. 31.

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

Motion carried.

Assembly Bill No. 139.

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

Motion carried.

Assembly Bill No. 151.

Senator Smith moved that the bill be referred to the Committee on Transportation.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 14.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 741.

"SUMMARY—Makes various changes relating to motor vehicles. (BDR 43-369)"

"AN ACT relating to motor vehicles; revising provisions concerning temporary permits to act as a salesperson; ~~[revising provisions concerning licenses of salespersons;]~~ allowing the Department of Motor Vehicles to reinstate the registration of a dormant vehicle or remove the suspension of that registration under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, when a person holding a temporary permit to act as a salesperson of vehicles ceases to be employed by a licensed and bonded dealer, lessor or rebuilder, the permit is automatically suspended, the person's right to act as a salesperson immediately ceases and the person's application for licensure must be denied by the Department of Motor Vehicles unless the person has: (1) paid a $20 transfer fee; (2) submitted a certificate of employment indicating that the person has been reemployed with a licensed and bonded dealer, lessor or rebuilder; and (3) presents a current temporary permit or new salesperson's license to the person's employer. Existing law further provides that, if a person's application for a salesperson's license has been denied, the person must wait at least 6 months to reapply. (NRS 482.362) Section 1 of this bill deletes the provision requiring that the application for licensure of a person holding a temporary permit be denied if that person ceases to be employed as a salesperson by a licensed and bonded dealer, lessor or rebuilder, thus allowing that person to resume the application process upon finding employment elsewhere. Section 1 also expressly prohibits the person from engaging in the activity of a salesperson during the period in which the person is unemployed. ~~[Section 1 provides additionally that, if a person ceases to be employed as a salesperson by a licensed and bonded dealer, lessor or rebuilder, the salesperson is not required to physically surrender his or her license, but the dealer, lessor or rebuilder, as applicable, is required to notify the Department that the employment has ceased, and the person is not allowed to engage in the activity of a salesperson until he or she is reemployed by a licensed and bonded dealer, lessor or rebuilder.]~~

Under existing law, the Department is required to suspend the registration of any motor vehicle for which the Department cannot verify coverage of liability insurance. If the registered owner of the motor vehicle proves to the satisfaction of the Department that the motor vehicle was a dormant vehicle during the period in which the Department was unable to verify liability insurance coverage, the Department is required to reinstate the registration and, if applicable, reissue the license plates for the motor vehicle only after the owner of the motor vehicle pays a fee of $50. (NRS 485.317) Section 4 of this bill allows the Department to remove the suspension of the registration without requiring the owner of the vehicle to pay a fee or administrative fine.

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

Section 1. NRS 482.362 is hereby amended to read as follows:

482.362 1. A person shall not engage in the activity of a salesperson of vehicles, trailers or semitrailers, or act in the capacity of a salesperson as defined in this chapter, in the State of Nevada without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of a salesperson, the Department shall require:

(a) An application, signed and verified by the applicant, stating that the applicant is to engage in the activity of a salesperson, his or her residence address and social security number, and the name and address of the applicant's employer.

(b) Proof of the employment of the applicant by a licensed and bonded vehicle dealer, trailer or semitrailer dealer, lessor or rebuilder at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or license revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, the applicant to submit a complete set of fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department deems necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted an application and paid the required fee.

3. A license to act as a salesperson of vehicles, trailers or semitrailers, or to act in the capacity of a salesperson as defined in this chapter, issued pursuant to this chapter does not permit a person to engage in the business of selling mobile homes.

4. An application for a salesperson's license may be denied and a salesperson's license may be suspended or revoked upon the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that the applicant is employed by a licensed and bonded vehicle dealer, trailer dealer or semitrailer dealer, lessor or rebuilder.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information deemed necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. Except where a dealer, lessor or rebuilder has multiple branches licensed under NRS 482.326, a salesperson of vehicles shall not engage in any sales activity, or act in any other capacity as a salesperson as defined in this chapter, other than for the account of or for and in behalf of a single employer, at a specified place of business of that employer, who must be a licensed dealer, lessor or rebuilder.

6. If an application for a salesperson's license has been denied, the applicant may reapply not less than 6 months after the denial.

7. A salesperson's license must be posted in a conspicuous place on the premises of the dealer, lessor or rebuilder for whom ~~[who employs]~~ the salesperson is licensed to sell vehicles. ~~*[If a licensed salesperson ceases to be employed by the dealer, lessor or rebuilder, the dealer, lessor or rebuilder, as applicable, shall surrender the salesperson's license to the salesperson by the end of the next business day after the employment ceases.]*~~

8. If a licensed salesperson ceases to be employed by a licensed and bonded dealer, lessor or rebuilder , the license to act as a salesperson is automatically suspended and the right to act as a salesperson thereupon immediately ceases, and the ~~*[:*~~

~~*(a) The dealer, lessor or rebuilder shall submit a written notice of that fact to the Department within 10 days after the employment ceases; and*~~

~~*(b) The]*~~ person shall not engage in the activity of a salesperson until he or she has paid the Department a transfer fee of $20 and submitted a certificate of employment indicating he or she has been reemployed by a licensed and bonded dealer, lessor or rebuilder ~~*[.]*~~ , and has thereafter presented a current temporary permit or a new salesperson's license to the employer. ~~*[The dealer, lessor or rebuilder who reemploys the salesperson shall submit a written notice of that fact to the Department within 10 days after the employment commences.]*~~

9. If a licensed salesperson changes his or her residential address, the salesperson shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as a salesperson ceases to be employed by a licensed and bonded dealer, lessor or rebuilder , the permit to act as a salesperson is automatically suspended, the right to act as a salesperson thereupon immediately ceases and the ~~[person's application for licensure must be denied unless]~~ ~~*[:*~~

~~*(a) The dealer, lessor or rebuilder shall submit a written notice of that fact to the Department within 10 days after the employment ceases; and*~~

~~*(b) The]*~~ *person shall not engage in the activity of a salesperson until* he or she has paid the Department a transfer fee of $20 and submitted a certificate of employment indicating he or she has been reemployed by a

licensed and bonded dealer, lessor or rebuilder ~~[.]~~ , and has thereafter presented a current temporary permit or a new salesperson's license to the employer. ~~[The dealer, lessor or rebuilder who reemploys the salesperson shall submit a written notice of that fact to the Department within 10 days after the employment commences.]~~

11. A licensed dealer, lessor or rebuilder who employs a licensed salesperson shall notify the Department of the termination of his or her employment within 10 days following the date of termination by forwarding the salesperson's license to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

Sec. 2. NRS 482.480 is hereby amended to read as follows:

482.480 There must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of $33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of $16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of $12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of $8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all the cars registered to the person.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of $33 and for each motorcycle other than a trimobile, an additional fee of $6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of $6 in addition to any other fees.

6. Except as otherwise provided in subsection ~~[7]~~ *6* of NRS 485.317, to reinstate the registration of a motor vehicle that is suspended pursuant to that section:

(a) A fee as specified in NRS 482.557 for a registered owner who failed to have insurance on the date specified by the Department, which fee is in addition to any fine or penalty imposed pursuant to NRS 482.557; or

(b) A fee of $50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance

coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

➥ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of $27.

8. For every permit for the operation of a golf cart, an annual fee of $10.

9. For every low-speed vehicle, as that term is defined in NRS 484B.637, a fee for registration of $33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of $33.

Sec. 3. NRS 482.557 is hereby amended to read as follows:

482.557 1. Except as otherwise provided in subsection ~~[7]~~ *6* of NRS 485.317, if a registered owner failed to have insurance on the date specified by the Department pursuant to NRS 485.317:

(a) For a first offense, the registered owner shall pay to the Department a registration reinstatement fee of $250, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of $250.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of $500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of $1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(b) For a second offense, the registered owner shall pay to the Department a registration reinstatement fee of $500, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of $500.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of $500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of $1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(c) For a third or subsequent offense:

(1) The driver's license of the registered owner must be suspended for a period to be determined by regulation of the Department but not less than 30 days;

(2) The registered owner shall file and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated; and

(3) The registered owner shall pay to the Department a registration reinstatement fee of $750, and if the period during which insurance coverage lapsed was:

(I) At least 31 days but not more than 90 days, pay to the Department a fine of $500.

(II) At least 91 days but not more than 180 days, pay to the Department a fine of $750.

(III) More than 180 days, pay to the Department a fine of $1,000.

2. As used in this section, "certificate of financial responsibility" has the meaning ascribed to it in NRS 485.028.

Sec. 4. NRS 485.317 is hereby amended to read as follows:

485.317 1. The Department shall verify that each motor vehicle which is registered in this State is covered by a policy of liability insurance as required by NRS 485.185.

2. Except as otherwise provided in this subsection, the Department may use any information to verify whether a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If the Department is unable to verify that a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a request for information by first-class mail to the registered owner of the motor vehicle. The owner shall submit all the information which is requested to the Department within 15 days after the date on which the request for information was mailed by the Department. If the Department does not receive the requested information within 15 days after it mailed the request to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless the Department is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185 within 10 days after the date on which the notice was sent by the Department, the owner's registration will be suspended pursuant to subsection 4.

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon verification of current insurance and compliance with the requirements for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

6. ~~[If a registered owner proves to the satisfaction of the Department that the vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate the registration and, if applicable, reissue the license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate the registration or reissue the license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.~~

~~7.]~~ If the Department suspends the registration of a motor vehicle pursuant to subsection 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that the owner was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances ~~[,]~~ *or that the motor vehicle was a dormant vehicle and the owner failed to cancel the registration in accordance with subsection 3 of NRS 485.320,* the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of $50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) ~~[Rescind]~~ *Remove* the suspension of the registration without the payment of a fee ~~[.]~~ *or administrative fine.*

➥ The Department shall adopt regulations to carry out the provisions of this subsection.

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

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 741 to Assembly Bill No. 14 provides that a license to engage in the activity as a salesperson of vehicles, trailers or semitrailers shall be automatically suspended when the person changes his or her place of employment or is temporarily not employed as a salesperson.

Further, the amendment clarifies that the dealer must notify the Department of Motor Vehicles within 10 days upon termination of an employment relationship by forwarding the salesperson's license to the Department of Motor Vehicles. This amendment returns Assembly Bill No. 14 to its original version.

Amendment adopted.

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

Assembly Bill No. 44.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 627.

"SUMMARY—Revises provisions governing the storage of trash and recycling containers in certain planned communities. (BDR 10-262)"

"AN ACT relating to common-interest communities; revising provisions governing the storage of trash and recycling containers in certain planned communities; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill restricts the authority of an association of a planned community to regulate the storage of trash and recycling containers on the premises of attached or detached residential units with curbside trash and recycling collection. Under section 1 of this bill, the rules of an association governing the storage of trash and recycling containers must: (1) comply with all applicable codes and regulations; and (2) allow the unit's owner, or a tenant of the unit's owner, to store the containers outside any building or garage on the premises of the unit. The rules may: (1) provide that the containers must be stored in the rear or side yard of the unit, if such locations exist, and in such a manner that the containers are screened from view from the street, a sidewalk or any adjacent property; and (2) prescribe the size, location, color and material of any device, structure or item that may be used by a unit's owner or tenant to screen the view. Finally, section 1 allows an association to adopt rules that reasonably restrict the conditions under which trash and recycling containers are placed for collection, including, without limitation, the area in which the containers may be placed and the length of time for which the containers may be kept in that area.

Section 2 of this bill provides that the restrictions on the authority of an association of a planned community to regulate trash and recycling containers are applicable only to associations containing more than six units.

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 a new section to read as follows:

1. Except as otherwise provided in this section, an association of a planned community may not regulate or restrict the manner in which containers for the collection of solid waste or recyclable materials are stored on the premises of a residential unit with curbside service.

2. An association of a planned community may adopt rules , in accordance with the procedures set forth in the governing documents, as defined in subsections 1 and 2 of NRS 116.049, or the bylaws of the association, that reasonably restrict the manner in which containers for the

collection of solid waste or recyclable materials are stored on the premises of a residential unit with curbside service during the time the containers are not within the collection area, including, without limitation, rules prescribing the location at which the containers are stored during that time. The rules adopted by the association:

(a) Must:

(1) Comply with all applicable codes and regulations; and

(2) Allow the unit's owner, or a tenant of the unit's owner, to store containers for the collection of solid waste or recyclable materials outside any building or garage on the premises of the unit during the time the containers are not within the collection area.

(b) May:

(1) Provide that the containers for the collection of solid waste or recyclable materials must be stored in the rear or side yard of the unit, if such locations exist, and in such a manner that the containers are screened from view from the street, a sidewalk or any adjacent property; and

(2) Include, without limitation, rules prescribing the size, location, color and material of any device, structure or item used to screen containers for the collection of solid waste or recyclable materials from view from the street, a sidewalk or any adjacent property and the manner of attachment of the device, structure or item to the structure on the premises where the containers are stored.

3. An association of a planned community may adopt rules that reasonably restrict the conditions under which containers for the collection of solid waste or recyclable materials are placed in the collection area, including, without limitation:

(a) The boundaries of the collection area;

(b) The time at which the containers may be placed in the collection area; and

(c) The length of time for which the containers may be kept in the collection area.

4. As used in this section:

(a) "Collection area" means the area designated for the collection of the contents of containers for the collection of solid waste or recyclable materials.

(b) "Curbside service" means the collection of solid waste or recyclable materials on an individual basis for each residential unit by an entity that is authorized to collect solid waste or recyclable materials.

(c) "Recyclable material" has the meaning ascribed to it in NRS 444A.013.

(d) "Residential unit" means an attached or detached unit intended or designed to be occupied by one family.

(e) "Solid waste" has the meaning ascribed to it in NRS 444.490.

Sec. 2. 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 section 1 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.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 627 to Assembly Bill No. 44 authorizes a planned community to adopt rules, in accordance with the procedures set forth in the governing documents or the bylaws of the association, that concern the manner in which trash and recyclable containers may be stored. It also provides for trash and recyclable containers to be stored in the rear or side yard of a unit, if such locations exist.

Amendment adopted.

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

Assembly Bill No. 98.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 734.

"SUMMARY—Revises various provisions relating to common-interest communities. (BDR 10-488)"

"AN ACT relating to common-interest communities; revising provisions governing the collection of past due financial obligations owed to an association; revising provisions governing payments received by an association from a unit's owner; requiring a person nominated as a candidate for membership on the executive board of an association to be a member of the association in good standing; authorizing an association to reject a person's nomination as a candidate for membership on the executive board in certain circumstances; authorizing an association to distribute the disclosure of a potential conflict of interest on behalf of a candidate ~~[, requiring an association that solicits bids for an association project to review and compare initial bids; authorizing such an association to request revised bids; revising the definition of "association project"; revising the process by which financial statements of certain associations are reviewed or audited;]~~ with the candidate's consent; 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. (NRS 116.3116) Existing law authorizes the association to foreclose its lien by sale of the unit and prescribes the procedures for such a foreclosure. (NRS 116.31162-116.31168) This bill revises provisions governing the collection of past due financial obligations owed to a homeowners' association.

Section 1 of this bill establishes procedures which a homeowners' association must follow before initiating the process of foreclosing on a unit or commencing any other debt collection activity. Under section 1, before initiating the foreclosure process or commencing any other debt collection activity: (1) a homeowners' association must mail to the unit's owner a statement and two letters that provide certain information concerning the past due obligation; and (2) the executive board of the homeowners' association must, if the unit's owner so requests, conduct a hearing to verify the past due obligation. Sections 1 and 1.8 of this bill require: (1) the executive board to meet in executive session to conduct a hearing to verify a past due obligation; (2) the unit's owner to be allowed to attend and present evidence at the hearing; and (3) that the total number of votes for and against a determination of the executive board at the hearing to verify the past due obligation and the assessor's parcel number of the unit be recorded in the minutes of the meeting. Under section 1, a homeowners' association is required to offer a repayment plan to a unit's owner who owes a past due obligation to the association and a unit's owner may accept such a repayment plan at any time before the foreclosure sale of the unit or the commencement of a civil action to collect the past due obligation. Finally, section 1 authorizes an association to charge the unit's owner: (1) a fee of not more than $50 for a repayment plan; and (2) a fee of not more than $50 for any costs incurred by the association in complying with the requirements of section 1.

Section 4 of this bill requires the collection policy of a homeowner's association to provide an administrative process by which a unit's owner may contest a past due obligation.

Section 1.5 of this bill prohibits an association from refusing to accept any payment from a unit's owner. Section 1.5 further requires an association to apply any payment received from a unit's owner to any past due assessments, including late charges, costs of collecting and interest, owed by the unit's owner before the payment is applied to any other financial obligation owed by the unit's owner, unless the unit's owner directs a different application of the payment. Section 5 of this bill prohibits a community manager from refusing to accept from a unit's owner, or any other party, payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.

Existing law requires each person who is nominated as a candidate for membership on the executive board of an association to disclose potential conflicts of interest and whether he or she is a member of the association in

good standing. A person is deemed not to be in good standing if he or she owes certain assessments or penalties to the association. (NRS 116.31034) Section ~~[1]~~ 1.6 of this bill removes the disclosure requirement relating to being a member in good standing and instead requires a person who is nominated as a candidate for membership on the executive board to be a member in good standing. Section ~~[1]~~ 1.6 also provides that if a candidate fails to disclose any potential conflict of interest before the closing period prescribed for nominations for membership on the executive board, the association may: (1) reject the person's nomination; or (2) if the association has reason to believe that a potential conflict of interest exists, distribute the disclosure ~~[,]~~ on behalf of the candidate, if the candidate consents to the distribution of the disclosure, to each member of the association with the ballot or in the next regular mailing of the association.

~~[Existing law provides that if an association solicits bids for an association project, the bids must be opened during a meeting of the executive board. (NRS 116.31086) Section 2 of this bill requires an association to review and compare the initial bids for the association project and authorizes the association to request any of the bidders to submit a revised bid. Section 2 also revises the definition of "association project" to specify that such a project costs $2,500 or more or 10 percent or more of the total annual assessment made by the association.~~

~~Existing law sets forth the process for the review or audit of the financial statement of an association by an independent certified public accountant. For an association with an annual budget that is less than $150,000, the frequency with which a review occurs depends on the specific annual budget of the association. The financial statement of such an association must be audited only if, within 180 days before the end of the fiscal year, 15 percent of the total number of voting members of the association submit a written request for such an audit. (NRS 116.31144) Section 3 of this bill revises this process and requires that the financial statement of an association with an annual budget that is less than $150,000 be reviewed every fiscal year. For any fiscal year, the financial statement must be audited if, within 180 days before the end of the fiscal year, 51 percent of the total number of voting members of the association submit a written request for such an audit.]~~

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 a new section to read as follows:

1. 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 of NRS 116.31162, 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 the association has satisfied the requirements of subsections 2 to 5, inclusive.

2. If a unit's owner owes a past due obligation that is 30 days or more past due, the association must mail to the address on file for the unit's owner a full statement of account showing the transaction history for the immediately preceding 24 months, a schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation and a proposed repayment plan. If the past due obligation is not paid within 15 days after the mailing of the statement of account, schedule of fees and proposed repayment plan, the association must mail, 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, at least two letters, not less than 10 days apart, that state the following information:

(a) The current account balance information;

(b) A transaction history for the immediately preceding 24 months;

(c) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

(d) A proposed repayment plan; and

(e) 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.

3. Not earlier than 30 days after mailing the last of the letters required by subsection 2, the executive board must, if the unit's owner so requests, conduct a hearing to verify the past due obligation in accordance with this subsection and subsection 5 of NRS 116.31085. The executive board shall schedule the date, time and location for the hearing to verify the past due obligation so that the unit's owner or his or her successor in interest is provided with a reasonable opportunity to prepare for and be present at the hearing. The unit's owner or his or her successor in interest:

(a) Is entitled to attend all portions of the hearing to verify the past due obligation.

(b) Is entitled to be represented by another person at the hearing.

(c) Is entitled to present evidence of timely payment of the past due obligation, which may be presented in writing if the unit's owner is unable to be present at the hearing at the date and time scheduled for the hearing. Any written evidence submitted pursuant to this paragraph must be included in the minutes of the hearing.

(d) Is not entitled to attend the deliberations of the executive board.

4. Not later than 30 days after the hearing to verify the past due obligation held pursuant to subsection 3, the association shall mail the determination of the executive board to the unit's owner or his or her successor in interest. If the executive board determines that the unit's owner or his or her successor in interest owes a past due obligation to the association and that the association has satisfied the applicable requirements of this section and if the executive board has approved the foreclosure of the association's lien pursuant to NRS 116.31162 to 116.31168, inclusive, or the taking of any other action to collect the past due obligation, the association may, after mailing the determination of the executive board pursuant to this

subsection, take action as authorized by the executive board to collect the past due obligation by filing a notice of delinquent assessment pursuant to paragraph (a) of subsection 1 of NRS 116.31162 or by taking any other action to collect the past due obligation which is authorized by the laws of this State.

5. An association must offer a unit's owner who owes a past due obligation to the association a repayment plan providing for the payment of the amount of the past due obligation in equal monthly installments over a period of:

(a) Six months, if the amount of the past due obligation is $1,000 or less.

(b) Twelve months, if the amount of the past due obligation is more than $1,000 but less than $2,000.

(c) Twenty-four months, if the amount of the past due obligation is $2,000 or more.

6. The association may charge a fee of not more than $50 for a repayment plan. The association shall not charge any interest or late fees on a past due obligation for which a unit's owner or his or her successor in interest has entered into a repayment plan. A unit's owner or his or her successor in interest may accept a payment plan at any time before the date of the sale of the unit pursuant to NRS 116.31164 or the commencement of a civil action against the unit's owner or his or her successor in interest to obtain a judgment for the amount of the past due obligation. A unit's owner or his or her successor in interest may accept the repayment plan offered by the association pursuant to this subsection by tendering the first monthly payment. If a unit's owner or his or her successor in interest defaults on any repayment plan, the association may resume its efforts to collect the past due obligation from the time at which the unit's owner or his or her successor in interest accepted the repayment plan.

7. The failure of a unit's owner to pay when due an installment payment under a repayment plan is deemed to be a breach of the repayment plan and the repayment plan terminates upon such a failure.

8. The association may charge the unit's owner or his or her successor in interest a fee of not more than $50 to cover the costs incurred by an association in satisfying the requirements of this section.

9. As used in this section, "obligation" has the meaning ascribed to it in NRS 116.310313.

Sec. 1.2. 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 section 1 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.

Sec. 1.3. 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 section 1 of this act* apply to the condominium; or

(c) Only the provisions of NRS 116.3116 to 116.31168, inclusive, *and section 1 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.

Sec. 1.4. NRS 116.310313 is hereby amended to read as follows:

116.310313 1. An association may charge a unit's owner reasonable fees to cover the costs of collecting any past due obligation. The Commission shall adopt regulations establishing the amount of the fees that an association may charge pursuant to this section.

2. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.

3. As used in this section:

(a) "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if

a lawsuit is filed to enforce any past due obligation , ~~[or]~~ any costs awarded by a court ~~[.]~~ *or any costs incurred by an association in complying with the requirements of section 1 of this act.*

(b) "Obligation" means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner pursuant to any provision of this chapter or the governing documents.

Sec. 1.5. NRS 116.310315 is hereby amended to read as follows:

116.310315 *1. An association:*

(a) Shall not refuse to accept any payment from a unit's owner.

(b) Unless a unit's owner directs a different application of a payment, shall apply a payment received from a unit's owner to any past due assessment for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115, including any late fees, costs of collection and interest on the past due assessment, before any portion of the payment is applied to any other assessment or any fine, penalty, fee, charge or interest which has been levied or imposed against the unit's owner pursuant to this chapter or the governing documents.

2. If an association has imposed a fine against a unit's owner or a tenant or an invitee of a unit's owner or a tenant pursuant to NRS 116.31031 for violations of the governing documents of the association, the association shall establish a compliance account to account for the fine, which must be separate from any account established for assessments.

~~[Section 1.]~~ *Sec. 1.6.* NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, all of whom must be units' owners. The executive board shall elect the officers of the association. Unless the governing documents provide otherwise, the officers of the association are not required to be units' owners. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 3 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in

the bylaws of the association shall cause notice to be given to each unit's owner of the unit's owner's eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his or her name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his or her eligibility to serve as a member of the executive board pursuant to subsection 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section and the nominated candidates shall be deemed to be duly elected to the executive board unless:

(1) A unit's owner who is qualified to serve on the executive board nominates himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and

(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.

(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself or herself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.

6. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and

(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.

7. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board

described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

8. Each person who is nominated as a candidate for membership on the executive board pursuant to subsection 4 or 5 must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) ~~[Disclose whether the candidate is]~~ *Be* a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

~~[➥ The]~~ *If a candidate who is not deemed to be in good standing pursuant to this paragraph satisfies all such unpaid and past due assessments or construction penalties before the closing of the prescribed period for nominations for membership on the executive board, he or she shall be deemed to be in good standing and may proceed as a candidate for membership on the executive board.*

9. A candidate must make all disclosures required pursuant to ~~[this]~~ *paragraph (a) of* subsection *8* in writing to the association with his or her candidacy information. Except as otherwise provided in this subsection, the association shall distribute the disclosures, on behalf of the candidate, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection 6, in the next regular mailing of the association. The association is not obligated to distribute any disclosure pursuant to this subsection if the disclosure contains information that is believed to be defamatory, libelous or profane.

~~[9.]~~ *10. If a candidate fails to make all disclosures required pursuant to paragraph (a) of subsection 8 before the closing of the prescribed period for nominations for membership on the executive board, the association may:*

(a) Reject his or her nomination as a candidate for membership on the executive board; or

(b) If the association has reason to believe that a potential conflict of interest exists, distribute the disclosure ~~[,]~~ on behalf of the candidate, if the candidate consents to the distribution of the disclosure, to each member of the association with the ballot or, in the event ballots are not prepared and mailed pursuant to subsection 6, in the next regular mailing of the association.

11. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

~~[10.]~~ *12.* An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, the person shall file proof in the records of the association that:

(a) The person is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

~~[11.]~~ *13.* Except as otherwise provided in subsection 6 or NRS 116.31105, the election of any member of the executive board must be conducted by secret written ballot in the following manner:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for membership on the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association

before those secret written ballots have been opened and counted at a meeting of the association.

~~[12.]~~ *14.* An association shall not adopt any rule or regulation that has the effect of prohibiting or unreasonably interfering with a candidate in the candidate's campaign for election as a member of the executive board, except that the candidate's campaign may be limited to 90 days before the date that ballots are required to be returned to the association.

~~[13. A]~~

15. An eligible candidate who has submitted a nomination form for election as a member of the executive board may request that the association or its agent either:

(a) Send before the date of the election and at the association's expense, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner a candidate informational statement. The candidate informational statement:

(1) Must be no longer than a single, typed page;

(2) Must not contain any defamatory, libelous or profane information; and

(3) May be sent with the secret ballot mailed pursuant to subsection ~~[11]~~ *13* or in a separate mailing; or

(b) To allow the candidate to communicate campaign material directly to the units' owners, provide to the candidate, in paper format at a cost not to exceed 25 cents per page for the first 10 pages and 10 cents per page thereafter, in the format of a compact disc at a cost of not more than $5 or by electronic mail at no cost:

(1) A list of the mailing address of each unit, which must not include the names of the units' owners or the name of any tenant of a unit's owner; or

(2) If the members of the association are owners of time shares within a time share plan created pursuant to chapter 119A of NRS and:

(I) The voting rights of those owners are exercised by delegates or representatives pursuant to NRS 116.31105, the mailing address of the delegates or representatives.

(II) The voting rights of those owners are not exercised by delegates or representatives, the mailing address of the association established pursuant to NRS 119A.520. If the mailing address of the association is provided to the candidate pursuant to this sub-subparagraph, the association must send to each owner of a time share within the time share plan the campaign material provided by the candidate. If the campaign material will be sent by mail, the candidate who provides the campaign material must provide to the association a separate copy of the campaign material for each owner and must pay the actual costs of mailing before the campaign material is mailed. If the campaign material will be sent by electronic transmission, the candidate must provide to the association one copy of the campaign material in an electronic format.

➥ The information provided pursuant to this paragraph must not include the name of any unit's owner or any tenant of a unit's owner. If a candidate who makes a request for the information described in this paragraph fails or refuses to provide a written statement signed by the candidate which states that the candidate is making the request to allow the candidate to communicate campaign material directly to units' owners and that the candidate will not use the information for any other purpose, the association or its agent may refuse the request.

~~[14.]~~ *16.* An association and its directors, officers, employees and agents are immune from criminal or civil liability for any act or omission which arises out of the publication or disclosure of any information related to any person and which occurs in the course of carrying out any duties required pursuant to subsection ~~[13.]~~ *15.*

~~[15.]~~ *17.* Each member of the executive board shall, within 90 days after his or her appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that the member has read and understands the governing documents of the association and the provisions of this chapter to the best of his or her ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 1.7. 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 section 1 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.

Sec. 1.8. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board

and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting.

2. An executive board may not meet in executive session to open or consider bids for an association project as defined in NRS 116.31086, or to enter into, renew, modify, terminate or take any other action regarding a contract.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses;

(b) Is entitled to due process, as set forth in the standards adopted by regulation by the Commission, which must include, without limitation, the right to counsel, the right to present witnesses and the right to present information relating to any conflict of interest of any member of the hearing panel; and

(c) Is not entitled to attend the deliberations of the executive board.

5. *Except as otherwise provided in subsection 3 of section 1 of this act, an executive board shall meet in executive session to hold a hearing to verify a past due obligation pursuant to subsection 3 of section 1 of this act.*

6. The provisions of ~~[subsection]~~ *subsections* 4 *and 5* establish the minimum protections that the executive board must provide before it may make a decision. The provisions of ~~[subsection]~~ *subsections* 4 *and 5* do not preempt any provisions of the governing documents that provide greater protections.

~~[6.]~~ *7.* Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be

generally noted in the minutes of the meeting of the executive board. *The minutes of a hearing to verify a past due obligation held pursuant to subsection 3 of section 1 of this act must state the number of votes for and against any determination of the executive board and the assessor's parcel number of the unit.* The executive board shall maintain minutes of ~~[any]~~ :

(a) Any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the decision to the person who was subject to being sanctioned at the hearing or to the person's designated representative.

~~[7.]~~ *(b) Any determination made pursuant to subsection 5 and subsection 3 of section 1 of this act concerning a verification of a past due obligation and, upon request, provide a copy of the determination to the person who was alleged to owe the past due obligation or to the person's designated representative.*

8. Except as otherwise provided in ~~[subsection]~~ *subsections* 4 ~~[,]~~ *and 5,* a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

9. As used in this section, "obligation" has the meaning ascribed to it in NRS 116.310313.

Sec. 2. ~~[NRS 116.31086 is hereby amended to read as follows:~~

~~116.31086 1. If an association solicits bids for an association project, the *association shall review and compare the initial bids for the association project and, after such a review and comparison, may request any of the bidders to submit a revised bid to ensure that the bids received are consistent with respect to the specified services or goods being purchased by the association.*~~

~~*2. If an association requests a revised bid from a bidder pursuant to subsection 1, the association shall explain to the bidder the way in which the bid needs to be revised, including, without limitation, any specifications needed in the revised bid. Any revised* bids *received by the association* must *not* be *sealed and must be* opened during a meeting of the executive board.~~

~~[2.]~~ ~~*3.* As used in this section, "association project" [includes, without limitation,] *means* a project that [involves] :~~

~~*(a) Involves* the maintenance, repair, replacement or restoration of any part of the common elements ; or [which involves]~~

~~*(b) Involves* the provision of services to the association [.],~~

~~*and costs $2,500 or more or 10 percent or more of the total annual assessment made by the association.]*~~ (Deleted by amendment.)

Sec. 3. ~~[NRS 116.31144 is hereby amended to read as follows:~~

~~116.31144 1. Except as otherwise provided in subsection 2, the executive board shall:~~

~~(a) If the annual budget of the association is [$45,000 or more but] less than [$75,000,] *$150,000,* cause the financial statement of the association to be reviewed [by an independent certified public accountant during the year~~

~~immediately preceding the year in which a study of the reserves of the association is to be conducted pursuant to NRS 116.31152.~~

~~(b) If the annual budget of the association is $75,000 or more but less than $150,000, cause the financial statement of the association to be reviewed]~~ ~~by an independent certified public accountant every fiscal year.~~

~~[(c)]~~ ~~*(b)* If the annual budget of the association is $150,000 or more, cause the financial statement of the association to be audited by an independent certified public accountant every fiscal year.~~

~~2. [Except as otherwise provided in this subsection, for]~~ ~~*For* any fiscal year, the executive board of an association shall cause the financial statement for that fiscal year to be audited by an independent certified public accountant if, within 180 days before the end of the fiscal year, [15]~~ ~~*51* percent of the total number of voting members of the association submit a written request for such an audit. [The provisions of this subsection do not apply to an association described in paragraph (c) of subsection 1.]~~

~~3. The Commission shall adopt regulations prescribing the requirements for the auditing or reviewing of financial statements of an association pursuant to this section. Such regulations must include, without limitation:~~

~~(a) The qualifications necessary for a person to audit or review financial statements of an association; and~~

~~(b) The standards and format to be followed in auditing or reviewing financial statements of an association [.]~~ ~~*in accordance with generally accepted accounting principles in the United States.]~~ (Deleted by amendment.)

Sec. 4. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) The budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements and any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements and any

other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary to repair, replace or restore any major component of the common elements or any other portion of the common-interest community that the association is obligated to maintain, repair, replace or restore or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, accompanied by a written notice that:

(a) The budgets are available for review 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 but not to exceed 60 miles from the physical location of the common-interest community; and

(b) Copies of the budgets will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:

(a) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; ~~[and]~~

(b) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner ~~[.]~~ *; and*

(c) An administrative process by which a unit's owner may contest an allegation that the unit's owner is delinquent in the payment of any fees,

fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The administrative process must include, without limitation, a reasonable opportunity for a hearing before the executive board.

Sec. 5. NRS 116A.640 is hereby amended to read as follows:

116A.640 In addition to the standards of practice for community managers set forth in NRS 116A.630 and any additional standards of practice adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall not:

1. Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.

2. Impede or otherwise interfere with an investigation of the Division by:

(a) Failing to comply with a request of the Division to provide documents;

(b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or

(c) Concealing any facts or documents relating to the business of a client.

3. Commingle money or other property of a client with the money or other property of another client, another association, the community manager or the employer of the community manager.

4. Use money or other property of a client for his or her own personal use.

5. Be a signer on a withdrawal from a reserve account of a client.

6. Except as otherwise permitted by the provisions of the court rules governing the legal profession, establish an attorney-client relationship with an attorney or law firm which represents a client that employs the community manager or with whom the community manager has a management agreement.

7. Provide or attempt to provide to a client a service concerning a type of property or service:

(a) That is outside the community manager's field of experience or competence without the assistance of a qualified authority unless the fact of his or her inexperience or incompetence is disclosed fully to the client and is not otherwise prohibited by law; or

(b) For which the community manager is not properly licensed.

8. Intentionally apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due.

9. Refuse to accept from a unit's owner *, or any other party,* payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.

10. Collect any fees or other charges from a client not specified in the management agreement.

11. Accept any compensation, gift or any other item of material value as payment or consideration for a referral or in the furtherance or performance of his or her normal duties unless:

(a) Acceptance of the compensation, gift or other item of material value complies with the provisions of NRS 116.31185 or 116B.695 and all other applicable federal, state and local laws, regulations and ordinances; and

(b) Before acceptance of the compensation, gift or other item of material value, the community manager provides full disclosure to the client and the client consents, in writing, to the acceptance of the compensation, gift or other item of material value by the community manager.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 734 to Assembly Bill No. 98 deletes all sections of the bill, except Section 1, which relates to the disclosure requirement, and provides that if an association has reason to believe that a potential conflict of interest exists, the association may distribute the disclosure on behalf of the candidate, if he or she consents to the distribution of the disclosure. It also adds the provisions of Senate Bill No. 280, as amended.

Amendment adopted.

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

Assembly Bill No. 116.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 637.

"SUMMARY—Revises certain provisions concerning accessories to certain crimes. (BDR 15-135)"

"AN ACT relating to crimes; revising certain provisions concerning accessories to certain crimes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that anyone who is not the husband or wife, brother or sister, parent or grandparent, child or grandchild of an offender and who harbors, conceals or aids the offender after the commission of a crime is an accessory to the crime. (NRS 195.030) Section 1 of this bill removes every person other than the ~~[husband and wife]~~ spouse or ~~[a]~~ domestic partner from that exception if the crime is a felony. Section 1 also revises the acts which constitute being an accessory to a ~~[crime]~~ felony after the commission of the ~~[crime]~~ felony by specifically stating that a person acts as ~~[such]~~ an accessory to a felony if he or she destroys or conceals, or aids in the destruction or concealment of, material evidence, or harbors or conceals the offender.

Existing law provides that an accessory to a felony is guilty of a category C felony. (NRS 195.040) Section 2 of this bill revises this penalty to provide that a person who harbors, conceals or aids the offender after the commission of a felony and who is the brother or sister, parent or grandparent, child or grandchild of the offender is guilty of a gross misdemeanor.

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

Section 1. NRS 195.030 is hereby amended to read as follows:

195.030 *1.* Every person *who is* not ~~[standing in the relation of husband or wife]~~ ~~[, brother or sister, parent or grandparent, child or grandchild,]~~ *the spouse or domestic partner* ~~[to]~~ *of* the offender ~~[,]~~ *and* who ~~[:~~

~~1. After]~~ *, after* the commission of a felony *, destroys or conceals, or aids in the destruction or concealment of, material evidence, or* harbors ~~[,]~~ *or* conceals ~~[or aids]~~ such offender with intent that the offender may avoid or escape from arrest, trial, conviction or punishment, having knowledge that such offender has committed a felony or is liable to arrest, is an accessory to the felony.

2. ~~[After]~~ *Every person who is not ~~[standing in the relation of husband or wife,]~~ the spouse, domestic partner, brother or sister, parent or grandparent, child or grandchild ~~[to]~~ of the offender, who, after* the commission of a gross misdemeanor *, ~~[destroys or conceals, or aids in the destruction or concealment of, material evidence, or]~~* harbors ~~,~~ *~~[or]~~* conceals or aids such offender with intent that the offender may avoid or escape from arrest, trial, conviction or punishment, having knowledge that such offender has committed a gross misdemeanor or is liable to arrest, is an accessory to the gross misdemeanor.

3. As used in this section, "domestic partner" means a person who is in a domestic partnership that is registered pursuant to chapter 122A of NRS, and that has not been terminated pursuant to that chapter.

Sec. 2. NRS 195.040 is hereby amended to read as follows:

195.040 1. An accessory to a felony may be indicted, tried and convicted either in the county where he or she became an accessory, or where the principal felony was committed, whether the principal offender has or has not been convicted, or is or is not amenable to justice, or has been pardoned or otherwise discharged after conviction. Except *as otherwise provided in this subsection and except* where a different punishment is specially provided by law, the accessory is guilty of a category C felony and shall be punished as provided in NRS 193.130. *An accessory to a felony who is ~~[standing in the relation of]~~ the brother or sister, parent or grandparent, child or grandchild ~~[to]~~ of the principal offender and who is an accessory to a felony pursuant to subsection 1 of NRS 195.030 is guilty of a gross misdemeanor.*

2. An accessory to a gross misdemeanor may be indicted, tried and convicted in the manner provided for an accessory to a felony and, except where a different punishment is specially provided by law, shall be punished by imprisonment in the county jail for not less than 30 days nor more than 6 months, or by a fine of not less than $100 nor more than $500, or by both fine and imprisonment.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 637 to Assembly Bill No. 116 deletes concealing and aiding in the destruction or concealment of material evidence from the acts that make a person an accessory to a gross misdemeanor.

Amendment adopted.

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

Assembly Bill No. 207.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 736.

"SUMMARY—Revises provisions relating to juveniles. (BDR 5-51)"

"AN ACT relating to juveniles; ~~[providing for certain prosecutorial discretion regarding a child taken into custody for a battery constituting domestic violence or any other battery offense;]~~ establishing a maximum period of time for which a juvenile court may order ~~[an adult who has been placed on probation by the juvenile court or released on parole]~~ certain adults to be placed in county jail for a violation of juvenile probation or parole; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law provides that certain unlawful acts constitute domestic violence when committed against certain specified persons. (NRS 33.018) In addition, existing law provides that if a person is charged with committing a battery that constitutes domestic violence, a prosecuting attorney has limited discretion and may not negotiate any plea agreement for a different or lesser charge unless the domestic violence charge is not supported by probable cause or cannot be proved at the time of trial. (NRS 200.485)~~

~~Section 2 of this bill specifies that when a child is taken into custody for a battery that constitutes domestic violence or any other battery offense, the prosecuting attorney has greater discretion in determining the charge and in negotiating any plea agreement for a different or lesser charge based on certain factors, including: (1) the nature and type of relationship between the child and victim; (2) the nature and severity of the alleged offense; and (3) whether the child engaged in a pattern of abusive behavior toward the victim to establish or maintain power and control over the victim.]~~

Existing law provides that a juvenile court may order a child who is less than 18 years of age to be placed in a facility for the detention of children for not more than 30 days for ~~[the]~~ a violation of probation. Under existing law, if a person who is at least 18 years of age but less than 21 years of age is subject to the jurisdiction of the juvenile court because he or she has been placed on probation by the juvenile court or released on parole from a juvenile detention facility, the juvenile court may order the person to be placed in county jail for the violation of probation or parole. (NRS 62E.710) Section 3 of this bill limits to 30 days the period for which the juvenile court may order such a person to be placed in county jail.

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

Section 1. (Deleted by amendment.)

Sec. 2. ~~[Chapter 62C of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Notwithstanding the provisions of subsection 8 of NRS 200.485, if a child is taken into custody for committing a battery that constitutes domestic violence pursuant to NRS 33.018 or any other battery offense, the district attorney may, after considering the factors set forth in subsection 2, determine whether to:*~~

~~*(a) File a petition alleging a different or lesser offense arising out of the same facts;*~~

~~*(b) Negotiate or enter into an agreement whereby the child admits to a different or lesser offense arising out of the same facts; or*~~

~~*(c) Take or approve any other actions authorized by this title, including, without limitation, informal supervision or dismissal.*~~

~~*2. In exercising his or her prosecutorial discretion pursuant to this section, the district attorney shall consider, without limitation:*~~

~~*(a) The nature and type of relationship between the child and the victim of the alleged offense;*~~

~~*(b) The nature and severity of the alleged offense; and*~~

~~*(c) Whether the facts show that the child engaged in a pattern of abusive behavior toward the victim of the alleged offense for the purpose of establishing or maintaining power and control over the victim.]~~ (Deleted by amendment.)

Sec. 3. NRS 62E.710 is hereby amended to read as follows:

62E.710 The juvenile court may order any child who is:

1. Less than 18 years of age and who has been adjudicated delinquent and placed on probation by the juvenile court to be placed in a facility for the detention of children for not more than 30 days for the violation of probation.

2. At least 18 years of age but less than 21 years of age and who has been placed on probation by the juvenile court or who has been released on parole to be placed in a county jail *for not more than 30 days* for the violation of probation or parole.

Sec. 4. ~~[NRS 200.485 is hereby amended to read as follows:~~

~~200.485 1. Unless a greater penalty is provided pursuant to subsection 2 or NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:~~

~~(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:~~

~~(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and~~

~~(2) Perform not less than 48 hours, but not more than 120 hours, of community service.~~

~~➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less~~

~~than 4 consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.~~

~~(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:~~

~~(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and~~

~~(2) Perform not less than 100 hours, but not more than 200 hours, of community service.~~

~~➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000.~~

~~(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.~~

~~2. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, if the battery is committed by strangulation as described in NRS 200.481, is guilty of a category C felony and shall be punished as provided in NRS 193.130 and by a fine of not more than $15,000.~~

~~3. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:~~

~~(a) For the first offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.~~

~~(b) For the second offense within 7 years, require the person to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.~~

~~➥ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.~~

~~4. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.~~

~~5. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected~~

~~must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.~~

~~6. In addition to any other penalty, the court may require such a person to participate, at his or her expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.~~

~~7. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.~~

~~8. [If] *Except as otherwise provided in section 2 of this act, if* a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.~~

~~9. As used in this section:~~

~~(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.~~

~~(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.~~

~~(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.~~] (Deleted by amendment.)

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 736 to Assembly Bill No. 207 deletes all sections of the bill, except the section that limits to 30 days the period for which the juvenile court may order a person, who is at least 18 years of age but less than 21 years of age, to be placed in county jail for a violation of probation or parole.

Amendment adopted.

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

Assembly Bill No. 236.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 756.

"SUMMARY—Makes changes to the rules of the road regarding motorcycles. (BDR 43-659)"

"AN ACT relating to motorcycles; allowing lane splitting in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person other than a police officer in the performance of his or her duty may not drive a motorcycle or moped between moving or stationary vehicles occupying adjacent traffic lanes, a maneuver commonly known as lane splitting. (NRS 486.351) Section 3 of this bill allows lane splitting between stationary vehicles by a person driving a motorcycle provided that, while driving between the other vehicles: (1) the person drives in a manner that is reasonable and proper, having due regard for the traffic, surface and width of the highway, the weather and other highway conditions; and (2) the motorcycle does not ~~[travel at a speed which is more than 10 miles per hour faster than the speed of those other vehicles; and (3) the motorcycle does not]~~ exceed a maximum speed of ~~[30]~~ 10 miles per hour.

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

Section 1. NRS 484B.207 is hereby amended to read as follows:

484B.207 1. ~~[The]~~ *Except as otherwise provided in NRS 486.351, the* driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the highway until safely clear of the overtaken vehicle.

2. Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle upon observing the overtaking vehicle or hearing a signal. The driver of an overtaken vehicle shall not increase the speed of the vehicle until completely passed by the overtaking vehicle.

3. A person who violates any provision of this section may be subject to the additional penalty set forth in NRS 484B.130.

Sec. 2. NRS 484B.210 is hereby amended to read as follows:

484B.210 1. ~~[The]~~ *Except as otherwise provided in NRS 486.351, the* driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the driver of the vehicle overtaken is making or signaling to make a left turn.

(b) Upon a highway with unobstructed pavement which is not occupied by parked vehicles and which is of sufficient width for two or more lines of moving vehicles in each direction.

(c) Upon a highway with unobstructed pavement which is not marked as a traffic lane and which is not occupied by parked vehicles, if the vehicle that is overtaking and passing another vehicle:

(1) Does not travel more than 200 feet in the section of pavement not marked as a traffic lane; or

(2) While being driven in the section of pavement not marked as a traffic lane, does not travel through an intersection or past any private way that is used to enter or exit the highway.

(d) Upon any highway on which traffic is restricted to one direction of movement, where the highway is free from obstructions and of sufficient width for two or more lines of moving vehicles.

2. The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety.

3. The driver of a vehicle shall not overtake and pass another vehicle upon the right when such movement requires driving off the paved portion of the highway.

4. A person who violates any provision of this section may be subject to the additional penalty set forth in NRS 484B.130.

Sec. 3. NRS 486.351 is hereby amended to read as follows:

486.351 1. ~~[A]~~ *Except as otherwise provided in this section, a* person ~~[, except a police officer in the performance of his or her duty,]~~ shall not drive a motorcycle or moped ~~[between]~~ *:*

(a) Between moving or stationary vehicles occupying adjacent traffic lanes.

~~[2. Except as provided in subsection 3, a person shall not drive a motorcycle, moped or trimobile abreast]~~

(b) Abreast of or overtake or pass another vehicle within the same traffic lane.

2. The provisions of subsection 1 do not apply to a police officer in the performance of his or her duty.

3. *A person may drive a motorcycle between ~~[moving or]~~ stationary vehicles occupying adjacent traffic lanes and traveling in the same direction as the motorcycle provided that:*

(a) The person drives in a manner that is reasonable and proper, having due regard for the traffic, surface and width of the highway, the weather and other highway conditions; and

(b) The motorcycle, while ~~[driving]~~ being driven between such vehicles ~~[.]~~ *~~:~~*

~~*(1) Does not travel at a speed which is more than 10 miles per hour faster than the speed of those other vehicles; and*~~

~~(2) Does~~], does not exceed a maximum speed of ~~[30]~~ 10 miles per hour.

4. Motorcycles and mopeds may, with the consent of the drivers, be operated no more than two abreast in a single traffic lane.

Sec. 4. This act becomes effective on January 1, 2014.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 756 to Assembly Bill No. 236 limits lane splitting by a person driving a motorcycle to instances when adjacent cars are stationary. It requires that a motorcyclist, while lane splitting, may not exceed a maximum speed of 10 miles per hour.

Amendment adopted.

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

Assembly Bill No. 240.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 737.

"SUMMARY—Revises provisions relating to civil actions. (BDR 3-1021)"

"AN ACT relating to civil actions; revising provisions governing comparative negligence; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that in any action to recover damages for death or injury to persons or property where comparative negligence is asserted as a defense, the comparative negligence of the plaintiff or the plaintiff's decedent does not bar a recovery if that negligence was not greater than the negligence or gross negligence of the parties against whom recovery is sought. ~~[Where recovery is allowed against more than one defendant in such an action, except in certain cases, each defendant is severally liable to the plaintiff only for that portion of the judgment which represents the percentage of negligence attributable to that defendant.]~~ (NRS 41.141) This bill revises the applicability of that provision by making the provision applicable to actions in which comparative negligence is a bona fide issue, rather than actions in which comparative negligence is asserted as a defense. ~~[clarifies that where recovery is allowed against more than one defendant, the liability of the defendants is joint and several, rather than several, unless the trier of fact finds comparative negligence on the part of the plaintiff or the plaintiff's decedent.]~~

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

Section 1. NRS 41.141 is hereby amended to read as follows:

41.141 1. In any action to recover damages for death or injury to persons or for injury to property in which ~~*[the trier of fact finds]*~~ comparative negligence is ~~[asserted as a defense,]~~ ~~*[on the part of the plaintiff or the plaintiff's decedent,]*~~ *a bona fide issue,* the comparative negligence of the plaintiff or the plaintiff's decedent does not bar a recovery if that negligence was not greater than the negligence or gross negligence of the parties to the action against whom recovery is sought. *Comparative negligence is not a bona fide issue if the trier of fact finds no comparative negligence on the part of the plaintiff or the plaintiff's decedent.*

2. In ~~[~~those~~]~~ cases ~~[~~,~~]~~ *in which comparative negligence is ~~[asserted as a defense,]~~* *a bona fide issue,* the judge shall instruct the jury that:

(a) The plaintiff may not recover if the plaintiff's comparative negligence or that of the plaintiff's decedent is greater than the negligence of the defendant or the combined negligence of multiple defendants.

(b) If the jury determines the plaintiff is entitled to recover, it shall return:

(1) By general verdict the total amount of damages the plaintiff would be entitled to recover without regard to the plaintiff's comparative negligence; and

(2) A special verdict indicating the percentage of negligence attributable to each party remaining in the action.

3. If a defendant in such an action settles with the plaintiff before the entry of judgment, the comparative negligence of that defendant and the amount of the settlement must not thereafter be admitted into evidence nor considered by the jury. The judge shall deduct the amount of the settlement from the net sum otherwise recoverable by the plaintiff pursuant to the general and special verdicts.

4. Where recovery is allowed against more than one defendant in such an action , ~~[in which the trier of fact finds comparative negligence on the part of the plaintiff or the plaintiff's decedent,]~~ except as otherwise provided in subsection 5, each defendant is severally liable to the plaintiff only for that portion of the judgment which represents the percentage of negligence attributable to that defendant.

5. This section does not affect the joint and several liability, if any, of the defendants in an action based upon:

(a) Strict liability;

(b) An intentional tort;

(c) The emission, disposal or spillage of a toxic or hazardous substance;

(d) The concerted acts of the defendants; or

(e) An injury to any person or property resulting from a product which is manufactured, distributed, sold or used in this State.

6. As used in this section:

(a) "Concerted acts of the defendants" does not include negligent acts committed by providers of health care while working together to provide treatment to a patient.

(b) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 737 to Assembly Bill No. 240 provides that comparative negligence is not a bona fide issue if the trier of fact finds no comparative negligence on the part of the plaintiff or the plaintiff's decedent.

Amendment adopted.

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

Assembly Bill No. 378.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 754.

"SUMMARY—Revises provisions governing spendthrift trusts. (BDR 13-656)"

"AN ACT relating to spendthrift trusts; revising provisions governing self-settled spendthrift trusts; revising provisions governing the transfer of ~~[community]~~ property to a spendthrift trust; ~~[prohibiting certain]~~ revising provisions governing persons ~~[from being]~~ 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 1.3 of this bill provides that a self-settled spendthrift trust is not enforceable against the settlor's child, spouse or domestic partner, or former spouse or domestic partner who has a judgment or court order against the settlor for support or maintenance. Section 1.3 further authorizes: (1) the settlor's child, spouse or domestic partner, or former spouse or domestic partner to obtain a court order attaching present or future distributions from a self-settled spendthrift trust to or for the benefit of the settlor; and (2) authorizes a court to order distributions from a self-settled spendthrift trust to satisfy a judgment or court order against the settlor for the support or maintenance of his or her child, spouse or domestic partner or former spouse or domestic partner. Section 1.6 of this bill enacts provisions governing the transfer of community property to a spendthrift trust.]~~

Section 1.2 of this bill provides that 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 1.9 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 ~~[being]~~ 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 ~~[1.3]~~ 1.1 and ~~[1.6]~~ 1.2 of this act.

Sec. 1.1. As used in this chapter, unless the context otherwise requires, the term "domestic partner" means a person who is in a domestic partnership that is registered pursuant to chapter 122A of NRS and that has not been terminated pursuant to that chapter.

Sec. 1.2. 1. Notwithstanding any other provision of law, 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. 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.

3. 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 2 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 2, 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. 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. ~~[*1. Notwithstanding any other provision of law, if a spendthrift trust is a self-settled spendthrift trust:*~~

~~*(a) The trust is unenforceable against the settlor's child, spouse or domestic partner, or former spouse or domestic partner who has a judgment or court order against the settlor for support or maintenance; and*~~

~~*(b) A claimant against whom the trust cannot be enforced pursuant to paragraph (a) may obtain from a court an order attaching present or future distributions to or for the benefit of a beneficiary of the trust who is a settlor of the trust.*~~

~~*2. Notwithstanding any other provision of law, if a trustee of a self-settled spendthrift trust has discretion to determine whether or not to make a distribution to a beneficiary who is a settlor of the trust:*~~

~~*(a) A distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary who is a settlor of the trust for the support or maintenance of that beneficiary's child, spouse or domestic partner, or former spouse or domestic partner; and*~~

~~*(b) The court shall direct the trustee to pay to the child, spouse or domestic partner, or former spouse or domestic partner such amount as is equitable under the circumstances.*~~

~~*3. Notwithstanding any other provision of law, if a child, spouse or domestic partner, or former spouse or domestic partner has a judgment or court order for support or maintenance against a beneficiary of a self settled spendthrift trust who is a settlor of the trust, the child, spouse or domestic partner, or former spouse or domestic partner may reach a distribution of income or principal which the trustee is required to make to that beneficiary under the terms of the trust, including, without limitation, a distribution upon termination of the trust.*~~

~~*4. As used in this section:*~~

~~*(a) "Domestic partner" means a person who is in a domestic partnership that is registered pursuant to chapter 122A of NRS, and that has not been terminated pursuant to that chapter.*~~

~~*(b) "Self-settled spendthrift trust" means a spendthrift trust of which a settlor is a beneficiary.]~~* (Deleted by amendment.)

Sec. 1.6. ~~[*1. A transfer of community property to a spendthrift trust is void unless both spouses or domestic partners, whichever is applicable, agree to the transfer in a writing which expressly waives the community property rights of each spouse or domestic partner, whichever is applicable, in the property being transferred to the trust. An agreement between spouses or domestic partners pursuant to this subsection must meet the standards which govern the actions of persons occupying relations of confidence and trust toward each other.*~~

~~*2. As used in this section:*~~

~~*(a) "Community property" means property that is community property pursuant to NRS 123.220.*~~

~~*(b) "Domestic partner" has the meaning ascribed to it in NRS 122A.030.]*~~

(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) ~~*[The]*~~ *At any time a settlor is subject to a family support order as defined in section 1.2 of this act:*

(1) The following persons ~~*[may]*~~ *must not* ~~*[be]*~~ *act as a distribution trustee* ~~*[:]*~~ *or a distribution adviser:*

~~*[(1)]*~~ *(I) The settlor;*

~~[(2)]~~ *(II) The spouse or domestic partner of the settlor;*

~~[(3)]~~ *(III) Any person related to the settlor by blood, adoption or marriage within the second degree of consanguinity or affinity;*

~~[(4)]~~ *(IV) An employee of the settlor;*

~~[(5)]~~ *(V) A subordinate employee of the settlor or of a business entity in which the settlor is an executive; or*

~~[(6)]~~ *(VI) A business entity in which the settlor, or any person listed in ~~[subparagraphs (2) to (5),]~~ sub-subparagraphs (II) to (V), inclusive, holds at least 30 percent of the total voting power of all interests entitled to vote.*

~~*[3. As used in this section, "domestic partner" has the meaning ascribed to it in NRS 122A.030.]*~~

(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 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.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 754 to Assembly Bill No. 378 provides that a transfer of property to a self-settled spendthrift trust is presumed to be made with the actual intent to defraud an oblige 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 two 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. It also 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 oblige named in a family support order.

Amendment adopted.

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

Assembly Bill No. 379.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 757.

"SUMMARY—Revises provisions governing the disposal of abandoned recreational vehicles. (BDR 43-593)"

"AN ACT relating to vehicles; authorizing a person to apply for a letter of abandonment for an abandoned recreational vehicle under certain circumstances; requiring a municipal solid waste landfill to accept a recreational vehicle for disposal under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the procedure for disposal of an abandoned vehicle. (NRS 487.205-487.300) Section 1 of this bill authorizes an owner or occupant of private property who discovers an abandoned recreational vehicle on that property to apply for a letter of abandonment for the recreational vehicle. Section 1 also sets forth the procedure for obtaining a letter of abandonment for a recreational vehicle. Section 5 of this bill requires a municipal solid waste landfill to accept a recreational vehicle for disposal if: (1) the person disposing of the recreational vehicle pays any applicable fee and provides the title to the recreational vehicle which indicates that he or she is the owner of the vehicle or has obtained a letter of abandonment from the Department of Motor Vehicles; and (2) accepting the recreational vehicle for disposal does not violate any applicable federal or state law concerning the operation of the municipal solid waste landfill.

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

Section 1. Chapter 487 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the procedure for disposing of an abandoned vehicle set forth in NRS 487.205 to 487.300, inclusive, if a recreational vehicle is abandoned on private property and is discovered by the owner or occupant of the property, the person who discovers the recreational vehicle may apply for a letter of abandonment for the recreational vehicle. The issuance of a letter of abandonment pursuant to this section divests any other person of any interest in the abandoned recreational vehicle.

2. Before applying for a letter of abandonment, the owner or occupant of the property where the abandoned recreational vehicle is located shall:

(a) If the abandoned recreational vehicle has a serial number, vehicle identification number or registration number or other means of identifying any owner of the abandoned recreational vehicle, obtain the last known address of the owner and notify the owner by registered or certified letter to the last known address of the owner that, if ownership is not claimed and the abandoned recreational vehicle is not removed within 60 days, the owner or occupant of the property where the abandoned recreational vehicle is located will apply for a letter of abandonment. The owner or occupant of the

property where the abandoned recreational vehicle is located is not required to send a registered or certified letter if an owner cannot be located or if an address for an owner cannot be ascertained.

(b) Place a notice in a newspaper of general circulation published in the county in which the abandoned recreational vehicle is located, describing the abandoned recreational vehicle and the location where the abandoned recreational vehicle was discovered and providing the serial ~~[or]~~ number, vehicle identification number or registration number or any other identifying information relating to the abandoned recreational vehicle. The owner or occupant of the property where the abandoned recreational vehicle is located shall state in the notice that, if the abandoned recreational vehicle is not claimed and removed within 60 days after the publication date of the newspaper, the owner or occupant of the property where the abandoned recreational vehicle is located will apply for a letter of abandonment.

3. An owner or occupant of the property where the abandoned recreational vehicle is located may apply to the Department for a letter of abandonment upon the expiration of:

(a) Sixty days after the date on which the owner or occupant of the property where the abandoned recreational vehicle is located mails the registered or certified letter pursuant to paragraph (a) of subsection 2, if such a letter is required; or

(b) Sixty days after the date of publication of the notice required by paragraph (b) of subsection 2,

➥ whichever is later.

4. An application for a letter of abandonment for an abandoned recreational vehicle must contain:

(a) A completed application form prescribed by the Department;

(b) Proof that the letter required by paragraph (a) of subsection 2 was mailed at least 60 days before the submission of the application or a detailed explanation of the unsuccessful steps taken to identify all owners of the abandoned recreational vehicle;

(c) Proof that a notice was printed in a newspaper as required by paragraph (b) of subsection 2 at least 60 days before the submission of the application;

(d) A clear and accurate photograph of the abandoned recreational vehicle; and

(e) The serial number, vehicle identification number or registration number, if any, of the abandoned recreational vehicle.

5. The Department may charge and collect a fee for issuing a letter of abandonment pursuant to this section, which must not exceed the actual cost to the Department of issuing the letter of abandonment.

6. Upon receipt of the materials and information required in subsection 4 and any fees required pursuant to subsection 5, the Department shall enter the application upon the records of its office and issue to the applicant a letter of abandonment for the abandoned recreational vehicle.

7. As used in this section, "recreational vehicle" has the meaning ascribed to it in NRS 482.101.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. Chapter 444 of NRS is hereby amended by adding thereto a new section to read as follows:

A municipal solid waste landfill shall accept a recreational vehicle for disposal if:

1. The person disposing of the recreational vehicle pays any applicable fee and provides:

(a) The title to the recreational vehicle, indicating that he or she is the owner; or

(b) A letter of abandonment issued by the Department of Motor Vehicles pursuant to section 1 of this act; and

2. Accepting the recreational vehicle for disposal does not violate any applicable federal or state law or regulation relating to the operation of the municipal solid waste landfill.

Sec. 6. NRS 444.450 is hereby amended to read as follows:

444.450 As used in NRS 444.440 to 444.620, inclusive, *and section 5 of this act,* unless the context otherwise requires, the words and terms defined in NRS 444.460 to 444.501, inclusive, have the meanings ascribed to them in those sections.

Sec. 7. NRS 444.580 is hereby amended to read as follows:

444.580 *Except as otherwise provided in section 5 of this act:*

1. Any district board of health created pursuant to NRS 439.362 or 439.370 and any governing body of a municipality may adopt standards and regulations for the location, design, construction, operation and maintenance of solid waste disposal sites and solid waste management systems or any part thereof more restrictive than those adopted by the State Environmental Commission, and any district board of health may issue permits thereunder.

2. Any district board of health created pursuant to NRS 439.362 or 439.370 may adopt such other regulations as are necessary to carry out the provisions of NRS 444.440 to 444.620, inclusive ~~[.]~~ *, and section 5 of this act.* Such regulations must not conflict with regulations adopted by the State Environmental Commission.

Sec. 8. This act becomes effective on July 1, 2013.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

Thank you, Mr. President. Amendment No. 757 to Assembly Bill No. 379 clarifies that the person disposing of a recreational vehicle must pay the fee for the disposal.

Amendment adopted.

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

Assembly Bill No. 391.

Bill read second time.

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

Amendment No. 771.

"SUMMARY—Revises provisions relating to energy. (BDR 58-1025)"

"AN ACT relating to energy; providing that the amount of certain incentives issued by a utility for the installation of certain renewable energy systems on property owned or occupied by a public body may not be used to reduce the cost of the project so as to exempt the project from provisions governing competitive bidding for public works projects; requiring contractors who enter into contracts pursuant to the Green Jobs Initiative to make certain certifications to the Labor Commissioner concerning wages paid to employees who work on such projects; providing that certain utilities which are generally subject only to limited jurisdiction, control and regulation of the Public Utilities Commission of Nevada become subject to the full jurisdiction, control and regulation of the Commission under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 9 and 10 of this bill revise provisions relating to the installation of certain renewable energy systems on property owned or occupied by a public body to provide that the amount of any incentive issued by a utility for the installation of the renewable energy system may not be used to reduce the cost of the project so as to exempt the project from provisions governing competitive bidding for public works projects.

Section 11 of this bill requires any contractor or subcontractor who enters into a contract pursuant to the Green Jobs Initiative to provide written certification to the Labor Commissioner that the employees of the contractor or subcontractor who perform work under the contract are paid the prevailing wage required by the Initiative. (NRS 701B.900-701B.924)

Existing law provides that certain entities which are declared to be utilities but which provide services only to their members are subject only to limited jurisdiction, control and regulation of the Public Utilities Commission of Nevada. (NRS 704.675) Section 12 of this bill provides that such a utility is subject to the full jurisdiction, control and regulation of the Commission if the Commission determines that the utility or any entity that is owned or controlled by the utility: (1) is being operated without a certificate of public convenience and necessity issued to the utility by the Commission; (2) is supplying energy services to persons other than its own members; (3) is offering energy services outside the geographic area for which it holds a certificate of public convenience and necessity; (4) qualifies as a public utility or utility under applicable law outside the geographic area for which it holds a certificate of public convenience and necessity; or (5) has otherwise violated certain provisions of law relating to utilities.

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. NRS 701B.265 is hereby amended to read as follows:

701B.265 1. The installation of a solar energy system on property owned or occupied by a public body pursuant to NRS 701B.010 to 701B.290, inclusive, shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money.

2. The amount of any incentive issued by a utility relating to the installation of a solar energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount which would exempt the project from ~~[the]~~ *any* requirements of *chapter 338 of* NRS . ~~[338.020 to 338.090, inclusive.]~~

3. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.

Sec. 10. NRS 701B.625 is hereby amended to read as follows:

701B.625 1. The installation of a wind energy system on property owned or occupied by a public body pursuant to NRS 701B.400 to 701B.650, inclusive, shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the wind energy system is financed in whole or in part by public money.

2. The amount of any incentive issued by a utility relating to the installation of a wind energy system on property owned or occupied by a public body may not be used to reduce the cost of the project to an amount which would exempt the project from ~~[the]~~ *any* requirements of *chapter 338 of* NRS . ~~[338.020 to 338.090, inclusive.]~~

3. As used in this section, "public body" means the State or a county, city, town, school district or any public agency of this State or its political subdivisions.

Sec. 11. NRS 701B.924 is hereby amended to read as follows:

701B.924 1. The State Public Works Board shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and 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 pursuant to the provisions of

this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and 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 pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after June 9, 2009, determine the specific projects to weatherize and 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 pursuant to the provisions of this section and NRS 701B.921. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS ~~[.]~~ *and requiring that each contractor and subcontractor certify to the Labor Commissioner in writing that all employees of the contractor or subcontractor who work on the project are paid prevailing wages as required by this paragraph;*

(b) Provisions requiring that each contractor and subcontractor employed on each such project:

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of NRS 701B.921 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 12. NRS 704.675 is hereby amended to read as follows:

704.675 ~~[Every]~~

1. Except as otherwise provided in subsection 2, every cooperative association or nonprofit corporation or association and every other supplier of services described in this chapter supplying those services for the use of its own members only is hereby declared to be affected with a public interest, to be a public utility, and to be subject to the jurisdiction, control and regulation of the Commission for the purposes of NRS 703.191, 704.330, 704.350 to 704.410, inclusive, but not to any other jurisdiction, control and regulation of the Commission or to the provisions of any section not specifically mentioned in this ~~[section.]~~ *subsection.*

2. The limitations set forth in subsection 1 governing the applicability of this chapter and the jurisdiction, control and regulation of the Commission do not apply to a cooperative association, nonprofit corporation or association or any other supplier of services described in this chapter that supplies ~~[those]~~ energy services for the use of its own members if the Commission determines that the cooperative association, nonprofit corporation or association or other supplier of services described in this chapter, or any entity that is owned or controlled by the cooperative association, nonprofit corporation or association or other supplier of services:

(a) Is being operated without a certificate of public convenience and necessity as required by NRS 704.330;

(b) Is supplying ~~[those]~~ energy services to persons other than its own members;

(c) Is offering ~~[those]~~ energy services outside the geographic area for which it holds a certificate of public convenience and necessity issued by the Commission;

(d) Qualifies as a public utility or utility under NRS 704.020 outside the geographic area for which it holds a certificate of public convenience and necessity issued by the Commission; or

(e) Has otherwise violated any provision of NRS 704.330.

3. As used in this section, "energy services" includes, without limitation, assuming responsibility for furnishing or delivering energy to another person, the operation of a system for furnishing or delivering energy to another person and assuming responsibility for the maintenance of a system for furnishing or delivering energy to another person.

Sec. 12.5. NRS 704.865 is hereby amended to read as follows:

704.865 1. A person, other than a local government, shall not commence to construct a utility facility in the State without first having obtained a permit therefor from the Commission. The replacement of an existing facility with a like facility, as determined by the Commission, does not constitute construction of a utility facility. Any facility, with respect to which a permit is required, must thereafter be constructed, operated and maintained in conformity with the permit and any terms, conditions and modifications contained therein. A permit may only be issued pursuant to NRS 704.820 to 704.900, inclusive. Any authorization relating to a utility facility granted under other laws administered by the Commission constitutes a permit under those sections if the requirements of those sections have been complied with in the proceedings leading to the granting of the authorization.

2. A permit may be transferred, subject to the approval of the Commission, to a person who agrees to comply with the terms, conditions and modifications contained therein.

3. NRS 704.820 to 704.900, inclusive, do not apply to any utility facility:

(a) For which, before July 1, 1971, an application for the approval of the facility has been made to any federal, state, regional or local governmental agency which possesses the jurisdiction to consider the matters prescribed for finding and determination in NRS 704.890;

(b) For which, before July 1, 1971, a governmental agency has approved the construction of the facility and the person has incurred indebtedness to finance all or part of the cost of the construction;

(c) Over which an agency of the Federal Government has exclusive jurisdiction; or

(d) Owned by a supplier of services described in NRS 704.673 or *subsection 1 of NRS* 704.675 that:

(1) Is not jointly owned by or with an entity that is not such a supplier of services; and

(2) Is subject to the provisions of the National Environmental Policy Act of 1969, 42 U.S.C §§ 4321 et seq.

4. Any person intending to construct a utility facility excluded from NRS 704.820 to 704.900, inclusive, pursuant to paragraph (a) or (b) of subsection 3 may elect to waive the exclusion by delivering notice of its waiver to the Commission. NRS 704.820 to 704.900, inclusive, thereafter apply to each utility facility identified in the notice from the date of its receipt by the Commission.

Sec. 13. 1. This act becomes effective on October 1, 2013.

2. Section 1 of this act expires by limitation on June 30, 2049.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 771 to Assembly Bill No. 391 clarifies that services defined as "energy services" include, but are not limited to, assuming responsibility for furnishing or delivering energy to another person, the operation of a system for furnishing or delivering energy to another person and assuming responsibility for the maintenance of a system for furnishing or delivering energy to another person.

Amendment adopted.

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

Assembly Bill No. 395.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 739.

"SUMMARY—Revises provisions regarding common-interest communities. (BDR 10-1013)"

"AN ACT relating to common-interest communities; prohibiting certain persons within a common-interest community from committing certain acts against another person within that same common-interest community; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill: (1) prohibits certain persons within a common-interest community from committing certain acts against another person within that same common-interest community; and (2) provides that committing any such act is a ~~[public nuisance and punishable as a]~~ misdemeanor.

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 a new section to read as follows:

1. A community manager, an agent or employee of the community manager, a member of the executive board, an officer, employee or agent of an association, a unit's owner or a guest or tenant of a unit's owner shall not willfully and without legal authority threaten, harass or otherwise engage in a course of conduct against any other person who is the community manager

of his or her common-interest community or an agent or employee of that community manager, a member of the executive board of his or her association, an officer, employee or agent of his or her association, another unit's owner in his or her common-interest community or a guest or tenant of a unit's owner in his or her common-interest community which:

(a) Causes harm or serious emotional distress, or the reasonable apprehension thereof, to that person; or

(b) Creates a hostile environment for that person.

2. A person who violates the provisions of subsection 1 ~~[commits a public nuisance and shall be punished as provided in NRS 202.470.]~~ is guilty of a misdemeanor.

Sec. 2. 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 section 1 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.

Sec. 3. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires, "violation" means a violation of ~~[any]~~ :

1. Any provision of this chapter ~~[, any]~~ *except section 1 of this act;*

2. Any regulation adopted pursuant ~~[thereto]~~ *to this chapter;* or ~~[any]~~

3. Any order of the Commission or a hearing panel.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 739 to Assembly Bill No. 395 removes the provisions concerning the behavior constituting a public nuisance under Chapter 202 of *Nevada Revised Statutes* and instead maintains the provisions in Chapter 116 of *Nevada Revised Statutes* to provide that a person who demonstrates such behavior is guilty of a misdemeanor.

Amendment adopted.

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

Assembly Bill No. 415.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 706.

"SUMMARY—Revises various provisions relating to criminal justice. (BDR 15-804)"

"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 a misdemeanor; 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 ~~[a similar offense]~~ 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 a misdemeanor. 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 ~~*[two]*~~ *:*

(a) Two or more times for committing petit larceny ~~[in a commercial establishment during business hours]~~ 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 ~~[, 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 ~~[no]~~ 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.

2. Notwithstanding any other provision of law, a defendant charged with a misdemeanor 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.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 706 to Assembly Bill No. 415 deletes the provision for the two previous petit larceny convictions to have occurred in a commercial establishment during business hours. It also adds a felony to the list of previous offenses that may provide for a burglary offense conviction.

Finally, it prohibits a person from lodging in certain locations 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.

Amendment adopted.

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

Assembly Bill No. 440.

Bill read second time.

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

Amendment No. 669.

"SUMMARY—Revises provisions relating to voter registration. (BDR 24-987)"

"AN ACT relating to elections; extending the period during which an elector can register to vote in person or by computer; requiring county and

city clerks to distribute sample ballots by electronic mail under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, registration for any primary, primary city, general or general city election closes on the third Tuesday before the election. Unless otherwise specified, registration for a recall or special election closes on the third Saturday before the election. After the fifth Sunday before a primary, primary city, general or general city election, a person may register to vote only by appearing in person at the office of the county or city clerk, as applicable, or other designated site for registering to vote. (NRS 293.560, 293C.527) ~~[This]~~ Sections 5 and 12 of this bill ~~[extends]~~ extend the period in which a person may register to vote for primary, primary city, general and general city elections until the last day of early voting for those elections, which is the Friday before the election. ~~[This bill]~~ Sections 5 and 12 also ~~[allows]~~ allow a person to register to vote by computer after the fifth Sunday before the election. Additionally, ~~[this bill extends]~~ sections 5 and 12 extend the period in which a person may register to vote for all elections except otherwise specified recall and special elections until the fourth day before the election. ~~[These]~~ Sections 3, 4, 7 and 11 of this bill make conforming changes.

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 6.5 and 12.1 of this bill require each county and city clerk to distribute sample ballots by electronic mail to each registered voter who elects to receive sample ballots in that manner. Sections 2.5, 7.5 and 12.2-12.6 of this bill make conforming changes.

The changes in this bill take effect on January 1, 2014.

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. 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 printed by a computer ~~[.]~~ *and which is distributed by mail or electronic mail.*

Sec. 3. NRS 293.356 is hereby amended to read as follows:

293.356 If a request is made *in person* to vote early by a registered voter ~~[in person,]~~ *, including, without limitation, a registered voter who registered to vote after the beginning of the period for early voting by personal appearance,* the election board shall issue a ballot for early voting to the voter. Such a ballot must be voted on the premises of a polling place for early voting established pursuant to NRS 293.3564 or 293.3572.

Sec. 4. NRS 293.557 is hereby amended to read as follows:

293.557 1. The county clerk may cause to be published once in each of the newspapers circulated in different parts of the county or cause to be published once in a newspaper circulated in the county:

(a) An alphabetical listing of all registered voters, including the precinct of each voter:

(1) Within the circulation area of each newspaper if the listing is published in each newspaper circulated in different parts of the county; or

(2) Within the entire county if the listing is published in only one newspaper in the county; or

(b) A statement notifying the public that the county clerk will provide an alphabetical listing of the names of all registered voters in the entire county and the precinct of each voter free of charge to any person upon request.

2. If the county clerk publishes the list of registered voters, the county clerk must do so:

(a) Not less than 2 weeks before the ~~[close of registration for any]~~ primary election.

(b) After each primary election and not less than 2 weeks before the ~~[close of registration for the]~~ ensuing general election.

3. The county may not pay more than 10 cents per name for six-point or seven-point type or 15 cents per name for eight-point type or larger to each newspaper publishing the list.

4. The list of registered voters, if published, must not be printed in type smaller than six-point.

Sec. 5. NRS 293.560 is hereby amended to read as follows:

293.560 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300, registration must close *at 5 p.m.* on the ~~[third Tuesday]~~ *Friday* preceding any primary or general election and *, except as otherwise provided by specific law, at 5 p.m.* on the ~~[third Saturday]~~ *fourth day* preceding any recall or special election . ~~[, except that if a recall or special election is held on the same day as a primary or general election, registration must close on the third Tuesday preceding the day of the elections.]~~

2. For a primary or special election, the office of the county clerk must be open until 7 p.m. ~~[during]~~ *on* the *next to* last ~~[2 days]~~ *day* on which registration is open ~~[.]~~ *and 5 p.m. on the last day on which registration is open.* In a county whose population is less than 100,000, the office of the county clerk may close at 5 p.m. ~~[during]~~ *on* the *next to* last ~~[2 days]~~ *day* before registration closes if approved by the board of county commissioners.

3. For a general election:

(a) In a county whose population is less than 100,000, the office of the county clerk must be open until 7 p.m. ~~[during]~~ *on* the *next to* last ~~[2 days]~~ *day* on which registration is open ~~[.]~~ *and 5 p.m. on the last day on which registration is open.* The office of the county clerk may close at 5 p.m. *on the next to last day on which registration is open* if approved by the board of county commissioners.

(b) In a county whose population is 100,000 or more, the office of the county clerk must be open during the last 4 days on which registration is open, according to the following schedule:

(1) On ~~[weekdays]~~ *a day other than the last day on which registration is open,* until 9 p.m.; ~~[and]~~

(2) A minimum of 8 hours on Saturdays, Sundays and legal holidays ~~[.]~~ *; and*

(3) On the last day on which registration is open, until 5 p.m.

4. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the county indicating:

(1) The day and time that registration will be closed; and

(2) If the county clerk has designated a county facility pursuant to NRS 293.5035, the location of that facility.

➥ If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. The offices of the county clerk, a county facility designated pursuant to NRS 293.5035 and other ex officio registrars may remain open on the last Friday in October in each even-numbered year.

6. For the period beginning on the fifth Sunday preceding any primary or general election and ending on the ~~[third Tuesday]~~ *Friday* preceding any primary or general election, an elector may register to vote only by ~~[appearing]~~ *:*

(a) Appearing in person at the office of the county clerk ~~[or, if]~~ *;*

(b) If open, *appearing in person at* a county facility designated pursuant to NRS 293.5035 ~~[.]~~ *; or*

(c) If the county clerk has established a system to allow electors to register to vote by computer pursuant to NRS 293.506, registering by computer.

7. A county facility designated pursuant to NRS 293.5035 may be open during the periods described in this section for such hours of operation as the county clerk may determine, as set forth in subsection 3 of NRS 293.5035.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. 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. *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.*

5. 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 ~~[at]~~ *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

~~[5.]~~ *6.* Except as otherwise provided in subsection ~~[6,]~~ *7,* 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)

~~[6.]~~ *7.* 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.

~~[7.]~~ *8.* 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.

~~[8.]~~ *9.* 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.

~~[9.]~~ *10.* 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.]~~ *11.* 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. 7. NRS 293.567 is hereby amended to read as follows:

293.567 After the close of registration for each primary election but not later than ~~[the Friday preceding]~~ *the opening of the polls for* the primary election and after the close of registration for each general election but not later than ~~[the Friday preceding]~~ *the opening of the polls for* the general election, the county clerk shall ascertain by precinct and district the number of registered voters in the county and their political affiliation, if any, and shall transmit that information to the Secretary of State.

Sec. 7.5. 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. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 293C.356 is hereby amended to read as follows:

293C.356 1. If a request is made *in person* to vote early by a registered voter ~~[in person,]~~ *, including, without limitation, a registered voter who registered to vote after the beginning of the period for early voting by personal appearance,* the city clerk shall issue a ballot for early voting to the voter. Such a ballot must be voted on the premises of the clerk's office and returned to the clerk.

2. On the dates for early voting prescribed in NRS 293C.3568, each city clerk shall provide a voting booth, with suitable equipment for voting, on the premises of the city clerk's office for use by registered voters who are issued ballots for early voting in accordance with this section.

Sec. 12. NRS 293C.527 is hereby amended to read as follows:

293C.527 1. Except as otherwise provided in NRS 293.502, 293D.230 and 293D.300, registration must close *at 5 p.m.* on the ~~[third Tuesday]~~ *Friday* preceding any primary city election or general city election and *, except as otherwise provided by specific law, at 5 p.m.* on the ~~[third Saturday]~~ *fourth day* preceding any recall or special election . ~~[, except that if a recall or special election is held on the same day as a primary city election or general city election, registration must close on the third Tuesday preceding the day of the elections.]~~

2. For a primary city election or special city election, the office of the city clerk must be open until 7 p.m. ~~[during]~~ *on* the *next to* last ~~[2 days]~~ *day* on which registration is open ~~[.]~~ *and 5 p.m. on the last day on which registration is open.* In a city whose population is less than 25,000, the office of the city clerk may close at 5 p.m. *on the next to last day before registration closes* if approved by the governing body of the city.

3. For a general *city* election:

(a) In a city whose population is less than 25,000, the office of the city clerk must be open until 7 p.m. ~~[during]~~ *on* the *next to* last ~~[2 days]~~ *day* on which registration is open ~~[.]~~ *and 5 p.m. on the last day on which registration is open.* The office of the city clerk may close at 5 p.m. *on the next to last*

day on which registration is open if approved by the governing body of the city.

(b) In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 4 days on which registration is open, according to the following schedule:

(1) On ~~[weekdays]~~ *a day other than the last day on which registration is open,* until 9 p.m.; ~~[and]~~

(2) A minimum of 8 hours on Saturdays, Sundays and legal holidays ~~[.]~~ *; and*

(3) On the last day on which registration is open, until 5 p.m.

4. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The city clerk of each city shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the city indicating:

(1) The day and time that registration will be closed; and

(2) If the city clerk has designated a municipal facility pursuant to NRS 293C.520, the location of that facility.

➥ If no newspaper is of general circulation in that city, the publication may be made in a newspaper of general circulation in the nearest city in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

5. For the period beginning on the fifth Sunday preceding any primary city election or general city election and ending on the ~~[third Tuesday]~~ *Friday* preceding any primary city election or general city election, an elector may register to vote only by ~~[appearing]~~ *:*

(a) Appearing in person at the office of the city clerk ~~[or, if]~~ *;*

(b) If open, *appearing in person at* a municipal facility designated pursuant to NRS 293C.520 ~~[.]~~ *; or*

(c) If the county clerk of the county in which the city is located has established a system to allow electors to register to vote by computer pursuant to NRS 293.506, registering by computer.

6. A municipal facility designated pursuant to NRS 293C.520 may be open during the periods described in this section for such hours of operation as the city clerk may determine, as set forth in subsection 3 of NRS 293C.520.

Sec. 12.1. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. *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.*

2. 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 ~~[a]~~ *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.]~~ *3.* Except as otherwise provided in subsection ~~[4,]~~ *5,* 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.* 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.]~~ *5.* 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.

~~[5.]~~ *6.* 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.

~~[6.]~~ *7.* 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.

~~[7.]~~ *8.* 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.

~~[8.]~~ *9.* The cost of ~~[mailing]~~ *distributing* sample ballots for a city election must be borne by the city holding the election.

Sec. 12.2. 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. 12.3. 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. 12.4. 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. 12.5. 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. 12.6. 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. 13. (Deleted by amendment.)

Sec. 14. This act becomes 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 this act and on January 1, 2014, for all other purposes.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Thank you, Mr. President. Amendment No. 669 to Assembly Bill No. 440 provides that a registered voter may opt to receive a copy of a sample ballot electronically, rather than through the United States Postal Service.

Amendment adopted.

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

Assembly Bill No. 456.

Bill read second time.

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

Amendment No. 772.

"SUMMARY—Revises provisions governing health care. (BDR 54-1102)"

"AN ACT relating to health care; requiring that advertisements for health care services include certain information; requiring a health care professional

to communicate certain information to current and prospective patients; prescribing the format for certain advertisements and disclosures; requiring a health care professional to wear a name tag indicating his or her licensure or certification under certain circumstances; limiting the use of the term "board certified" by certain health care professionals; providing that a health care professional is subject to disciplinary action under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires that an advertisement for health care services include certain information regarding the qualifications of a health care professional to whom the advertisement pertains, including information regarding any license or certification held by the health care professional. This bill also provides that such advertisements must not include any deceptive or misleading information. This bill requires a health care professional to communicate his or her specific licensure to all current and prospective patients and requires such a communication to include a written disclosure statement which is conspicuously displayed in the office of the health care professional and which clearly identifies the type of license held by the health care professional. This bill requires a health care professional to wear a name tag indicating his or her licensure or certification while providing health care services other than sterile procedures in a health care facility. This bill requires a health care professional to comply, as applicable, with such advertising and disclosure requirements in each office in which he or she practices, prescribes the format for certain advertisements and disclosures and sets forth certain exceptions to such requirements. This bill also prohibits a health care professional who is a physician or osteopathic physician from using the term "board certified" unless he or she discloses the name of the board by which he or she is certified and the board: (1) is a member board of the American Board of Medical Specialties or the American Osteopathic Association; or (2) meets certain other requirements. This bill further provides that a health care professional who violates the provisions of this bill is subject to disciplinary action.

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. Except as otherwise provided in subsection ~~[2.]~~ 3:*

(a) An advertisement for health care services that names a health care professional must identify the type of license or certificate held by the health care professional and must not contain any deceptive or misleading information. If an advertisement for health care services is in writing, the information concerning licensure and board certification that is required pursuant to this section must be prominently displayed in the advertisement using a font size and style to make the information readily apparent.

(b) Except as otherwise provided in subsection 4, a health care professional who provides health care services in this State shall affirmatively communicate his or her specific licensure or certification to all current and prospective patients. Such communication must include, without limitation, a written patient disclosure statement that is conspicuously displayed in the office of the health care professional and which clearly identifies the type of license or certificate held by the health care professional. The statement must be in a font size sufficient to make the information reasonably visible.

(c) A health care professional shall, during the course of providing health care services other than sterile procedures in a health care facility, wear a name tag which indicates his or her specific licensure or certification.

~~[(b)]~~ *(d) A physician or osteopathic physician shall not hold himself or herself out to the public as board certified in a specialty or subspecialty , and an advertisement for health care services must not include a statement that a physician or osteopathic physician is board certified in a specialty or subspecialty, unless the physician or osteopathic physician discloses the full and correct name of the board by which he or she is certified, and the board:*

(1) Is a member board of the American Board of Medical Specialties or the American Osteopathic Association; or

(2) Requires for certification in a specialty or subspecialty:

(I) Successful completion of a postgraduate training program which is approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association and which provides complete training in the specialty or subspecialty;

(II) Prerequisite certification by the American Board of Medical Specialties or the American Osteopathic Association in the specialty or subspecialty; and

(III) Successful completion of an examination in the specialty or subspecialty.

~~[(c)]~~ *(e) A health care professional who violates any provision of this section is guilty of unprofessional conduct and is subject to disciplinary action by the board, agency or other entity in this State by which he or she is licensed, certified or regulated.*

2. A health care professional who practices in more than one office shall comply with the requirements set forth in this section in each office in which he or she practices.

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

(a) A veterinarian or other person licensed under chapter 638 of NRS.

(b) A person who works in or is licensed to operate, conduct, issue a report from or maintain a medical laboratory under chapter 652 of NRS, unless the person provides services directly to a patient or the public.

~~[3.]~~ *4. The provisions of paragraph (b) of subsection 1 do not apply to a health care professional who provides health care services in a medical*

facility licensed pursuant to chapter 449 of NRS or a hospital established pursuant to chapter 450 of NRS.

5. As used in this section:

(a) "Advertisement" means any printed, electronic or oral communication or statement that names a health care professional in relation to the practice, profession or institution in which the health care professional is employed, volunteers or otherwise provides health care services. The term includes, without limitation, any business card, letterhead, patient brochure, pamphlet, newsletter, telephone directory, electronic mail, Internet website, physician database, audio or video transmission, direct patient solicitation, billboard and any other communication or statement used in the course of business.

(b) "Deceptive or misleading information" means any information that falsely describes or misrepresents the profession, skills, training, expertise, education, board certification or licensure of a health care professional.

(c) "Health care facility" has the meaning ascribed to it in NRS 449.2414.

~~[(b)]~~ (d) "Health care professional" means any person who engages in acts related to the treatment of human ailments or conditions and who is subject to licensure, certification or regulation by the provisions of this title.

~~[(c)]~~ (e) "Medical laboratory" has the meaning ascribed to it in NRS 652.060.

~~[(d)]~~ (f) "Osteopathic physician" has the meaning ascribed to it in NRS 633.091.

~~[(e)]~~ (g) "Physician" has the meaning ascribed to it in NRS 630.014.

Sec. 3. (Deleted by amendment.)

Sec. 4. This act becomes effective on January 1, 2014.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 772 makes three changes to Assembly Bill No. 456: (1) it requires that a health-care services advertisement must identify the type of licenses held by the health-care professional and must not contain any deceptive or misleading information; (2) it requires a health-care professional to provide a written patient disclosure statement, which must be conspicuously displayed in the office—this does not apply to a health-care professional if health-care services are provided in a medical facility licensed pursuant to Chapter 449 of *Nevada Revised Statutes* or a county or public hospital pursuant to Chapter 450 of *Nevada Revised Statutes*; and (3) it exempts a health-care professional from wearing a name tag when he or she is performing sterile procedures.

Amendment adopted.

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

Assembly Bill No. 494.

Bill read second time.

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

Amendment No. 655.

"SUMMARY—Revises provisions governing the Nevada State Funeral Board. (BDR 54-573)"

"AN ACT relating to the Nevada State Funeral Board; revising the name of the Board and provisions governing the powers, duties and membership of the Board; requiring the Board to submit certain reports to the Sunset Subcommittee of the Legislative Commission; requiring the expiration of the term of any member of the Board serving on October 1, 2013; requiring the termination of the employment of any employee of the Board employed on October 1, 2013; requiring the Board to maintain a principal office in this State; establishing a regulatory fee per ~~[funeral conducted]~~ written and signed agreement for funeral services to be furnished in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Nevada State Funeral Board licenses and regulates funeral directors, embalmers, apprentice embalmers, the owners of funeral establishments and certain persons who conduct cremations and burials. (Chapter 642 of NRS) The Board also licenses and regulates the operators of crematories and cemeteries, and regulates certain aspects of the operation of cemeteries. (NRS 451.635, 451.640, 452.026, 452.310-452.590)

Section 1 of this bill renames the Board as the Nevada Funeral and Cemetery Services Board and revises the composition of the Board.

Existing law requires the Board to meet at least once every year and authorizes the Board to hold special meetings if the proper discharge of its duties requires. (NRS 642.050) Section 2 of this bill instead requires the Board to meet at least once every calendar quarter.

Existing law authorizes the Board to maintain offices in as many localities in this State as it finds necessary and to employ attorneys, investigators and other professional consultants and clerical personnel necessary to discharge its duties. (NRS 642.055) Section 3 of this bill requires the Board to: (1) maintain a principal office in this State; (2) employ an Executive Director and inspectors in addition to the personnel that the Board is required by existing law to employ; (3) maintain certain documents in its principal office; (4) establish minimum qualifications for the Executive Director, attorneys, investigators, inspectors and other employees of the Board; and (5) maintain an Internet website and post on the website the minutes of its meetings, notices and any other documents prepared by the Board for public information purposes.

Section 5 of this bill requires the Board to charge and collect a regulatory fee for each ~~[funeral conducted]~~ written and signed agreement for funeral services to be furnished in this State ~~[.]~~ , payable only once with respect to the remains of a deceased person.

Section 6 of this bill provides that the term of any current member of the Board expires on October 1, 2013, and provides for the appointment of new membership. Section 6 also provides for the termination of the employment of any person employed by the Board on October 1, 2013, and requires the employment by the Board of new staff on or before December 31, 2013.

Section 7 of this bill requires the Board to prepare and submit a written report of its activities to the Sunset Subcommittee of the Legislative Commission every 6 months until the 78th Session of the Nevada Legislature convenes.

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

Section 1. NRS 642.020 is hereby amended to read as follows:

642.020 1. The Nevada ~~[State]~~ Funeral *and Cemetery Services* Board , consisting of ~~[five]~~ *seven* members appointed by the Governor, is hereby created.

2. The Governor shall appoint: ~~*[Board consists of seven members appointed as follows:]*~~

(a) ~~[One member]~~ *Two members* who ~~[is]~~ *are* actively engaged as a funeral director ~~[and]~~ *or* embalmer . ~~*[, appointed by the Governor.]*~~

(b) One member who is actively engaged as an operator of a cemetery . ~~*[, appointed by the Governor.]*~~

(c) One member who is actively engaged in the operation of a crematory . ~~*[, appointed by the Governor.]*~~

(d) ~~[Two]~~ *Three* members ~~*[One member]*~~ who are representatives ~~*[is a representative]*~~ of the general public . ~~*[, appointed by the Governor.*~~

~~*(e) One member who is a representative of the general public, appointed by the Majority Leader of the Senate.*~~

~~*(f) One member who is a representative of the general public, appointed by the Speaker of the Assembly.]*~~

3. No member *of the Board* who is a representative of the general public may:

(a) Be the holder of a license or certificate issued by the Board or be an applicant or former applicant for such a license or certificate.

(b) Be related within the third degree of consanguinity or affinity to the holder of a license or certificate issued by the Board.

(c) Be employed by the holder of a license or certificate issued by the Board.

4. After the initial terms, members of the Board serve terms of 4 years, except when appointed to fill unexpired terms.

5. The Chair of the Board must be chosen from the members of the Board who are representatives of the general public.

Sec. 2. NRS 642.050 is hereby amended to read as follows:

642.050 1. The Board shall meet at least once every ~~[year,]~~ *calendar quarter,* and may also hold special meetings, if the proper discharge of its duties requires, at a time and place to be fixed by the rules and bylaws of the Board. The rules and bylaws of the Board must provide for the giving of timely notice of all special meetings to all members of the Board and to all applicants for licenses or certificates.

2. Four of the members of the Board at any meeting may organize and constitute a quorum for the transaction of business.

Sec. 3. NRS 642.055 is hereby amended to read as follows:

642.055 The Board ~~[may:]~~ *shall:*

1. Maintain *a principal office in this State, and such other* offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter and chapters 451 and 452 of NRS.

2. Employ *an Executive Director and* attorneys, investigators , *inspectors* and other professional consultants and clerical personnel necessary to the discharge of its duties.

3. Maintain all financial records, records relating to licenses, certificates and permits, meeting minutes, notices and other public documents of the Board in its principal office.

4. Establish minimum qualifications for the Executive Director, attorneys, investigators, inspectors, and other professional consultants and clerical personnel employed by the Board.

5. Maintain an Internet website and post on that Internet website the minutes of its meetings, notices and any other documents prepared by the Board for public information purposes.

Sec. 4. NRS 642.067 is hereby amended to read as follows:

642.067 The Board ~~[may inspect any premises in which the business of funeral directing is conducted or where embalming is practiced and, for that purpose, may]~~ *shall* employ ~~[a licensed embalmer of the State of Nevada as]~~ an inspector to aid in the enforcement of this chapter and chapters 451 and 452 of NRS and the regulations adopted pursuant thereto, whose compensation and expenses ~~[shall]~~ *must* be paid out of the fees collected by the Board. *The inspector shall, at least once every 2 years and at the direction of the Board, conduct an inspection of every premises in this State at which the business of funeral directing is conducted or embalming is practiced. A member of the Board shall not conduct any such inspection.*

Sec. 5. NRS 642.0696 is hereby amended to read as follows:

642.0696 *1.* In addition to the fees that the Board is authorized or required to collect pursuant to the provisions of a specific statute, the Board shall charge and collect the following fees:

Application for a license, certificate or permit	$375
Examination for a license, certificate or permit	375
Renewal of a license, certificate or permit	200
Late renewal of a license, certificate or permit	275
Placement of a license on inactive status	175
Reactivation of a license to active status	175
Reinstatement of a lapsed license	300
Transfer of a license, certificate or permit to another location	225
Issuance of a duplicate license, certificate or permit	75
Provision of an administrative service	75
Regulatory fee, per ~~[funeral conducted]~~ written and signed agreement for funeral services to be furnished in this State	*10*

2. The regulatory fee of $10 prescribed in subsection 1 may only be charged once with respect to the remains of a deceased person and only at such time as an agreement for funeral services is fully executed, regardless of:

(a) The number of funeral services furnished;

(b) Whether such funeral services are furnished by more than one holder of a license, certificate or permit issued by the Board; or

(c) Whether a subsequent agreement for funeral services is executed.

3. As used in this section, "funeral services" means those services performed normally by funeral directors or funeral or mortuary parlors, including, without limitation, crematory and embalming services.

Sec. 6. 1. The term of any member of the Nevada State Funeral Board appointed pursuant to subsection 2 of NRS 642.020 serving on October 1, 2013, expires on that date.

2. As soon as practicable on or after October 1, 2013, ~~[:~~

~~(a) The]~~ , the Governor shall appoint to the Nevada Funeral and Cemetery Services Board the members required to be appointed pursuant to ~~[paragraphs (a) to (d), inclusive, of]~~ subsection 2 of NRS 642.020, as amended by section 1 of this act.

~~[(b) The Majority Leader of the Senate shall appoint to the Nevada Funeral and Cemetery Services Board the member required to be appointed by paragraph (e) of subsection 2 of NRS 642.020, as amended by section 1 of this act.~~

~~(c) The Speaker of the Assembly shall appoint to the Nevada Funeral and Cemetery Services Board the member required to be appointed by paragraph (f) of subsection 2 of NRS 642.020, as amended by section 1 of this act.]~~

3. The employment of any person employed by the Nevada State Funeral Board pursuant to subsection 2 of NRS 642.055 on October 1, 2013, must be terminated on that date.

4. The Nevada Funeral and Cemetery Services Board shall employ new staff pursuant to subsection 2 of NRS 642.055, as amended by section 3 of this act, on or before December 31, 2013.

Sec. 7. The Nevada Funeral and Cemetery Services Board created pursuant to NRS 642.020, as amended by section 1 of this act, shall, not later than 6 months after the appointment of all the members of the Board pursuant to section 6 of this act, and every 6 months thereafter until the 78th Session of the Nevada Legislature convenes, prepare and submit a written report of its activities, including the inspection of any premises at which the business of funeral directing is conducted or embalming is practiced, to the Sunset Subcommittee of the Legislative Commission created by NRS 232B.210. The report must include, without limitation, any minutes of meetings of the Board, any records kept and any documentation pertaining to the inspection of any premises at which the business of funeral directing is conducted or embalming is practiced.

Sec. 8. The Legislative Counsel shall, in preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Senator Jones moved the adoption of the amendment.

Remarks by Senator Jones.

Thank you, Mr. President. Amendment No. 655 to Assembly Bill No. 494 requires the Governor to appoint the members who are representatives of the general public. It requires the Nevada Funeral and Cemetery Service Board to charge and collect a regulatory fee of $10 for each written and signed agreement for funeral services to be furnished in this State, payable only once with respect to the remains of a deceased person.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that Assembly Bill No. 300 be taken from the Second Reading File and placed on the Secretary's Desk.

Motion carried.

Senator Smith moved that Assembly Bill No. 227 be taken from the General File and placed on the Secretary's Desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 463.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Senate Bill No. 463 implements the provisions of Senate Joint Resolution No. 14 of the 76th Session which, if approved by the 2013 Legislature and ratified by the voters, creates an intermediate appellate court, known as the Court of Appeals. Senate Bill No. 463 establishes the terms, processes and appointments of the three appellate court judges initially appointed by the Governor for a term of two years commencing in January 2015. Thereafter, an appellate court judge would be elected by the voters to serve a term of six years.

Senate Bill No. 463 establishes the base salary of appellate court judges, and authorizes the Court of Appeals to employ the staff necessary to support the operations of the intermediate appellate court. Annual expenses are estimated at $1.5 million as reflected in the fiscal note submitted with the bill. The bill further sets forth the procedure for the reversal, affirmation or modification of a judgment by the Court of Appeals. Lastly, the bill modifies the *Nevada Revised Statutes* to include the Court of Appeals where applicable. The bill becomes effective on January 1, 2015, if Senate Joint Resolution No. 14 of the 76th Session is approved.

Roll call on Senate Bill No. 463:

YEAS—21.

NAYS—None.

Senate Bill No. 463 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 60.

Bill read third time.

Remarks by Senators Kihuen, Settelmeyer, Hutchison, Hardy and Brower.

SENATOR KIHUEN:

Thank you, Mr. President. Assembly Bill No. 60 prohibits a nonprofit corporation from soliciting charitable contributions in Nevada in person or by electronic mail, mail, telephone or other means unless it has filed a financial statement and other required information with the Secretary of State. The bill provides that a nonprofit corporation soliciting charitable contributions in Nevada without filing may be subject to enforcement action, including civil penalties, a cease and desist order or revocation of its charter or right to transact business in Nevada. The Secretary of State may also request the Attorney General to initiate action in court to secure compliance with the act.

Finally, this measure requires a person who represents that he or she is soliciting in Nevada on behalf of a charitable organization or nonprofit corporation to disclose, among other information, the entity's name as registered with the Secretary of State and whether or not the contribution or donation may be tax deductible under the federal Internal Revenue Code.

SENATOR SETTELMEYER:

Thank you, Mr. President. I am concerned that the bill includes, "any other information deemed necessary by the Secretary of State." On the national front, we have seen some abuses. I think Ross Miller does a great job, but I worry about the next person who may fill the seat. I am concerned about the wide breadth of information. Did a concern over this language that I quoted come up during the Committee discussion on this bill?

SENATOR HUTCHISON:

Thank you, Mr. President. I would be happy to let you know what the Committee testimony was, as well as share my viewpoint based on my time in the Committee. One of the things that persuaded me was that the Alliance for Nevada Nonprofits took a look at the bill—they have a wide constituency of nonprofit organizations—and they estimated that on average it would cost less than $80 for their members to comply with the bill's reporting requirements including the language that was just read. While the Alliance initially expressed some concern, there were several amendments in the Assembly to reflect that. They expressed that $80 was a reasonable estimate of costs for them. I felt it was not unduly burdensome for these organizations to comply with these standards. I also noted that the Secretary of State, during the course of the hearing, said there was nothing that would be disclosed or required beyond what is already necessary for corporations and companies under current and existing law.

SENATOR SETTELMEYER:

Thank you, Mr. President. I would like to thank my colleague from Senate District No. 17 for the information. I still have the concerns. From further reading, I think the bill is too broad.

SENATOR HARDY:

Thank you, Mr. President. Is there some way, or some feedback, that the Secretary of State has, or is answerable to, if the person or charitable organization says, "I think you went too far, and you asked for too much." Is there an appeal process?

SENATOR BROWER:

Thank you, Mr. President. To my colleague from Senate District No. 12: this issue did come up with a few of the interested parties. It was a result, in part, of a situation we had during the last Interim where many felt the Secretary of State's Office did overstep its boundaries with respect to one particular regulation. Those of us who serve on the Legislative Commission may recall that particular situation.

The remedy, I would submit, is filing a lawsuit. Everybody and anybody can do that when they think that any of the agencies in the State has overstepped its boundaries in terms of implementing regulations that do not quite fit within the statutory guidelines that we, of course, promulgate. I think we have to proceed—and I explained to the interested parties on this bill

who were concerned about that language—with the assumption that the Secretary of State's Office, in this area, will act reasonably, and will not promulgate regulations that go beyond statutory intent. We will all be watching that process closely during the Interim. We have to proceed with that assumption.

I am comfortable with the bill. I believe it passed out of Committee unanimously.

Roll call on Assembly Bill No. 60:

YEAS—19.

NAYS—Gustavson, Settelmeyer—2.

Assembly Bill No. 60 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 83.

Bill read third time.

Remarks by Senator Manendo.

Thank you, Mr. President. Senate Bill No. 83 expands Section 60 of Chapter 574 of *Nevada Revised Statute* to provide that a person shall not knowingly participate, house or receive money from the baiting or fighting of any bird or animal. A first-time offender who violates the provisions of this bill shall be guilty of a Category E felony, unless the violation involves a dog, which is a Category D felony. The bill also provides that a first-time offender convicted of possessing, training or promoting the purchase of an animal with the intent to use it to fight another animal shall be guilty of a Category E felony.

In addition, Senate Bill No. 83 provides that a first-time offender, convicted of knowingly attending a fight between animals or manufacturing, owning or selling any sharp implements designed for attachment to a cock or other bird with the intent that the implement be used for fighting, shall be guilty of a gross misdemeanor.

Roll call on Senate Bill No. 83:

YEAS—21.

NAYS—None.

Senate Bill No. 83 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 84.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Senate Bill No. 84 provides for an increase in the daily compensation rate for a member of the State Board of Equalization from $80 per day to $150 per day. The State Board of Equalization consists of five members. The change in compensation becomes effective July 1, 2013.

Roll call on Senate Bill No. 84:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Hammond, Hardy, Hutchison, Kieckhefer, Roberson, Settelmeyer—9.

Senate Bill No. 84 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 142.

Bill read third time.

Remarks by Senator Jones.

Thank you, Mr. President. Senate Bill No. 142 requires the board of trustees of a school district to adopt a policy setting forth the process for evaluating whether certain work on a school building will be performed pursuant to a performance contract and sets forth requirements pertaining to that policy. The board of trustees must also cause to be prepared an annual report setting forth the annual cost savings measures, if any, that were identified in a financial-grade operational audit and that were not included in a performance contract during the preceding year. The bill also authorizes the Office of Energy to provide local governments with support relating to operating cost-savings measures and to charge and collect a fee for providing such support. I urge your support.

Roll call on Senate Bill No. 142:

YEAS—21.

NAYS—None.

Senate Bill No. 142 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 164.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Senate Bill No. 164 requires the State Board of Education and the board of trustees of each school district to include certain information about bullying incidents in their annual accountability reports, including incidents of bullying, cyber-bullying and harassment or intimidation. The measure also requires the board of trustees of each school district, as well as the governing body of each charter school, to develop a plan for instructional delivery for the annual "Week of Respect" proclaimed by the Governor. The bill further revises the definition of bullying to include only repeated acts, or conduct and acts, or conduct that exploit an imbalance in power.

Senate Bill No. 164 also provides additional requirements for the training of school personnel, as well as for members of school boards of trustees. School-site administrators are to receive training at least every three years on the prevention of and response to violence and on the topic of suicide prevention from a program established by the Department of Education. The bill requires parents be notified concerning incidents of bullying, cyber-bullying and harassment or intimidation. Reporting requirements from the district to the State are revised by the bill, and the Superintendent's compilation of these reports is to be provided to the Governor and the Legislature. Lastly, the measure authorizes disciplinary action against a person who reports a false incident of bullying through malice, misconduct, negligence or violation of the law. This act becomes effective on July 1, 2013.

Roll call on Senate Bill No. 164:

YEAS—21.

NAYS—None.

Senate Bill No. 164 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 239.

Bill read third time.

Remarks by Senator Settelmeyer.

Thank you, Mr. President. Senate Bill No. 239 requires the Secretary of State to obtain from the Social Security Administration information relating to deceased residents of Nevada. The Secretary of State shall compare this information to the statewide voter registration list and, if the information suggests a person on the list is deceased, provide notification to the appropriate county clerk. The county clerk shall cancel the voter registration of a person identified as deceased, if the clerk has verified the person's death from any reasonable and reliable source. This bill is effective on October 1, 2013.

Roll call on Senate Bill No. 239:

YEAS—21.

NAYS—None.

Senate Bill No. 239 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 416.

Bill read third time.

Remarks by Senator Segerblom.

Thank you, Mr. President. Senate Bill No. 416 clarifies that a "restricted license" or "restricted operation" means the State gaming license for the operation of not more than 15 slot machines and does not include a race book or sports pool. That means the kiosks, that are currently used, are no longer legal—or never were legal, in fact. It also defines what is required for a restricted license and it limits the number of slot machines, as well as the physical location and the description of the building. The bill is effective July 1, 2013.

Roll call on Senate Bill No. 416:

YEAS—18.

NAYS—Cegavske, Gustavson, Hardy—3.

Senate Bill No. 416 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 8.

Bill read third time.

Roll call on Assembly Bill No. 8:

YEAS—21.

NAYS—None.

Assembly Bill No. 8 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 9.

Bill read third time.

Remarks by Senators Manendo and Hardy.

SENATOR MANENDO:

Thank you, Mr. President. Assembly Bill No. 9 makes various revisions to the Charter of the City of Reno. The revisions include: (1) allowing for the creation of a Charter Committee; (2) expanding the prohibition against holding other employment or another office, which applies

to the Mayor and City Council Members; (3) adding a definition of "appointive employee" to mean persons who are "special technical staff members who report directly to the City Manager"; (4) authorizing the Mayor or any City Council Member to waive the payment of any part of his or her salary and benefits during any budget year; (5) prohibiting the Mayor or any City Council Member from giving orders to any subordinate of the City Manager, or dealing directly with such a person; (6) prohibiting the Council from reducing the term of office of any Municipal Judge; (7) providing that the general city election is to occur concurrently with the statewide general election; and (8) providing that after the Civil Service Commission serves a final decision, a person aggrieved by that decision has 180 days in which to file a petition with the County's district court. This measure is effective upon passage and approval.

SENATOR HARDY:
Thank you, Mr. President. As a native of the City of Reno, I stand in support of this bill.

Roll call on Assembly Bill No. 9:
YEAS—21.
NAYS—None.

Assembly Bill No. 9 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 10.
Bill read third time.
Remarks by Senator Jones.
Thank you, Mr. President. Assembly Bill No. 10 provides that it is unlawful to use, possess with intent to use or assist another person in using any software, hardware or combination thereof that is designed to obtain an advantage at any game in a licensed gaming establishment or any game offered by a licensee or affiliate. This measure is effective upon passage and approval.

Roll call on Assembly Bill No. 10:
YEAS—21.
NAYS—None.

Assembly Bill No. 10 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 21.
Bill read third time.
Remarks by Senator Gustavson.
Thank you, Mr. President. Assembly Bill No. 21 clarifies that an occupant of a motor vehicle designed, maintained or used primarily for the transportation of persons for compensation, or the occupant of the living quarters of a house coach or house trailer, other than the driver of such a vehicle, is allowed to possess an open container of an alcoholic beverage while that vehicle is upon a State highway. The bill also clarifies the accident reporting duties and responsibilities of the Department of Motor Vehicles and the Department of Public Safety.
Finally, the bill provides that accident reports may be filed electronically. I urge your support of this bill.

Roll call on Assembly Bill No. 21:
YEAS—21.
NAYS—None.

Assembly Bill No. 21 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 64.

Bill read third time.

Remarks by Senator Hammond.

Thank you, Mr. President. Assembly Bill No. 64 authorizes a district court to deliver a copy of a presentence investigation report to the Department of Corrections by electronic transmission or by giving the Department electronic access to retrieve the report. The bill also allows the district court to furnish electronic copies of judgments of imprisonment to the sheriff of the county.

Roll call on Assembly Bill No. 64:

YEAS—21.

NAYS—None.

Assembly Bill No. 64 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 73.

Bill read third time.

Remarks by Senator Hardy.

Thank you, Mr. President. Assembly Bill No. 73 revises the information an applicant for a license to practice chiropractic must provide, modifies the passing score for the license examination and makes changes to the duration of a license.

Roll call on Assembly Bill No. 73:

YEAS—20.

NAYS—Gustavson.

Assembly Bill No. 73 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 84.

Bill read third time.

Remarks by Senator Kihuen.

Thank you, Mr. President. Assembly Bill No. 84 requires a district court to consider certain information in determining whether a defendant is disqualified from participation in a program for the treatment of veterans and members of the military who suffer from alcohol or drug abuse, mental illness, or post-traumatic stress disorder. In making its decision, the court must consider the facts and circumstances surrounding the offense, including whether the defendant intended to place another person in reasonable fear of bodily harm. This measure is effective on January 1, 2014.

Roll call on Assembly Bill No. 84:

YEAS—21.

NAYS—None.

Assembly Bill No. 84 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 86.

Bill read third time.

Remarks by Senator Hutchison.

Thank you, Mr. President. Assembly Bill No. 86 requires the State Contractor Board to notify a licensed contractor, against whom a judgment has been obtained for failure to pay contributions to the Unemployment Compensation Fund or who fails to provide or maintain required industrial and occupational disease insurance, that the contractor's license may be subject to administrative action by the Board. The measure requires the Board to suspend a contractor's license if the contractor fails to provide proof that he or she has satisfied a judgment for failure to pay such contributions or has met the requirements concerning industrial insurance and insurance for occupational diseases. This bill also requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to notify the Board of any contractor against whom a duly filed judgment has been obtained for failure to pay contributions to the Fund.

Roll call on Assembly Bill No. 86:

YEAS—21.

NAYS—None.

Assembly Bill No. 86 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 87.

Bill read third time.

Remarks by Senator Manendo.

Thank you, Mr. President. Assembly Bill No. 87 provides for consistency in certain zoning ordinances. Prior to March 1, 2014, in a county with a population between 100,000 and 700,000, currently Washoe County, the county and the local governments in the county shall adopt consistent standards and specifications for the construction of any new school building or for any addition to or alteration of an existing school building. Those standards and specifications must be developed in conjunction with the school district of the county.

Roll call on Assembly Bill No. 87:

YEAS—21.

NAYS—None.

Assembly Bill No. 87 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

Senator Denis requested that the following remarks be entered in the journal.

SENATOR DENIS:

Thank you, Mr. President. I have decided to share some thoughts that I need to share.

Thirty years ago, today, I married my lovely wife, Susan. It seems like it was yesterday that we were excited about starting a family. Within a few years our first child, Diana was born. Wanting to be a good parent, I tried my best to be active in her school. My wife and I were there

at the school all the time, trying to do good things there. We had other children come along. I am sure you are tired of hearing my story of how I got into public service, by accident—because we were just trying do what was right for our kids. Since Diana was born, we have debated the topic of education many times in this State. We have consistently said our schools need more help.

This past fall, our son Dallin was tested for the Gifted and Talented Program. Every parent thinks their child is gifted and talented, but he tested gifted and talented. After he was in the program, he was tested again, and he tested extremely gifted, which is a different level of giftedness for a score of 99.5 percent. Very few kids are getting these scores. This happened with Dallin as a fifth grader. Normally, he would have been tested in the Grade 2. But, because we have been cutting the education budgets for the last five years, the school he attends did not have any money to be able to fund this particular program. I think about how many other kids are in that same situation. I have been involved in education for the last 25 years, advocating, and I wonder how many kids we have left behind, how many kids have not been able to reach their full potential because we have not done all the things that need to be done for their education.

My colleague from Senate District No. 13 and I have talked a lot about how we would work together during this Session to get things done—from the seating assignments to the Committees—and we have done a lot of things. I think the Assembly believes when we send them a bill with a vote of 21 to zero that we did not do our job—but the opposite is actually true. The reason bills are going to the Assembly with a vote of 21 in favor is because we have done our job. We have worked together to come to some solutions and write good legislation.

I had high hopes we would be able to do things differently during the 77th Legislative Session, and we have done some things a lot differently. But, it seems like every Session we come here and we talk about how we want to do good things that, at times in the past, seemed like just lip service, "Yeah, we need to help our kids." It is a good slogan to put on an election flyer. The one thing that has been different this Session is that we all agreed there were some things which needed to be done for schools. We talked about how important full-day kindergarten is. We talked about English Language Learner funding—that we would actually fund, not just through federal funding that came our way. I remember having many discussions and debates about whether full-day kindergarten was a good way to do things. We have not had those discussions this time because we all agree these things need to happen.

I am appreciative that this is the first Session in several that we have not had to cut the budget for education, like we seem to do every time, especially in the last five years where we have cut $700 million of our K-12 budget. I started thinking about all this when I started thinking about the 30 years I have spent with my wife. Thirty years goes by really quick. I have been in the Legislature for ten years, and that has gone by fast.

We have focused on fixing our schools this time. We are having this discussion because we have several of the most challenged school systems in the Country. We have the highest dropout rate, the largest classroom size of anywhere in the Country, and this is all because of the cuts we have had to make. I understand the economy. I understand that we have had to make sacrifices. We had a terrible recession, and we have made those cuts because we have to make our budgets balance.

We all know we have had to do this. We also know it is wrong because we want to do everything we can to help our kids. Our classroom sizes continue to be large, all-day kindergarten, prekindergarten programs: those are all things we need to do. Remember two years ago we did not have a lot of money but we were able to put some reforms in place that are going to help our education system. Those reforms have not reduced the class sizes. They have not helped us to get full-day kindergarten to more schools or initiate prekindergarten programs, and yet, those are all things the teachers and principals and those who are having successes tell us work. Education funding is important because it directly impacts, not only my family, but all of our families. It impacts all Nevadans, all of our businesses.

I have talked about my wife being a teacher. Her classroom had 34 kids in kindergarten class. This year, she has 24 first graders, which does not seem like a lot compared to 34 kindergarteners, but our class-size reduction goals are at 16 pupils to one teacher. Yet, she

still has 24. She is grateful because she had 34 in her classroom, but teachers who have taught first grade know that that number is even large.

I am wondering if we are setting up our kids for failure because we continue to kick the can down the road. We all agree on most of these facts about education, and the Majority Party offered a proposal, in Senate Bill No. 514, today, to do some things.

I said I was appreciative that we are not having to cut education funding today, but the disappointing part is that as soon as the press release for Senate Bill No. 514 went out, the response from the Minority Party was, "No way. Dead on arrival. Going to veto it." —without even hearing what the merits of the bill are.

Through Senate Bill No. 514 we were going to talk about how important it is to sacrifice and invest in our kids. Senate Bill No. 514 was asking for one-third of one percent in the Modified Business Tax to help our kids today, but the measure was called a "job killing tax." Yet, this tax is already part of our system. We were not proposing something new. Through this measure we were asking for a little bit more of a sacrifice on the part of some of our businesses. It was not based on the Majority Party simply picking a number. We talked to businesses.

But, before we even did, that we did not have a chance. Throughout the whole Session, we were talking with the Minority Party, not only in this House, but with the Assembly in both Caucuses, both sides of the aisle, trying to come up with some solutions.

Now, that we are getting toward the end of Session, it is frustrating for me that we cannot come up with something that will help our kids today. We are failing our children, and once again, we are kicking the can down the road, putting our children further behind. It is not fair to them or to the future of Nevada. Once again, we have put our partisanship over policies that can help our kids today. I have been open, and I have told everyone my doors is always open to ideas. We wanted to work things out and do things together but we could not find something that everyone could agree to, but the only plan that had been offered that would help our kids today, was the one we were offering. Today, I will not be having a hearing on Senate Bill No. 514 because I know what will happen. We will go into Committee. We will talk about all the things that we think are important. Others will get up and say that they think it is important, and then, others will get up and say we cannot possibly do this and give their reasons why we cannot possibly do this. At the end of the day, we will do nothing to help our kids today. It really is a shame and perhaps even an embarrassment, that we cannot find a way to help our kids, and not kick this down the road one more time.

I remain hopeful that we can still, perhaps, find a long-term plan that will help us to have a more stable, consistent revenue system in the future so that we can invest in our children and talk about our children and their futures in the same way we talk about business and the success we want for our businesses.

Thirty years: I hope in 30 more years my wife and I—on our 60th anniversary—are not once again watching the same debates we have watched for the last 30 years. And I hope that somewhere along the way we have the courage to what is right for our kids. Thank you, Mr. President.

SENATOR KIHUEN:

Thank you, Mr. President. I rise in support of my colleague from Senate District No. 2, the Majority Leader. Most importantly, I rise in support of improving the education system in the State of Nevada. This year we have seen great agreement from our colleagues about the need to immediately fund education. Many of us ran campaigns touting the desire to increase education funding, reducing class sizes, investing in English Language Learning, and improving the lives of our children. It is truly a shame that we have approached the final days of this Legislative Session, and I see some of my colleagues failing to embrace a common-sense plan to improve education in our State. What is even greater shame is to know we have a lot of work to do to improve our education system, and yet, we choose to do nothing—absolutely nothing.

I am sick and tired of seeing Nevada at the bottom of all the good lists and on top of all of the bad lists. I am sick and tired of seeing us have one of the highest dropout rates in the Nation; 50 percent of our students are not graduating from high school. I am sick and tired of seeing us have one of the lowest percentages of students go on to college in the Country, and one of the lowest percentages of students completing college in the Country. I am sick and tired of listening

to how we must diversify our economy when the only way we can diversify our economy is by investing in education. We will not be able to diversify if we do not invest in education, if we do not have a well-trained and well-educated work force. Yet, we choose to do nothing.

It is truly a shame and a disappointment that some of us fail to embrace a common-sense plan to fix this. The Majority Leader, my colleague from Senate District No. 2, has proposed a simple, fair and balanced approach to raising much-needed funding for our overcrowded classrooms, for English Language Learners and for class-size reduction. Raising the Modified Business Tax by 0.33 percent will have a minimum impact on businesses while going a long way to significantly decrease class sizes.

Let me be clear: a proposal to slightly raise the Modified Business Tax is the only plan that funds education immediately—today, not two years from now, not four years from now, but today. I know most of us in here have listened to teachers, have listened to students; they need a solution today, not next Session or the one following.

It is disappointing that as soon as this plan was released, before even being considered, there were already comments on Twitter, Facebook and in the newspapers that it was dead on arrival, that it would not get a serious hearing. It is sad that we have to cancel this hearing today.

I am still optimistic. I know we have two weeks left to go, and I know every single one of my colleagues here—I have worked with each and every one of them individually—I know you care about this State as much as I do, regardless of your party affiliation. I know you care about improving education. I know you care about putting people back to work. We may have different approaches, but we all care about this State. I hope that, in these last two weeks as we make some of the most important decisions on behalf of the 2.5 million people who live in our State, we put our party affiliations aside, our philosophical differences aside and we do what is right for the State of Nevada—invest in education the way we need to.

SENATOR KIECKHEFER:

Thank you, Mr. President. I did not know we lived in such a terrible state. I think we should talk a bit about what we are actually accomplishing this Session. We are making significant strides. The Assistant Majority Leader has spoken often about how relieved she is to see we are talking about how we implement policies we are now agreeing on, for the first time in a long time. The Majority Leader talked about the importance of funding to education—and it is important. If you think about it on a grand scale, would you rather have your child in a classroom with 100 or 1? What is the level of attention that child will receive in that classroom? Class size is important.

You cannot say that money is not important to education. I want to talk about what we are doing in the budget right now, what we have approved and what's coming. If you look at biennial growth and the natural growth that our economy is experiencing, the increase will be somewhere in the vicinity of 7 to 8 percent, minimum. You will see that level of growth in our economy, and we are investing that money back into key programs in education in this State, and in other areas that we have all dictated are important.

For the first time we are going to be putting State funds into English Language Learner programs—this is the first time in the history of this State. We are going to expand full-day kindergarten by more than 60 percent. We are going to invest in class-size reduction into kindergarten, which has been on the books in this State for a long time and has never been funded. We are going to put money into it with this budget.

Aside from education, we are going to implement health care reform. How many people are happy about that? Some are, some are not. But we voted unanimously in the money committees to implement Medicaid expansion in this State. We are investing significant dollars back into the mental health programs that we have cut over recent years. We are investing broadly in this State, utilizing our existing resources through our natural growth, and making significant improvements for our citizens.

I am proud of what we are doing this Session. I think it is good. It is good for our residents, it is good for our school children and I am discouraged by the depression that I am hearing about what we are doing. I see it as positive.

SENATOR SMITH:

Thank you, Mr. President. I, too, rise to debate this topic, especially as my colleague is referring to statements I have made. I have clearly said it has been nice for the first time in my legislative career to know our priorities are similar. I have also said, on the record, that while the policy we are debating is very similar, our priorities—full-day kindergarten, class-size reduction, teaching English Language Learners with the best resources, which by the way we have never funded anything toward—I think we are on the right track, but I am impatient. I do not want to wait ten years to finish funding full-day kindergarten. I do not want to create a private school system within our public school system, which is what we have done because we do not afford all of our students the same opportunities.

I could say similar things as my colleague from Senate District No. 2 did regarding the raising of our children. We have children who are the same age and that is how we came to know each other. I would like to, instead, talk about my time here. This is my sixth Legislative Session, and like a few of my colleagues who have served in the building for a long time, we have had this debate every single Session I have been here. Every Session, I get my hopes up that we can do better.

We are making improvements as my colleague from Washoe County just said. But, let us remember what we have been through and what we have cut. We are making some restorations to what we have cut, but I will also say, I have heard my colleagues on both sides of the aisle, on the money committees, lament the fact that we are not doing enough to fund education. I have also heard my colleagues say that we need to do more for our State employees who have suffered along with the rest of the State for the last five years.

I am deeply and personally disappointed that we are here again. We come in hopeful that we can do a better job of adequately funding the much-needed services in this State and adequately funding the education system in this State. This is not a new debate. Several years ago I chaired an adequacy study about how the State was funding education. That many years ago that study told us we were a billion dollars short. At the time it was a really dramatic statement. Now, over the last several years, it seems obvious. We need to do more for English Language Learners. We need to do more for special education. We need to do more about class sizes.

Our school districts have cut an enormous amount of money: hundreds of millions of dollars in the past five years. We are not doing enough to change the direction we headed five years ago. We are facing the largest class sizes in history—how do we live with that? We can all go home and say the same thing. We all have the same message that we did more for education. We improved English Language Learner funding, we improved full-day kindergarten, we improved class availability, maybe we did a little bit for class size somewhere along the line. But we also all go home knowing that after the cuts we have endured over the last five years—and where we started when those cuts took place—we are not where we need to be to adequately fund education in this State.

I am sorry that we are going home without having had a real discussion to come up with both short-term and long-term solutions. I love this State. Nevada is a great State. But, because I think this is a great State, I am not happy about where we fall on all of the lists. That is what bothers me about where we fall—because I care about the State. I want us to do better.

SENATOR BROWER:

Thank you, Mr. President. The Majority Leader is absolutely right. I think we all noticed it when he says there is a better degree of bipartisanship within the Body this Session—certainly when compared to last Session. Those of us who were here last Session, and had previously served in prior sessions, know that it does not get much worse than last Session. I agree we are doing much better.

I guess I do not understand what is going on here this afternoon. I do not understand the negativity and the finger pointing. Let me try to remind us all what is happening, what is about to happen in the next couple of weeks with respect to our budget. Our Governor has proposed the following: $50 million for English Language Learners—the first Governor in the history of our State to propose a dedicated stream of funding for English Language Learners. He has proposed $39.5 million for class-size reduction in kindergarten. That is not nothing. And as our colleague from Senate District No. 16 alluded to a moment ago, the overall the increase in

education funding proposed by our Governor's budget is significant. Compared to last Session, it is virtually $500 million dollars—that is nearly half a billion dollars. Is it perfect? I do not know that anything we do here is. But, we are making progress, and I would submit we are making significant progress as we are coming out of the worst recession of our lifetimes.

Let us look at the positive. Let us look at the good things we are doing with what we have this Session. We are moving in the right direction in a significant way. Finally, let me just say with respect to the idea that we cannot have a hearing on a bill that is not universally praised on the day it is introduced—let us keep things in perspective. I introduced a bill on welfare reform. I knew it may not have the votes to get out of Committee even though I would suggest that is an important bill. I was happy to have a hearing, have a debate, and I was happy to answer questions about my bill. I did not cancel the hearing. I did not tell the Chair of the Committee to cancel the hearing because I was not sure if I could get it to pass out of Committee. Same is true for an important asset forfeiture law enforcement bill that did not make it out of Committee. Same is true for an important education reform bill which did not even get a vote in Committee. Same is true for an important campaign finance bill. I could not even get a hearing on that. I did not give up before I tried.

Mr. Majority Leader, I have read your bill. I would not vote for the bill. I think this is the wrong time to be increasing taxes on job creators in our State, across the board and in a way that is going to undermine our economic growth. If the Majority Leader wants to throw in the towel, that is fine. The Governor's recommended budget is pretty darn good, and it has gotten a lot better since the beginning of Session. Again, versus last Session, we are moving in the right direction. I respectfully suggest that we dwell on the positive, we continue to try and improve, we move forward and we focus on the good things we are going for in education in this State.

SENATOR HUTCHISON:

Thank you, Mr. President. I rise to address the issues discussed today. Being unaware that this debate would surface, I have been trying to look at some of the resources I have in my briefcase. I pulled out some of the numbers that my colleague from Reno has referred to here, today, in the hopes that I can add meat on the bones of the discussion.

I do not think it is accurate to suggest that Governor Sandoval has not undertaken significant effort to bless the lives of our children by increasing the educational opportunities in this State. I cannot believe that we are not praising the Governor—who for the first time in Nevada history has taken the State from no funding of English Language Learners to $50 million. I cannot believe that is not praiseworthy. It is a major step in the right direction. But, instead of praise, there is lamenting that nothing is being done. In fact, something in a major way has been done: zero to $50 million. That is significant.

Over the last Biennium, the total increase in education funding is nearly $500 million. In his budget, the Governor has proposed $39.5 million for class size reduction in kindergarten which will reduce all-day kindergarten class sizes from 26 students to 21 students. Under our Governor's budget, 199 schools throughout the State will have an all-day kindergarten option with reduced class sizes. Under our Governor's budget, per-pupil spending is up from $7,539 in fiscal year 2013 to $7,916 in fiscal year 2015. Under our Governor's budget, $374.5 million is dedicated to class-size reduction in kindergarten through grade 3. Under our Governor's budget, $51 million of additional funding is included for teacher salaries. Under Governor Sandoval's budget, $3 million of additional funds goes to the Millennium Scholarship for a total of $8 million, $2 million to Teach for America, $1.5 million to Jobs for America and its graduates. To suggest that there has been a lack of advancement in education priorities or funding is inaccurate given what our Governor has submitted in his recommended budget. That funding is for the current Biennium.

There has been discussion about what we will do in the long term. There have been some of us who have suggested that we can provide for some long-term funding by mining tax reformation. All I heard when we presented this offer were our own press releases. I did not hear a lot of discussion on the subject. I did not see any hearings on the proposal. I did not hear about open-door discussions and dialogue about our long-term education-funding solution. Someone asked me the other day if I regretted taking the position I did as a Republican. I said no, I do not regret that position because it is the right policy. We have an industry that we love, we

appreciate and we embrace. But, we have a fundamental question in terms of whether an industry that extracts $8.8 billion of nonrenewable resources out of this State is paying sufficient taxes for the privilege of taking those resources. We did not have that discussion. I would like to have that discussion. I think it is a good policy discussion. I think mining is wonderful. If the idea is "you hate us if you tax us," then government hates all of us. But, that has been the mantra of mining this Session. The accusation is, "If you are talking about mining tax reformation, you must not like mining." I love mining. I love businesses. They are revenue sources for the State. Their resources are used to fund education and all of the other government programs. But, we did not have a discussion on that subject. Some of us took what people have characterized as political risks, given our party affiliation, in order to present that kind of proposal.

We have $8.8 billion extracted by mining, and the industry pays 2.65 percent on its gross. Gaming's gross revenues are $10.8 billion, and the industry pays 6.75 percent. Cannot we at least have a discussion about whether part of the long-term plan and a long-term solution for education is some tax reformation for the mining industry. We should have that discussion. Some of us are willing to have that discussion even though it is not politically expedient to do so.

The Governor has presented an education budget that is meaningful and takes major steps in the right direction. There are those who have called for a discussion about long-term mining tax reformation. All of this was introduced early in Session. To those who suggest now that those of us who introduced this early on have not been willing to have discussions about long-term financing for education, or that we do not care as much about education, or that we have had the same discussions over and over again, I ask this—when was the last time six Republicans in this building said we ought to take a look at mining tax reformation? It has not been a session like other sessions. We have placed ideas on the table, and we continue to embrace these ideas, to suggest otherwise is to ignore the reality since the early part of this Session.

SENATOR HARDY:

Thank you, Mr. President. This is one of the most refreshing discussions we have ever had on the Floor of this Senate. I appreciate the decorum that is here, the respect that has been shown, the reverence we have had as we have respected one another. I maintain that before Session is done, there has to be some blow up. We have now had it. This is a time where we get to reflect on what everyone has said and what everyone is thinking. It is all on the table.

From the medical standpoint, when we are trying to get to someone who is determined to go down one path, we have to get through a stage called denial. We have to recognize there is a reality and a perception. One man's reality is another man's perception, and vice versa. We are coming from different places. We are talking about money now, but in reality, the important thing is family time, dinner time, parents' time, reading time—time we spend with our children. The time the Majority Leader has spent with his child has allowed that child, in spite of whatever else, to have been receiving the accolades of his talents and abilities. When we consider the concept of empowering parents, parents have to have a job, the ability to make a living. Our economy is improving, and it will continue to improve. If there is a hiccup in this economy, it will hiccup regardless of what else we attempt to do.

I was pleased with what the Governor did with increasing the funding in the budget for education. I have been pleased that both parties have been pleased about that. I look at the Governor's recommendation, and I think the reality is we are going to go with the Governor's recommendation.

We are having a discussion about being past denial. We are now going to get real, and we are going to figure out what we are going to do. When we start looking at the political beast we are, one of the most important things we can do as politicians is give people hope. The economy is improving. Education is improving. The job market is improving. Our message, as we go forward, is: could we do more, yes. But, right now, we are and we are doing it together. We have had cooperation, and I appreciate it. We will continue to have cooperation. Beyond that we are getting along, and I imagine we will continue to right through the end, no matter what little spats we have. We are going to get this done. That is the hope that I have.

This is a real discussion. I appreciate it, and I appreciate all we do together. Thank you.

SENATOR FORD:

Thank you, Mr. President. I am not satisfied. I am glad to hear that some of my colleagues are satisfied with the Governor's budget recommendation. I am not, nor are the vast majority of our constituents happy with the Governor's recommendation on funding education. I am only one person, and we Democratic Senators are only 11 of the Body. There is no question that we need some of our colleagues' support in order to pass a tax package that our people would be satisfied with.

That is why discussions on this have been going on since Day 2 of this Legislative Session. Yes—for the pundits—the discussion has been going on since Day 2 about what we are going to do to fund education. When we finally thought we had a deal, people started backing out. I will not start name calling, but the truth is people started backing out. Interest groups and entities started backing out of the suggestion that came out of months of conversation. I am not satisfied.

Some of us ran during the same time that the Teacher's Initiative Petition No. 1 was placed on the ballot. I remember some of the remarks I heard as I was knocking on doors about why that was happening. It was because the Legislature had not done anything. We heard from the constituents who complain time and time again about a lack of education funding, and we would not pass a tax package that would properly fund education. You know what they had to do? The people had to put it on the ballot. And, they did. I respect that, and I support it. They have a right to have an unfettered, uncompromised, unchallenged initiative on the ballot.

That is the exact conversation I have had with at least three of my Republican colleagues while we were sitting in an office talking about the mining tax. I said I support the notion of taxing mining fairly. But, that is in two years. I am talking now. What are we going to do now?

Even right now as we talk, the only party that has come up with a plan for now is the Democratic party, and it was "pooh-poohed" as soon as it came out of the mouths of those trying to advocate for it. That is a shame.

I do not believe in futility. If it is not going to work, let us leave it and go find something else that will. I am not going to spend the time trying to figure out something I need two-thirds of the Senate to vote for.

I need your help, colleagues on the other side of the aisle. We approached you and continue to approach you. I, too, am optimistic that maybe we will be able to get something done by the end. But, I am not satisfied with the Governor's recommendation.

It is disingenuous to argue that we are putting more in education without acknowledging that we have cut almost a billion dollars from education. Yes, we have $50 million earmarked for English Language Learners. It is a drop in the bucket. We need ten times as much in order to really be able to address the issue. I appreciate it. The notion, however, that we are making strides is completely disingenuous given the cuts.

You do not have to take my word for it. Ask the Clark County School District. Ask them what it is like to fight over an effect—not a cause—an effect of inaction on this Legislature's part. They were fighting over teachers' salaries versus population in the classroom. They had to go to arbitration and fight about it. My response to Mr. Ralston, on his show, is that we are looking at the effect of inaction by this Legislature. Here we are again about to have the exact same response: the effect of inaction.

I was happy when I heard the Governor talk about the Class of 2023 during his State of the State speech. I have a second grader who will graduate in 2023. I also have a nephew who I raise, and he graduates in two years: 2015. He deserves funding now, not in two years based on a tax on mining that may or may not pass based on what happens on the ballot. He needs the funding now.

That is what I have been fighting for. That is what we have been fighting for. It is important that we keep it in mind it is not over. Maybe, we can get this Modified Business Tax back on for a hearing, and it will not be futile. Hopefully, we can convince some of our colleagues from the other side of the aisle to join us in doing something now. I am happy to talk about the mining tax—I already told you that. I am happy to do it, but I am not interested in putting a competing measure on the ballot when the people have to speak because we would not.

SENATOR CEGAVSKE:

Thank you, Mr. President. I am told I am the longest-serving Legislator here now. It is interesting to sit back and listen to this debate after being here in the Legislature for 17 years, and 38 years in Nevada. I, along with my colleagues, am very proud to be a Nevadan. My colleagues brought me back to some memories of Parent Teacher Association days. I remember being on the buses with the other moms, coming here to the Legislature to ask for education funds. This was 20 years ago, during the 1980s. What have I seen change? I have seen more money going into more things. I have seen us taxed more. I have seen where we have taxed entities that could handle the taxes and those who could not.

The one thing I have consistently seen is the policies that do not change. We change some—we change a little—but in the 20 years I have been here, we have asked for changes in education, we have asked for education reform and—yes, it is touted there was reform last Session but I beg to differ—there were little bits. I mean no disrespect to any of my colleagues. Each and every one of us vote and do what we believe in. I will not take that from anyone. We are 21 individuals with different backgrounds and different perspectives. Each of us should be respected for that.

What I am concerned about is us talking about class-size reduction, about not enough funding, about more buildings. When, the real creature of this whole thing about education is the very substance of a teacher—good teacher. For 20 years, I have asked and begged, not only this Body but every Body that served here, to help us with education—higher education. I asked for help to make sure we have qualified teachers in every classroom for every child.

We want good kindergarten and good pre-school, but we do not have the teachers. We do not have this right. We do not have our ducks in a row. When I said this two weeks ago, I got the response, "Build it and they will come." I beg to differ. I have been watching for 20 years, and they are not here.

I was just in Oklahoma. The Governor of Oklahoma asked me to send her our teachers. I told her I would not because I do not want to give up what we have. We reward bad teachers, and we overwork good teachers. We have so many good teachers. Those are the ones we need to compensate fairly. Our system is broken in how we reward teachers. We need to do something better for our teachers. When we do, it helps our children.

Our children are the most important thing there is—I have three grandchildren now, and I am so proud. I am scared to death to send them to public schools. My kids went to public schools, and I am very proud of how they did there. I was a parent who was there, in the classroom and on the boards. We demanded answers. We demanded responses. We got some. We did not get all. When we talk about making policy decisions, we do very little to make sure the policies we do enact benefit the "all." The "all" is the children we keep saying are the reason why we are here, what all of this is for. If it truly is, then, look at what we need for education. Examine what it truly is that we need.

How many years have you heard me? I know those of you in the Senate Committee on Education are tired of this topic, but short-term and long-term substitutes teachers—who we place into our classrooms with only two years of some education—could be basket weaving, golf or whatever. I am still waiting for every school district in the State of Nevada to give me the counts of how many short-term and long-term substitute teachers we have in a school year. I do not have that information.

Do you really think having an English Language Learner class without a teacher who is prepared and who has the knowledge to help that student is a good thing? I do not.

Yes, we differ on how we are going to get there. That is what this is all about. That is why we are here. We are here to debate those issues. I thank the Majority Leader for bringing this topic up today. I was not planning to talk on the Floor today. In the past, we left it to Leadership to do that. Former Senator Raggio was great at it. He was a great floor debater. He loved it.

We need to get to the substance of what it is that we truly need in education—and we know it includes bringing the university to the table, community colleges and the rest. It is how we prepare. Our students are dropping out—why do they drop out? Because, we do not give them what they need. They leave because we are not giving them what they need.

It is simple. It is not gigantic. These answers are not huge. They are simple. I do not support the sunsets. I did not last time.

I think the Modified Business Tax is hurting the businesses. My district looks like a ghost town. I have shopping centers that are almost completely empty or are empty. I have restaurants that are out of business. Occasionally, a new restaurant will open, but they struggle. I could not go back and tell them I am going to tax them more when I know they are struggling. I cannot do that.

I will take my colleagues' words—effective inaction—it is exactly what I am talking about. Until we reexamine how we are educating our kids, and really get to where we are supposed to be, how we are going to look at it? The discussion has been going on for over 20 years and is still about the same things.

Funding more with no changes—there is no business I know of that would keep shelling out money if there is no return. We have to be smart about this. We have a budget. One has been given to us. I will not repeat the many things that have been said by my colleagues, but I do support those sentiments. What I am asking is to keep the dialogue open. I am proud of my colleague from Senate District No. 12 who sits next to me. He brings yin and yang into balance.

I want to thank you for letting me share what is in my heart for the many years that I have been involved. I do want to work on this, and yes, I do believe what I believe. I know you believe what you believe—there is that medium that we have found before. I have never seen so many 21 to 0 votes in my career in the Nevada Senate. This is unbelievable. It is great. This means we work together and we compromise.

Mr. Majority Leader, I know you are frustrated. I hear that. We are frustrated too. We believe in what we believe, and you believe in what you believe. Let us bring it together. We can do that. There are solutions. In all the years I have been here, those things I have talked about still have not been addressed. The need is still there. Until we address that, we will not be able to move on.

SENATOR ROBERSON:

Thank you, Mr. President. I understand that sometimes people need to say things to feel better about themselves. I wanted to give others in this room the courtesy. I will not say much today.

People outside this building and throughout this State know who has led this Session. They also know who has not led. People outside this building and throughout this State expected more this Session from the Majority Party. I think about my former colleague, Sheila Leslie—former Senator Leslie and I did not agree on much. I believe she would be disappointed in her colleagues this Session. Whether you agreed with Senator Leslie or not, she stood up for what she believed. I have not seen much of that this Session from the Majority Party.

Historically, the Democratic Party—at least in fairly recent history—has thought the mining industry had a pretty good deal in Nevada. They have protection under the *Nevada Constitution* that other businesses do not have. I was one of three Republicans in this entire building—my colleague from Reno here and the former Assemblyman from Henderson and I were the only three Republicans who supported Senate Joint Resolution No. 15 of the 76th Session. This Session you have seen more Republicans in support of Senate Joint Resolution No. 15 of the 76th Session. If the majority of the Senate Republican Caucus had not pushed this issue this Session, the Majority Party would not let Senate Joint Resolution No. 15 of the 76th Session out for a vote. I know that is true.

The Majority Party talked, and I talked with them, before the Session and in the first days of Session, about tax reform. I have been sincere since before Session and throughout it, that I was open to tax reform. Initially, there were discussions about a sales tax on services. That did not go anywhere. The majority of our Caucus proposed what is now Senate Bill No. 513, which has still not received a hearing and probably will not, to change the way mining is taxed in the *Nevada Constitution*.

As my colleague from Senate District No. 6 mentioned, we have a problem with the fact that there are two large, privileged industries in this State—one that pays a net-effective rate of 6.75 percent and another that pays a net-effective rate of approximately 2.3 percent, less than half of which actually goes to the State. They have similar revenues and similar profit margins. Why is that? Because, one has the protection of the *Nevada Constitution* and the other does not.

I sincerely thought—I think it was March 5 when we first introduced this concept—the Democrats would be saying, wow! Look at these Republicans. Let us embrace this.

Let us do something going forward for the long-term future of our State. Let us provide a long-term funding plan for education. Let us fix this disparity between gaming and mining. Let us cut a better deal for the people of Nevada when it comes to taking nonrenewable resources out of Nevada and shipping it out of the State and out of the Country. It seemed like a "no brainer" to me. I certainly knew it was a political risk for Republicans to come out and do that, but we believed in it. We thought it was the right thing to do. We also thought—and we know that the margins tax which will be on the ballot—will be terrible for our economy. If you talk to Steve Hill who is the head of the Governor's Office of Economic Development, he will tell you how worried he is about that; how it could dry up economic development in this State. That is not good for education. That is not good for anyone in this State.

I have heard members of the Majority Party and Leadership in both Houses say privately they do not like the margins tax and they wish it were not on the ballot. Yet, they refused to take a stand and take a vote on the merits of the margins tax in the first 40 days. They refused to take a stand on our proposal. They did not even say, "Hey, we do not agree with it. It is a crazy idea." They said nothing, nada.

Today is May 21—what a profile in courage. Democrats, we introduced not exactly tax reform, but we are going to increase a tax universally decried as a "job-killing tax"—we are going to increase that. By the way, we will increase the payroll tax on mining in an amount that is equal to one-tenth of one percent of mining's revenue, but will dramatically increase the payroll tax on every other business in this State, whether they are making a profit or not. What a profile in courage. Senate Bill No. 514, the payroll tax bill, is now not going to have a hearing. Okay. Give me a hearing on Senate Bill No. 513. I am happy to stand up and defend it whether you want to vote for it or not. Because, it is the right policy.

I have a lot of personal affection for the Majority Leader. I want to say happy anniversary to him today and congratulate his son. I am glad he takes after his mother. But, this is not leadership. Whether you all are in the Majority Party next Session or not, you need to learn how to lead and not be afraid of the consequences. This is not leadership. This is making yourself feel better. I get that, and I am going to let you have that. You can do better than this.

SENATOR HAMMOND:

Thank you, Mr. President. If we are going to have a discussion on education—and as I look around the Body—I realize I am the only active classroom teacher here. I will add my perspective.

I appreciate the comments my colleagues have shared. Not only am I active in the classroom, but I go around and talk with my colleagues in both the rural and urban areas, small schools and large schools alike. We talk a lot about education, how to improve it, what we do in the classroom to make the lives of our students better. For the most part, most of my colleagues say whatever happens in Carson City does not affect us a lot. We go about our business the way we need to, and we are here to make sure the students learn. We think the Legislature has a large impact on the classroom all the time, but I submit, perhaps, it is not as large as we imagine. My colleagues go about their business in a professional manner, delivering their service the best they can. They excel in many cases.

We hear, as we did two years ago, a lot about per-pupil spending. You can debate this one for days and days. How much do we spend on the children, and what effect does it have? To be honest with you, there are some states who spend $16,000 to $17,000 per student and some that spend as little as $6,000 per student. There is a debate out there as to whether or not there is a real correlation between spending and student performance. The debate on that has not reached a conclusion. What we know, and what I have concluded from listening to my colleagues in schools, is that the two prevailing problems we have right now that are impeding the real educational outlook for our students in Clark County, Washoe County and all of the other counties in the State are English Language Learning and the number of students per class with one teacher in the classroom.

As my colleague from Senate District No. 20 and several other colleagues have mentioned, at the beginning of this Session we sat down and proposed a plan. I liked that plan because it actually addressed those two serious problems we face. The way I look at it and the way I have always discussed it is: if you find something that works, you fund it. If you find something that

needs to be addressed, that will solve a huge problem, you fund it. That is exactly what we sat down and did.

I will not go into exactly how we are going to reform the tax on mining. Others on the Floor have discussed that. The reality is we proposed this a long time ago. I was optimistic. I stuck my neck out there. A lot of people told me that someone in my political philosophy should not be doing that, but I felt it was the right thing to do. I sat down, and I waited for a response to come back, some negotiation to occur. That did not really occur. There was not much on it. Some came to me and indicated they like certain aspects, but when we asked for them to come and go into detail about how we should go about doing this, we got nothing.

As my colleague has already said, the great "pooh-poohed" job took place. That is exactly what happened when we proposed these ideas. I was disappointed. I felt we could all collaborate on something we all agreed on. But, here, we are at the end of Session and very little movement on that proposal has occurred. I hope that going forward we all get serious about this. We all believe it is important.

Someone suggested we should consider funding schools now. We never closed off that discussion. There were some parts of some of these ideas and suggestions that we were, quite frankly, willing to support. I wonder about how late we keep suggesting these ideas, extending taxes like the Modified Business Tax, noting how horrible it is for our economy—we keep coming up with these same ideas. Are we really trying to solve the problem using these same suggestions?

We had some common ground to build on, and we missed the boat. I do not know where that leaves us going forward. I would like to see us, perhaps, reach an agreement this Session, but reach an agreement so we can move forward so we are not in this same place two years from now, wondering then, why we did not do it now. I respectfully ask that we revisit that idea.

SENATOR ATKINSON:

Thank you, Mr. President. We have these debates that go on forever, and I do not know that it changes much. Like my colleague from Senate District No. 13, I have been around a long time as well. I served in the other House, and we have talked about education *ad nauseum*. My colleague from Senate District No. 8 spoke about things we have not done. She even went as far to say she is scared to send her grandchildren to public schools. When you think about that statement coming from someone in this Body, we have to ask ourselves, "What have we done?"

I am not afraid to send my daughter to public school. She is, in fact, a public school student with a 3.8 grade point average—she is doing quite well. She is doing well because—I will pat myself on the back—her parents have done a good job in making sure she understands and values the school system she is in. My colleague from Senate District No. 16 said we are doing fine. I welcome him to my district where we have 35, 38, 42 kids in a classroom. That is not doing fine in my opinion. Like my colleague from Senate District No. 11, I am not satisfied either. My daughter will be out of school in a year, and funding is not where it should be. We should not necessarily be doing it just for her, we should be doing it for all kids in Nevada.

I am tired of this conversation about the Majority Party, as if it is only our job to get something done for education. I look around at my colleagues, and I think I have done a pretty good job this Session—folks know I can be a hot head. I have done a good job of getting along with my colleagues. I have a wonderful relationship with my Committee, the Senate Committee on Commerce, Labor and Energy. We have done a pretty good job, in spite of what some journalists say. The Senate Committee on Commerce, Labor and Energy has done a fantastic job of working in a bipartisan manner. It is something I am very proud of. But, when we get on the Senate Floor and we start calling names, accusing my party of not being stern enough or tough enough, I am offended by that. For a long time—decades—we have been a staunch defender of education. We may not ever agree how we should get there, and that is fine, but to disrespect us is inappropriate. My constituents have never, ever sent me here to the Nevada Legislature to rubber-stamp the Governor's budget proposal. We get to a point where we are putting Band-Aids on today's problems, and it does not get us anywhere.

We will be back here in 2015, and we will be having this same discussion. To say that we are not doing everything we can, I think we are. This debate on this Floor, today, illustrates why the Majority Leader did what he did today. It illustrates why it is not necessary to have a hearing on

Senate Bill No. 514. When you have one party coming out and saying a bill is dead on arrival, at the get-go, they have already taken themselves out of the discussion. We have been here before. Do we go to Committee and debate under those circumstances so we can bring it back to the Floor to debate it again and watch it fail? That would be a waste of time. I do not have time for it, and I do not think the rest of you do either. It is like you want to get us in a committee room so you can go over your talking points, cameras rolling and bash the Majority Party over something you are not going to vote for anyway. The Majority Leader suggested we do not have time for that.

We have less than two weeks left in this Legislative Session. Our constituents ask and require us to do something. It is not just the Majority Party's duty to come up with something. Maybe, the Minority Party has suggested something, and the Majority Party feels like what they have suggested is not good enough. The debate can continue. This is not a problem unique to this Session. It has been a problem for some time. We come here, and we say to ourselves that the school system is not good enough to educate our own kids. I go to schools in my districts. There are 38 and 40 students in the classrooms in high schools and junior high schools. Then, hear the Minority Party say we are doing fine? I do not think that is fine. It is not right at all to me, even if it is okay to others.

What the Majority Leader has suggested—what we have tried to accomplish this Session—it is not going to go anywhere. We realize that today. But, taking personal shots is inappropriate. Like my colleague from southern Nevada said, when this discussion is over, we will still get along. We will still have a meeting of the Senate Committee on Commerce, Labor and Energy on Friday, and we will conduct ourselves the way we normally do. If we want to have a serious discussion about education, it takes every last one of us in here. The personal attacks are not helpful.

SENATOR SMITH:

Thank you, Mr. President. I am afraid my colleague, the good doctor from Senate District No. 12, may have spoken too soon about the congenial debate we were having. We were having a debate about what we were doing here on policy, revenue and related topics. I do not think courage is only about what you say when you have the microphone or in a press release or who can have the best tax plan. We all make tough votes here. We have done it time and time again with some really great floor debate. There has been a lot of courage demonstrated in this building and from this Majority Leader.

I will also say to you that leadership is more than who has the best tax plan. Leadership is about doing the hard work. It is about showing up and sitting in Committee every day when some days it may be boring or not very engaging. It is doing the hard work to get us through this process. We all do that. We all have that obligation. There are leaders all through this Chamber who are helping us get through this Session, pass good policy and put together this budget. I have said before that this budget is better than the one I worked on the last two sessions. I have also said from the beginning, that, I think we can do better.

I would not presume to stand on this Floor and talk about lack of courage or lack of leadership with others. It is viewed in many different ways. I respect this process. I respect my colleagues, and I respect this man, our Majority Leader. We cannot have a bipartisan, civil conversation here if we are personally attacking our colleagues on the Floor of this Body.

SENATOR WOODHOUSE:

Thank you, Mr. President. As a retired First Grade teacher, I feel it is important that I stand and say something in addition to the many comments that have been made regarding funding for education—especially this Legislative Session. I, too, am so disappointed that we have not made more progress in finding dollars for the educational needs of our children. It was one of the things I came here to do. I know you all did too because we all talked about it on the campaign trails and, also, as we arrived here.

It is a good thing that we have a proposed budget from the Governor that does put more dollars in education. However, it is not nearly enough. We need to remember, as one of my colleagues said just a few minutes ago, how far behind we have been because of the cuts we have made in education over the last five to six years. Even before then, we were not contributing what was needed for our students.

Most of you have heard my story about teaching first grade and having 33, 34, 35 students in my class, every year, for 17 years. I challenge you to be able to do that. It was a fabulous career, and I would go back to it any day. You have to know how hard it is for our teachers to have students in their classrooms when there are not the resources and the numbers are too large for you to really know that you are reaching every single child, every single day. I have to tell you that the day an English Language Learner student came into my classroom, total panic hit me. I had absolutely no training on what to do. I found it out through my mentor teachers, and now, we have programs in our university system to prepare our teachers. I know our teachers coming into the field and those already in the field. are going to be ready and can do what we need for our children who need special services.

When I was teaching, there was no such thing as full-day kindergarten. There has to be full-day kindergarten for every single kindergartener in the State of Nevada. At the three different schools I taught at, before I was assistant principal and principal at four other schools, we always had half-day kindergarten. I can tell you about the difference between my first grade classroom and the kindergarten classrooms I would observe. When the five-year olds, soon-to-be six-year olds, came into my classroom, a third of my students had no kindergarten at all, others had some. I had some who had wonderful family lives whose parents made sure those young people had all kinds of resources and experiences. Not every family can provide that. They do not have the financial resources and the time to do it. The time it takes to put food on the table, the clothes on the backs and ensure their children are safe is more critical.

I call on all 21 of us Senators to dedicate ourselves in these next few days—I realize we have less than two weeks—to find a way to put additional dollars into the budget beyond what the Governor has proposed. The existing proposed budget is not enough to give our students from prekindergarten all the way through grade 12 what they need in the classrooms in order to be successful students, which is exactly what we want them all to be. They deserve it, and it is our responsibility to do that.

SENATOR FORD:

Thank you, Mr. President for recognizing me for a second time. I have been asked a couple of times what has been my biggest surprise this Session? Most recently, I was having coffee across the street with my colleague from northern Nevada, and I told him that to my surprise, this Session has been a lot less contentious than I anticipated. I shared with him, and several others throughout the course of the Session, I was told to wait. It will get more contentious. I guess this is what they warned me about.

I am a litigator. I go to court every so often. With all of my best arguments, I am used to getting shot down by the person sitting across from me. That is what they do for a living. I put a good argument up, and they tear it down, and vice versa. I am used to that, and sometimes it gets personal. This is not court. We should not be waging these personal attacks. It is unprofessional, and it is certainly counterproductive. I urge my colleagues to remember that we are here to work together. It is counterproductive to be chastised for lack of leadership, or otherwise, when we are all here trying to do whatever we can. One-hundred twenty-eight thousand people elected each of us to come here to represent their interests. To say we lack leadership because we do not agree or because we came with a plan that members from the Minority Party backed out on, I think is unfair.

I want to reiterate something I have said several times: we do not have to talk about what has to come first, either reform then money, or money then reform. It seems to me that we have to do all of this simultaneously. We need to be funding full-day kindergarten. We need to be working towards all kids reading by grade 3. We have to serve our English Language Learner students. We have to reduce class size. We have to do it all at the same time which means we also have to fund those programs.

As you might recall, I lost my first race for the Nevada State Senate to my colleague from Boulder City. I remember during one of our debates, I said to my colleague from Senate District No. 12 that I had, at that time, a kindergartener, a sixth grader, an eighth grader, and a senior in high school. The senior in high school wanted to be a doctor. He wants what you have already, but the schools are not preparing him for that. How do I know? Because as a sophomore, he took Advanced Placement chemistry. He had a full-time substitute. Now, the Senator from District

No. 8 had issues with full-time substitutes. My son had a full-time substitute preparing him to become a doctor. Well, right now, my son is a rising junior majoring in neuroscience at the University of Colorado, Boulder. Suffice it to say, the fact that he had a full-time substitute affected his grades. We are not doing right by our students as one of my colleagues already said.

This is not about two years ago or two years from now. This is about right now. I do not disagree that there is a plan for two years from now, and I can get on board with that. I have made that clear. I need members of the Minority Party to get on board with us though right now. Let us fund education right now—for my second grader, for my sophomore, for my seventh grade highly gifted student as well. Let us remember that we need to focus on right now, not two years down the road, not the competing ballot measure, but right now.

SENATOR KIECKHEFER:

Thank you, Mr. President. I think if there was a question at this point I would call for it. I do want to try to wrap this conversation back into reality. I think what the frustration that some of my colleagues have felt is that the clock has run out. In this process and our system of checks and balances there is a Governor that we need to negotiate with if we want to go over and above what he wants to do. If we were to pass a budget that would require an override of his veto, we would have to pass all of those bills out by Friday. The clock has run out.

The Republican Minority Leadership has regularly asked throughout this Session, what do you want to do. We have said openly in meetings, that everything is negotiable, that we are willing to discuss anything. We were scheduled to have a hearing, today, regarding Senate Bill No. 516, the tax plan, but the clock ran out. I think we need to press on and strategically utilize resources that we do have.

I understand that everyone agrees that what we have done is not enough. If I gave the impression in my original remarks that I thought everything was just fine, that was not the point I was trying to convey. I think success is a moving target. We are never there, it is never good enough for our kids. But, I think we are making progress. Progress is a good thing, especially considering where we have been in recent years.

SENATOR SPEARMAN:

Thank you, Mr. President. Not so long ago, in Philadelphia, Pennsylvania, a gentleman started a school there. His school was to teach some of the basics, like grammar and science. In a statement that he made to the press he said that investing in education would prepare people who will then be able to make contributions to society, politics, government and their occupations and professions. The teachers would emphasize both practical and ethical elements of the skills and subjects that they taught. However, a little later on, the English School did not flourish because the headmaster did not want to implement the innovations required for the school's success. That was 1749. That man was Benjamin Franklin. I read that because I think that this story is germane to this argument.

We can argue about education and innovations for another 249 years, and history will say the same thing about our efforts as ones that I just read. I have heard the arguments about reforms before more money and that some want to see accountability before money and some saying that you cannot solve the problem by putting money into education. I immediately say, we do not know that because we have never done that. We have never funded education at a level that would allow our students to become successful and our teachers to really be the professionals that they have studied to be.

With respect to the notion of accountability before allocating any more money—I sat a few weeks ago with a group of students from my district, two of whom seriously contemplated suicide. One of them actually tried and, fortunately, failed. That student is 13 years old. The student said to me, "If it had not been for a friend, I probably would have attempted suicide again." They also said that they went to the school counselor but the counselor was really busy. Another student chimed in, who is in the 11th grade, and said "Me too. I wanted to talk to a counselor but they are so busy trying to make sure the seniors graduate they do not really have time to talk to me about a personal problem. So, if it had not been for my friend, I already had a plan. I had already written the note. I called my friend and told him what my plan was." When we get to the place that we cannot fund education at a level that will allow our students to have the same access to a guidance counselor that we might have had when we were in school. I think

that the attempted suicide of these two young people is the biggest indictment on what we have not been doing: reforms and accountability before there is more money.

I have shared this analogy a couple of times—if you give a top rated neurosurgeon a steak knife and a can opener and send them into the operating room, you cannot complain when you do not get the results that you want. We cannot have accountability before we put money in because we do not know who the best teachers are, because all of our teachers are wrestling, are grappling with something. We do not live in a society anymore that has just a little red school house, and everybody in the school is the same color, is the same culture, speaks the same language. We do not have, in the 21st century, the benefit of homogeneity. We do not have that. So, in addition to trying to teach our students the "three Rs"—reading, writing and arithmetic—what many of our teachers are grappling with is they are just trying to become culturally competent so they can help somebody read.

The popular phrase is "job killing taxes," and I will submit to you that we cannot make progress until we think outside of the box. It is not about taxes. It is about investing. Now, admittedly, our revenue structure that was framed 50 years ago has not even been revisited. When this framework was built, the microwave did not exist, The Flintstones was not on television. We did not have cell phones. We did not have catalytic converters. We had carburetors. When we look back and see that we are still trying to operate in a framework that was designed 50 years ago and it cannot accommodate the needs of today, then I think what has to happen is that we all have to become engaged and say, what can we do better, what can we do differently.

I agree with my colleagues that say this is not personal except for the fact that all of us have to be personally engaged. My friends, it is not about taxes. It is really about creating some sort of a sustainable revenue structure that will help our children today and in the future. You cannot give a neurosurgeon a steak knife and a can opener, send them into surgery and then complain about the results.

SENATOR KIHUEN:

Thank you, Mr. President. I had the pleasure of serving with former Senator Bill Raggio in this Body. I was able to learn a lot from him. I think he would be very disappointed in the leadership of his Party. I resent the fact that there were personal attacks on my good friend from Senate District No. 2. I have known him for four Legislative Sessions and over ten years. Former Senator Raggio, for those of you who never met him, was somebody who was willing to come to the table and sit with you and negotiate and compromise and listen to your concerns and share ideas with you. That is the type of person that former Senator Raggio was.

I see some of those same traits in my good friend from Senate District No. 2. When he was elected leader of the Democratic Majority Caucus, he had to win his colleagues over. He had to convince us that he was ready to be a leader in our State, I think he has shown every bit of leadership possible. He has extended his hand. He has asked the Republican Party to come to the table, to sit with him, to negotiate with him and come to a compromise with him, but what do we get, dead on arrival comments.

Now, the point was brought up regarding funding for English Language Learner programs. As most of you know, I am the only person in this Body, possibly with the exception of my colleague from Senate District No. 2, that is a product of English as a Second Language classes. When we talk about investing in English Language Learning, $50 million—wow. If you look at the recent studies on how much we need for English Language Learner, just to make a significant investment in English Language Learning, we are talking about $300 million at least. That is to provide the tools for the teachers as well as the students.

Yes, I do commend the Governor for investing more money in English Language Learning than he has in the past, but again, it is still a drop in the bucket. My question is, to the Republican Party, where is your plan to invest in education today? Where is your plan to put people back to work today? A politician thinks of the next election, while a statesman thinks of the next generation. It is very sad, without mentioning names, that unfortunately in this Body, there are too many politicians and not many statesmen.

SENATOR JONES:

Thank you, Mr. President. I have listened with interest to the debate this afternoon about the most important issue to my constituents—that is education. My wife likes to chide me for having wanted to become a Legislator in the first place, but it is debates like this, about the important business of our State. That is why I knocked on doors in 110 degree heat and took a massive pay cut to be up here for debates like this.

I do not sit on the Senate Committees on Finance or Revenue and Economic Development, so I have not been as involved as others in this Body about the day-to-day discussions on how to properly fund education in our State. I am grateful for the fact that we do not have to talk about cutting education funding this time. I am grateful that the Governor has dedicated additional funding for English Language Learners and all-day kindergarten, but I do think we can do better. That is why I ran for election in the first place: to give my kids, your kids, and the kids around this State the proper education that they deserve.

I am a freshman, and perhaps, I am naïve to think that we can still get something done. But, now, that we have all gotten this off of our chest, now, that we have had this catharsis, let us get to work. I will be in my office tonight looking at options to still make this happen this time because again, this is why we are here. If anyone wants to join me from either party, come on up and let us talk. I am not satisfied, and I am not done here. I hope to see you tonight at 10:00 p.m. in room 2132.

SENATOR SEGERBLOM:

Thank you, Mr. President. I want to say a couple of words about the Majority Leader. There was a comment about him not being a leader. I would say just the opposite is true. The fact is, you can lead in different ways. You can throw bombs, but throwing bombs is not being a leader. Being a leader is trying to reach out, bring people together, bring diverse groups together, and try to form a compromise by trying to get 14 votes. Frankly, that is what we are talking about. We are talking about 14 votes. We, the Majority Party, have 11 but we do not have 14 so we need to reach out and bring those other three. Those other three are out there throwing bombs. The fact is members from the Minority Party never came to the table with those three votes saying, "We are here willing to stand up and support education today."

Rearranging the deckchairs on the Titanic is not a plan. Trying to shift money around here and there for a few million dollars is not a plan. Reducing five students in kindergarten classes, from 26 to 21, when half of the students by time they reach their senior year are not graduating—that is not a solution. That is simply rearranging the deckchairs on the Titanic.

Let us focus on what we need to do, which is to be calm, collected and reach out to bring everybody together. We all know what this is about. This is about trying to get the Initiative Petition No. 1 to lose on the ballot in November of 2014. The debate from the Minority Party has been how to get something on the ballot that will kill Initiative Petition No. 1. That is not a plan. That is just a strategy to avoid the issue. The issue is that we need money today.

We have students in my district who are dying with 40 students to a class, where the best teacher in the world cannot teach 40 kids in one class. I want to commend the Majority Leader for trying his hardest to reach out and bring this group together. He has been here every night and weekends bringing people together, but the one group that we needed the most—those three votes were not there.

SENATOR DENIS:

Thank you, Mr. President. I appreciate the discussion. I think that is exactly what is important. The fact is this discussion came out of my frustration, but I do appreciate the discussion. I do know we have a lot of important things yet to do. This was helpful though. I will say that I have not thrown in the towel. I will never throw in the towel when it comes to our kids.

We move forward.

Senator Denis moved that the Senate recess until 8:00 p.m.

Motion carried.

Senate in recess at 5:03 p.m.

SENATE IN SESSION

At 8:39 p.m.
President Krolicki presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

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

Senate in recess at 8:41 p.m.

SENATE IN SESSION

At 8:52 p.m.
President Krolicki presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was re-referred Senate Bill No. 123, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Education, to which was referred Assembly Bill No. 386, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Finance, to which were re-referred Senate Bills Nos. 330, 446, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 221, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which were referred Assembly Bills Nos. 449, 471, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEBBIE SMITH, *Chair*

Mr. President:

Your Committee on Revenue and Economic Development, to which were referred Assembly Bills Nos. 66, 496, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RUBEN J. KIHUEN, *Chair*

SECOND READING AND AMENDMENT

Assembly Bill No. 66.

Bill read second time.

The following amendment was proposed by the Committee on Revenue and Economic Development:

Amendment No. 675.

"SUMMARY—Revises the manner in which the State Board of Equalization must provide notice of a proposed increase 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 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 ~~[it]~~ the Board proposes to increase the valuation of any property on the assessment roll. (NRS 361.395) ~~[This]~~ 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 notices of proposed increases in the valuation of property that relate to a fiscal year that begins on or after July 1, 2013, this bill requires the Board to give 30 days' notice: (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.

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 ~~[,]~~ *:*

(a) Pursuant to paragraph (b) of subsection 1, it shall give ~~[10]~~ 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. 2. The amendatory provisions 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. 2.]~~ *Sec. 3.* This act becomes effective ~~[upon passage and approval.]~~ on July 1, 2013.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 675 to Assembly Bill No. 66 extends the notice requirement from 10 days to 30 days. It also ensures that any change in the noticing requirement from certified mail to regular mail is prospective for future tax years.

Amendment adopted.

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

Assembly Bill No. 386.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 753.

"SUMMARY—Establishes a pilot program for the administration of mental health screenings to pupils enrolled in selected secondary schools in the Clark County School District and the Washoe County School District. (BDR S-1022)"

"AN ACT relating to education; establishing a pilot program in the Clark County School District and the Washoe County School District for the administration of mental health screenings to pupils enrolled in selected secondary schools within each school district; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes a pilot program in the Clark County School District and the Washoe County School District for the administration of mental health screenings to pupils enrolled in at least one secondary school within each school district.

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

Section 1. 1. There is hereby established a pilot program in the Clark County School District and the Washoe County School District. For purposes of the pilot program, the board of trustees of the Clark County School District and the board of trustees of the Washoe County School District shall each:

(a) Identify and coordinate with interested stakeholders in the community to implement the pilot program. ~~[, including, without limitation, universities~~

~~and colleges, local mental health professionals and medical professionals, juvenile and family courts within the county, persons who are involved in the provision of juvenile justice services, charitable organizations and child welfare agencies.]~~

(b) With the input and coordination of the interested stakeholders identified pursuant to paragraph (a), provide for the administration of mental health screenings to pupils enrolled in at least one secondary school within the school district, as selected by the school district.

(c) With the input and coordination of the interested stakeholders identified pursuant to paragraph (a), provide an age-appropriate, professionally recognized mental health screening for administration to the pupils enrolled in each secondary school selected for the pilot program.

(d) Assist the principal of each secondary school selected for the pilot program with identifying professionally qualified persons, including the interested stakeholders identified pursuant to paragraph (a), to administer the mental health screenings to pupils and to conduct follow-up screenings if a pupil scores in a range which indicates that he or she may have a mental health issue.

2. Except as otherwise provided in subsection 3, each secondary school selected for the pilot program shall provide for the administration of the mental health screening selected by the school district by qualified persons, including the interested stakeholders identified pursuant to paragraph (a) of subsection 1, to the pupils enrolled in the secondary school or to pupils enrolled in selected grades at the secondary school, as determined by the school district. The school district shall ensure that if a pupil is absent or otherwise not available on the day scheduled for administration of the mental health screenings, a make-up administration is scheduled for the pupil within a reasonable time period.

3. Before administration of the mental health screening to a pupil pursuant to subsection 2, the principal of the secondary school shall provide advance written notice of the screening to the parent or guardian of the pupil, including a form for consent or exemption. The notice must inform the parent or guardian of his or her right to consent to the screening or exempt the pupil from the screening and contain a form for the signature of the parent or guardian to consent to the screening or exempt the pupil from the screening. If a form exempting a pupil from the screening is signed by the parent or guardian and returned to the school, the principal must exempt the pupil and the pupil must not undergo the mental health screening. If a form is not returned on behalf of a pupil, the principal of the school must exempt the pupil and the pupil must not undergo the mental health screening.

4. If a pupil scores on a mental health screening administered pursuant to subsection 2 in a range which indicates the pupil may have a mental health issue, the school district shall provide the parent or guardian of the pupil with the results of the mental health screening, to the extent feasible, and a list of resources available in the county to assist the parent or guardian with

obtaining appropriate further professional diagnosis and, if necessary, treatment for the pupil. The school district is not responsible for providing to such a pupil, or ensuring that such a pupil receives, further professional diagnosis or treatment.

Sec. 2. 1. On or before April 1, 2014, the Clark County School District and the Washoe County School District shall provide a report to the Legislative Committee on Education concerning the status of the implementation of the pilot program for mental health screenings required by section 1 of this act.

2. On or before December 1, 2014, the Clark County School District and the Washoe County School District shall each submit a report to the Department of Education which includes, without limitation, and except as otherwise provided in subsection 3:

(a) The number of secondary schools in the school district selected for the pilot program;

(b) The number of pupils in each grade level of the secondary school selected for the pilot program and the actual number of pupils who underwent mental health screenings pursuant to the pilot program;

(c) The number of pupils who did not undergo a mental health screening based upon the number of pupils whose parents or guardians opted out of administering the mental health screening to the pupil and the number of pupils for whom a form was not returned pursuant to subsection 3 of section 1 of this act;

(d) The number of pupils who scored in a range indicating that the pupil may have a mental health issue and a description of the types of resources which were referred to the parent or guardian of the pupil;

(e) If available, an indication of how many parents and guardians followed up by seeking professional help for further diagnosis and, if necessary, treatment for the pupil; and

(f) An evaluation of whether the pilot program was useful in identifying pupils with possible mental health issues and assisting the parents and guardians of those pupils with obtaining appropriate professional diagnosis and treatment. ~~[; and~~

~~(g) Recommendations for expanding the number of schools that participate in a program of mental health screenings for pupils if the Legislature determines to continue and expand the program.]~~

3. The information required by the report pursuant to subsection 2 must be provided in an aggregated format and if any of the information would reveal the individual identity of a pupil, the school district shall not include that information in the report.

4. On or before January 1, 2015, the Department of Education shall compile each report received pursuant to subsection 2 and submit the written compilation, including, without limitation, recommendations for continuing and expanding the pilot program for mental health screenings to pupils, to the

Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

Sec. 3. This act becomes effective on July 1, 2013.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Thank you, Mr. President. Amendment No. 753 makes two key changes to Assembly Bill No. 386. First, it revises the bill to remove specific mention of universities, colleges, local mental health officials, juvenile services, child welfare and others as interested stakeholders who would be involved with implementing the pilot program specified in the bill. Second, it deletes the requirement that the two school districts involved in the pilot program make recommendations about expanding or continuing the pilot program.

Amendment adopted.

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

Assembly Bill No. 449.

Bill read second time and ordered to third reading.

Assembly Bill No. 471.

Bill read second time and ordered to third reading.

Assembly Bill No. 496.

Bill read second time.

The following amendment was proposed by the Committee on Revenue and Economic Development:

Amendment No. 676.

"SUMMARY—Makes various changes relating to the Clark County Sales and Use Tax Act of 2005. (BDR S-1068)"

"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 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 ~~[, 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 ~~[.]~~ ; 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.

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.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

Thank you, Mr. President. Amendment No. 676 to Assembly Bill No. 496 provides for further reporting of a detailed description of the activities of the police agencies in southern Nevada to the Legislative Counsel Bureau. It also provides a sunset for the bill, expiring on September 30, 2017, or before.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 123.

Bill read third time.

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

Amendment No. 790.

"SUMMARY—Revises provisions relating to energy. (BDR 58-106)"

"AN ACT relating to energy; requiring certain electric utilities in this State to file with the Public Utilities Commission of Nevada an emissions reduction and capacity replacement plan; prescribing the minimum requirements of such a plan; providing for the recovery of certain costs relating to an emissions reduction and capacity replacement plan; prescribing the powers and duties of the Commission and the Division of Environmental Protection of the State Department of Conservation and Natural Resources with respect to such a plan; providing for the mitigation of certain amounts in excess of a utility's total revenue requirement; ~~[making an appropriation;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 7 of this bill requires an electric utility which primarily serves densely populated counties (currently only Clark County) and which, in the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of $250,000,000 or more in this State to submit to the Public Utilities Commission of Nevada a comprehensive plan for the reduction of emissions from coal-fired electric generating plants and the replacement of the capacity of such plants with increased capacity from renewable energy facilities and ~~[natural gas-fired]~~ other electric generating plants. ~~[and the implementation of demand response programs.]~~ Section 7 prescribes the minimum requirements of such an emissions reduction and capacity replacement plan, which include: (1) the retirement or elimination of not less than 800 megawatts of coal-fired electric generating capacity on or before December 31, 2019; (2) the construction or acquisition of , or contracting for ~~[600]~~ , 350 megawatts of electric generating capacity from renewable energy facilities; and (3) the ~~[acquisition or]~~ construction or acquisition of ~~[between 700 megawatts and 800]~~ 550 megawatts of electric generating capacity from ~~[natural gas-fired]~~ other electric generating plants. ~~[on or before July 1, 2021; and (4) the deployment on or before December 31, 2017, of a demand response program designed to reduce peak demand by 100 megawatts.~~

~~Sections 8 and]~~ Section 9 of this bill ~~[provide]~~ provides for the recovery of certain costs incurred by an electric utility in carrying out an emissions reduction and capacity replacement plan. ~~[Section 9 also requires an electric utility to file with the Commission a schedule to provide certain credits to customers of the utility. Section 9 further provides that a schedule filed with the Commission by an electric utility to provide for the recovery of costs and a schedule to provide credits to customers are effective automatically on the first day of the next calendar quarter following the filing of such a schedule. Sections 14 and 15 of this bill reflect the automatic effectiveness of such filings.]~~

Sections 10, 18 and 19 of this bill provide that the Division of Environmental Protection of the State Department of Conservation and Natural Resources has exclusive jurisdiction to supervise and regulate the remediation of any site previously used for the production of electricity from a coal-fired electric generating plant, including authority to regulate and supervise the remediation of surface water and groundwater and solid-waste disposal operations located at such a site. Additionally, sections 10 and 20 of this bill provide that the Division has exclusive authority to regulate emissions from any renewable energy facility or ~~[natural gas-fired]~~ electric generating plant constructed on a site previously used for the production of electricity from a coal-fired electric generating plant.

Section 12 of this bill establishes provisions concerning the filing of an amendment to a utility's emissions reduction and capacity replacement plan for purposes of the Commission's approval and acceptance of certain

contracts between the utility and a renewable energy facility. Section 12.5 of this bill provides that if the Commission deems inadequate any portion of a utility's emissions reduction and capacity replacement plan or an amendment to the plan, the Commission may recommend a modification to the plan or amendment, and the utility may accept the modification or withdraw the proposed plan or amendment.

Existing law establishes provisions governing public hearings on the adequacy of a utility's plan to increase its supply of electricity or decrease demands made on its system. (NRS 704.746) Section 16 of this bill authorizes the Commission to give preference to the measures and sources of supply that provide the greatest opportunity for the creation of new jobs in this State. Section 16 also requires the Commission , after a hearing, to review and accept ~~[any element of]~~ or modify an emissions reduction and capacity replacement plan . ~~[that meets certain criteria.]~~ Section 16 requires the Commission, in reviewing such a plan, to consider: (1) the cost to the customers of the electric utility to implement the plan; (2) whether the plan provides the greatest economic benefit to this State; (3) whether the plan provides the greatest opportunities for the creation of new jobs in this State; and (4) whether the plan represents the best value to the customers of the electric utility.

Existing law requires the Commission to issue an order to accept as filed a utility's plan to increase its supply of electricity or to decrease demands on its system or to specify any portions of such a plan as inadequate. (NRS 704.751) Section 17 of this bill revises the time in which a utility may file an amendment to its plan and also requires that any order issued by the Commission accepting an element of an emissions reduction and capacity replacement plan must authorize a utility to ~~[take all reasonable steps necessary]~~ construct or to acquire ~~[renewable energy facilities]~~ and own electric generating plants necessary to implement ~~[programs and elements identified in]~~ the utility's emissions reduction and capacity replacement plan . ~~[if the plan has been accepted by the Commission.~~

~~Section 21 of this bill appropriates from the State General Fund to the Legislative Fund the sum of $150,000 for the purpose of contracting with a consultant to conduct a study of the impact of energy related tax incentives on renewable energy development in this State.]~~

Section 22 of this bill provides that this bill becomes effective upon passage and approval.

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

Section 1. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *As used in sections 2 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections ~~[3]~~ 2.5 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 2.5. "Coal-fired electric generating plant" means an electric generating plant which burns coal to produce electricity and which is owned, in whole or in part, by an electric utility.

Sec. 3. ~~[*"Demand response program" means a program for the management of consumption of electricity in response to peak demand conditions.*]~~ (Deleted by amendment.)

Sec. 4. *"Electric utility" means an electric utility that primarily serves densely populated counties, as that term is defined in paragraph (c) of subsection 17 of NRS 704.110.*

Sec. 5. *"Emissions reduction and capacity replacement plan" means a plan filed by an electric utility with the Commission pursuant to section 7 of this act.*

Sec. 6. *"Renewable energy facility" means an electric generating facility that uses renewable energy to produce electricity. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 704.7811.*

Sec. 7. *1. An electric utility shall file with the Commission, as part of the plan required to be submitted pursuant to NRS 704.741, a comprehensive plan for the reduction of emissions from coal-fired electric generating plants and the replacement of the capacity of such plants with increased capacity from renewable energy facilities and* ~~*[natural gas-fired]*~~ *other electric generating plants* ~~*. [and the implementation of a demand response program.]*~~

2. The emissions reduction and capacity replacement plan must provide ~~*: [, at a minimum:]*~~

(a) For the retirement or elimination of:

(1) Not less than 300 megawatts of coal-fired electric generating capacity on or before December 31, 2014;

(2) In addition to the generating capacity retired or eliminated pursuant to subparagraph (1), not less than 250 megawatts of coal-fired electric generating capacity on or before December 31, 2017; and

(3) In addition to the generating capacity retired or eliminated pursuant to subparagraphs (1) and (2), not less than 250 megawatts of coal-fired electric generating capacity on or before December 31, 2019.

➥ *For the purposes of this paragraph, the generating capacity of a coal-fired electric generating plant must be determined by reference to the most recent resource plan filed by the electric utility pursuant to NRS 704.741 and accepted by the Commission pursuant to NRS 704.751.*

(b) ~~*[That the electric utility will use commercially reasonable efforts to construct, acquire or contract]*~~ *For the construction or acquisition of, or contracting for* ~~*[600]*~~ *, 350 megawatts of electric generating capacity from renewable energy facilities. The electric utility shall:*

(1) Issue a request for proposals for 100 megawatts of electric generating capacity from new renewable energy facilities on or before December 31, 2014;

(2) In addition to the request for proposals issued pursuant to subparagraph (1), issue a request for proposals for 100 megawatts of

electric generating capacity from new renewable energy facilities on or before December 31, 2015;

(3) In addition to the requests for proposals issued pursuant to subparagraphs (1) and (2), issue a request for proposals for 100 megawatts of electric generating capacity from new renewable energy facilities on or before December 31, 2016;

(4) ~~[In addition to the requests for proposals issued pursuant to subparagraphs (1), (2) and (3), issue a request for proposals for 100 megawatts of electric generating capacity from new renewable energy facilities on or before December 31, 2017;~~

~~(5) In addition to the requests for proposals issued pursuant to subparagraphs (1) to (4), inclusive, issue a request for proposals for 50 megawatts of electric generating capacity from new renewable energy facilities on or before December 31, 2018;~~

~~(6)]~~ Review each proposal received pursuant to subparagraphs (1) ~~[to (5), inclusive,]~~ , (2) and (3) and ~~[negotiate, in good faith, to construct, acquire or contract with]~~ identify those renewable energy facilities that will provide:

(I) The greatest economic benefit to this State;

(II) The greatest opportunity for the creation of new jobs in this State; and

(III) The best value to customers of the electric utility; ~~[and~~

~~(7) Use commercially reasonable efforts to begin construction]~~

(5) Negotiate, in good faith, to construct, acquire or contract with the renewable energy facilities identified pursuant to subparagraph (4), and file with the Commission an amendment to the plan each time the utility wishes to construct, acquire or contract with such facilities; and

(6) Begin, on or before December 31, 2017, the construction or acquisition of a portion of new renewable energy facilities with a generating capacity of ~~[150]~~ 50 megawatts to be owned and operated by the electric utility, and ~~[use commercially reasonable efforts to]~~ complete construction of such facilities on or before December 31, 2021.

➥ For the purposes of this paragraph, the generating capacity of a renewable energy facility must be determined by the nameplate capacity of the facility.

(c) ~~[That]~~ For the electric utility ~~[will use commercially reasonable efforts to construct or acquire and own:~~

~~(1) Natural gas-fired]~~ to construct or acquire and own electric generating plants with an electric generating capacity of ~~[between 500 megawatts and]~~ 550 megawatts ~~[on or before December 31, 2017; and~~

~~(2) In addition to the natural gas-fired electric generating plants described in subparagraph (1), natural gas-fired electric generating plants with an electric generating capacity between 200 megawatts and 250 megawatts on or before July 1, 2021, except that the electric utility shall not include in an emissions reduction and capacity replacement plan~~

~~*required pursuant to subsection 1 any construction, acquisition or ownership of natural gas-fired electric generating plants with an electric generating capacity of more than 750 megawatts.*~~

~~*(d) That the electric utility will make commercially reasonable efforts to deploy, on or before December 31, 2017, a demand response program operated by the electric utility to reduce peak demand by 80 megawatts of demand from commercial customers and 20 megawatts of demand from residential customers.*~~

~~*(e) A]*~~ *, which must be constructed or acquired to replace, in an orderly and structured manner, the coal-fired electric generating capacity retired or eliminated pursuant to paragraph (a).*

(d) If the plan includes the construction or acquisition of one or more natural gas-fired electric generating plants, a strategy for the commercially reasonable physical procurement of fixed-price natural gas by the electric utility.

~~[(f)~~ (e) A plan for tracking and specifying the accounting treatment for all costs associated with the decommissioning of the coal-fired electric generating plants identified for retirement or elimination.

➥ *For the purposes of this subsection, an electric utility shall be deemed to own, acquire, retire or eliminate only its pro rata portion of any electric generating facility that is not wholly owned by the electric utility ~~[.]~~ and, except as otherwise provided in paragraph (b), "capacity" means an amount of firm electric generating capacity used by the electric utility for the purpose of preparing a plan filed with the Commission pursuant to NRS 704.736 to 704.754, inclusive.*

3. In addition to the requirements for an emissions reduction and capacity replacement plan set forth in subsection 2, the plan may include additional utility facilities, electric generating plants, elements or programs ~~[,]~~ necessary to carry out the plan, including, without limitation:

(a) The construction of natural gas pipelines necessary for the operation of any new natural gas-fired electric generating plants included in the plan;

(b) Entering into contracts for the transportation of natural gas necessary for the operation of any natural gas-fired electric generating plants included in the plan; and

(c) The construction of transmission lines and related infrastructure necessary for the operation or interconnection of any ~~[renewable energy facilities and natural gas fired]~~ electric generating plants included in the plan.

Sec. 8. ~~*[1. A renewable energy facility, electric generating plant or other facility, element or program which is identified for acquisition, construction or implementation in an emissions reduction and capacity replacement plan accepted by the Commission pursuant to NRS 704.751 shall be deemed to be a prudent investment. The electric utility may recover all just and reasonable costs of acquiring or planning and constructing such a facility or plant and implementing such an element or program.*~~

~~*2. To recover all just and reasonable costs of implementing a demand response program included in an emissions reduction and capacity replacement plan accepted by the Commission pursuant to NRS 704.751, an electric utility shall defer and include in its rate base the costs of implementing the program.*~~

~~*3. An electric utility may recover all costs associated with the retirement or elimination of any coal-fired electric generating plant identified for retirement or elimination in an emissions reduction and capacity replacement plan accepted by the Commission pursuant to NRS 704.751. For the purposes of this subsection, the costs associated with the retirement or elimination of a coal-fired electric generating plant include, without limitation, any:*~~

~~*(a) Undepreciated balance associated with the retired or eliminated coal-fired electric generating plant;*~~

~~*(b) Decommissioning and remediation costs;*~~

~~*(c) Contract termination costs;*~~

~~*(d) Unused coal inventory; and*~~

~~*(e) Associated carrying charges.]*~~ (Deleted by amendment.)

Sec. 9. ~~*[1.]*~~ *An electric utility* ~~*[may,]*~~ *shall, upon the completion of construction or acquisition of any* ~~*[renewable energy facility, natural gas-fired]*~~ *electric generating plant or other facility constructed or acquired pursuant to an emissions reduction and capacity replacement plan accepted by the Commission pursuant to NRS 704.751,* ~~*[file with the Commission a schedule which may include any new project-specific rate or rates necessary to provide for the recovery of]*~~ *begin recording in a regulatory asset, with carrying charges, an amount that reflects a return on the electric utility's investment in the facility, depreciation of the utility's investment in the facility* ~~*[,]*~~ *and the cost of operating and maintaining the facility .* ~~*[, and any other costs directly related to the facility, including, without limitation, any federal, state or local taxes, except that such a schedule may not be filed for any facility that the Commission designates by regulation as a critical facility. A schedule filed pursuant to this subsection automatically becomes effective on the first day of the next calendar quarter following the filing of the schedule.*~~

~~*2. The provisions of subsection 1 do not limit the Commission's authority to review the costs associated with a facility or to determine whether such costs are just and reasonable. The Commission shall review all rates included in a schedule filed pursuant to subsection 1 during the next general rate case proceeding of the electric utility. If the Commission determines that the rates were not just and reasonable, the Commission may take any steps necessary to ensure that an appropriate amount, including, without limitation, carrying charges, is returned to customers.*~~

~~*3. In addition to the schedule required to be filed pursuant to subsection 1, an electric utility shall, upon retirement of any coal-fired electric generating plant identified in an emissions reduction and capacity*~~

~~*replacement plan, file with the Commission an additional schedule which provides a credit to customers of the electric utility to reflect reduced operation and maintenance expenses directly attributable to the retirement of the facility. A schedule filed pursuant to this subsection automatically becomes effective on the first day of the next calendar quarter following the filing of the schedule.]*~~

Sec. 10. *1. To ensure the remediation and, when possible, the reuse of any site used for the production of electricity from a coal-fired electric generating plant in this State, the Division of Environmental Protection of the State Department of Conservation and Natural Resources has exclusive jurisdiction to supervise and regulate the remediation of such sites, including, without limitation, exclusive authority to regulate and supervise the remediation of surface water and groundwater and solid-waste disposal operations located at such a site.*

2. The Division of Environmental Protection has exclusive authority to regulate emissions from any ~~*[renewable energy facility or natural gas fired]*~~ *electric generating plant constructed on a site previously used for the production of electricity from a coal-fired electric generating plant.*

Sec. 11. ~~*[1.]*~~ *If, in any general rate proceeding filed by an electric utility before June 1, 2018, the utility includes a request for recovery of any amount related to the implementation of an emissions reduction and capacity replacement plan and recovery of such an amount would result in an increase in the electric utility's total revenue requirement* ~~*[would exceed]*~~ *of more than 5 percent, the utility must propose a method or mechanism by which such excess may be mitigated. The Commission may* ~~*[approve]*~~ *accept or reject such a rate method or mechanism .* ~~*[so long as there is no adverse impact on the utility shareholders.]*~~ *If the mitigation method or mechanism is approved by the Commission ,* ~~*[involves the deferred recovery of a portion of the rate increase,]*~~ *the utility shall record any deferred revenue in a regulatory asset account and may calculate carrying charges on the unamortized balance of the regulatory asset.*

~~*[2. If any project-specific rate schedule filed with the Commission pursuant to subsection 1 of section 9 of this act would cause an increase in the electric utility's total revenue requirement in an amount greater than 5 percent, the utility shall limit the amount of the project-specific rate to an amount necessary to produce an increase of not more than 5 percent. The utility shall defer and include in a regulatory asset the amount of the increase in excess of 5 percent and calculate carrying charges on the unamortized balance of the regulatory asset.*~~

~~*3. The Commission shall allow the electric utility to begin recovering any amounts deferred in a regulatory asset pursuant to this section on January 1, 2022.]*~~

Sec. 12. *1. An electric utility shall file with the Commission an amendment to the utility's emissions reduction and capacity replacement plan each time the utility requests approval and acceptance by the*

Commission of any contract with a new renewable energy facility as the result of a request for proposals pursuant to the current emissions reduction and capacity replacement plan. The Commission may approve and accept the renewable energy facility if the Commission determines that:

(a) The facility is a renewable energy system as defined in NRS 704.7815; and

(b) The terms and conditions of the contract are just and reasonable and satisfy the capacity requirements set forth in subsection 2 of section 7 of this act.

2. In considering a contract pursuant to subsection 1, the Commission ~~[may]~~ shall, in addition to considering the cost to customers of the electric utility, give ~~[preference]~~ consideration to those contracts or renewable energy facilities that will provide:

(a) The greatest economic benefit to this State;

(b) The greatest opportunity for the creation of new jobs in this State; and

(c) The best value to customers of the electric utility.

Sec. 12.5. If the Commission deems inadequate any portion of an emissions reduction and capacity replacement plan or any amendment to the plan, the Commission may recommend to the electric utility a modification of that portion of the plan or amendment, and the electric utility may:

1. Accept the modification; or

2. Withdraw the proposed plan or amendment.

Sec. 13. *The Commission shall adopt any regulations necessary to carry out the provisions of sections 2 to 13, inclusive, of this act.*

Sec. 14. ~~[NRS 704.100 is hereby amended to read as follows:~~

~~704.100 1. Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, *and section 9 of this act* or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:~~

~~(a) A public utility shall not make changes in any schedule, unless the public utility:~~

~~(1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or~~

~~(2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of paragraph (f).~~

~~(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110 based on changes in the public utility's recorded costs of natural gas purchased for resale.~~

~~(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 10 of NRS 704.110.~~

~~(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form,~~

~~manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.~~

~~(e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.~~

~~(f) Except as otherwise provided in paragraph (g), if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed $2,500:~~

~~(1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and~~

~~(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~(g) If the applicant is a small-scale provider of last resort and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~(h) In making the determination pursuant to paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.~~

~~2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.]~~ (Deleted by amendment.)

Sec. 15. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, ~~*[and section 9 of this act,]*~~ or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the

application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2010, and at least once every 36 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2011, and at least once every 36 months thereafter.

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of $2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining

whether the public utility meets the requirements of this paragraph for either service.

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of $2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

➥ The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, in addition to the statement required

pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or 10, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection 10; or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of a public utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 2.5 cents per therm of natural gas. If the balance

of the public utility's deferred account varies by less than 5 percent from the public utility's annual recorded costs of natural gas which are used to calculate quarterly rate adjustments, the deferred energy accounting adjustment must be set to zero cents per therm of natural gas.

9. If the Commission approves a request to make any rate adjustments on a quarterly basis pursuant to subsection 8:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;

(IV) A statement that the transactions and recorded costs of natural gas which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual rate adjustment application pursuant to paragraph (d); and

(V) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of natural gas included in each quarterly filing and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual

rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

10. An electric utility shall adjust its rates on a quarterly basis based on changes in the electric utility's recorded costs of purchased fuel or purchased power. In addition to adjusting its rates on a quarterly basis, an electric utility may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that approval of the request is in the public interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of an electric utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 0.25 cents per kilowatt-hour of electricity. If the balance of the electric utility's deferred account varies by less than 5 percent from the electric utility's annual recorded costs for purchased fuel or purchased power which are used to calculate quarterly rate adjustments, the deferred energy accounting adjustment must be set to zero cents per kilowatt-hour of electricity.

11. A quarterly rate adjustment filed pursuant to subsection 10 is subject to the following requirements:

(a) The electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. The first quarterly adjustment to a deferred energy accounting adjustment must be made pursuant to an order issued by the Commission approving the application of an electric utility to make quarterly adjustments to its deferred energy accounting adjustment. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to

paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission;

(IV) A statement that the transactions and recorded costs of purchased fuel or purchased power which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual deferred energy accounting adjustment application pursuant to paragraph (d); and

(V) Any other information required by the Commission.

(c) The electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and the transactions and recorded costs of purchased fuel and purchased power included in each quarterly filing and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

12. If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection 11 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

13. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto *, or the retirement or elimination of a utility facility identified in an emissions reduction and capacity replacement plan submitted pursuant to section 7 of this act and accepted by the Commission for retirement or elimination pursuant to NRS 704.751 and the regulations adopted pursuant thereto,* shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing *, or retiring or eliminating, as applicable,* such a facility.

14. In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may, after a hearing:

(a) Upon the request of the utility, approve a new rate but delay the implementation of that new rate:

(1) Until a date determined by the Commission; and

(2) Under conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and

(b) Authorize a utility to implement a reduced rate for low-income residential customers.

15. The Commission may, upon request and for good cause shown, permit a public utility which purchases natural gas for resale or an electric utility to make a quarterly adjustment to its deferred energy accounting adjustment in excess of the maximum allowable adjustment pursuant to subsection 8 or 10.

16. A public utility which purchases natural gas for resale or an electric utility that makes quarterly adjustments to its deferred energy accounting adjustment pursuant to subsection 8 or 10 may submit to the Commission for approval an application to discontinue making quarterly adjustments to its deferred energy accounting adjustment and to subsequently make annual adjustments to its deferred energy accounting adjustment. The Commission may approve an application submitted pursuant to this subsection if the Commission finds that approval of the application is in the public interest.

17. As used in this section:

(a) "Deferred energy accounting adjustment" means the rate of a public utility which purchases natural gas for resale or an electric utility that is calculated by dividing the balance of a deferred account during a specified

period by the total therms or kilowatt-hours which have been sold in the geographical area to which the rate applies during the specified period.

(b) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(c) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 700,000 or more than it does from customers located in counties whose population is less than 700,000.

(d) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 700,000 than it does from customers located in counties whose population is 700,000 or more.

Sec. 16. NRS 704.746 is hereby amended to read as follows:

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

2. The Commission shall determine the parties to the public hearing on the adequacy of the plan. A person or governmental entity may petition the Commission for leave to intervene as a party. The Commission must grant a petition to intervene as a party in the hearing if the person or entity has relevant material evidence to provide concerning the adequacy of the plan. The Commission may limit participation of an intervener in the hearing to avoid duplication and may prohibit continued participation in the hearing by an intervener if the Commission determines that continued participation will unduly broaden the issues, will not provide additional relevant material evidence or is not necessary to further the public interest.

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

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

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

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

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

(1) Improvements in energy efficiency;

(2) Pooling of power;

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

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

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

(6) Other generation facilities; and

(7) Other transmission facilities.

5. The Commission may give preference to the measures and sources of supply set forth in paragraph (c) of subsection 4 that:

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

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

(c) Provide levels of service that are adequate and reliable ~~[.]~~ *and*

(d) Provide the greatest opportunity for the creation of new jobs in this State.

6. The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and

(b) Consider the value to the public of using water efficiently when it is determining those preferences.

7. The Commission shall:

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

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

8. The Commission shall , after a hearing, review and accept ~~[any element of]~~ or modify an emissions reduction and capacity replacement plan ~~[that:~~

~~(a) Is consistent with paragraphs (a) and (b) of subsection 2 of section 7 of this act unless the Commission determines that the acceptance of such elements of the plan would adversely impact the ability of the electric utility to provide levels of service that are adequate and reasonable; and~~

~~(b) Is consistent with paragraph (c) of subsection 2 of section 7 of this act so long as the Commission determines that the number of natural gas-fired electric generating plants proposed to be constructed, acquired or owned by the utility represents an appropriate mix of natural gas-fired electric generating units.]~~ which includes each element required by section 7 of this act. In considering whether to accept or modify an emissions reduction and capacity replacement plan, the Commission shall consider:

(a) The cost to the customers of the electric utility to implement the plan;

(b) Whether the plan provides the greatest economic benefit to this State;

(c) Whether the plan provides the greatest opportunities for the creation of new jobs in this State; and

(d) Whether the plan represents the best value to the customers of the electric utility.

Sec. 17. NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed the plan required pursuant to NRS 704.741, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate:

(a) Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and

(b) Within 180 days for all portions of the plan not described in paragraph (a).

2. If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate ~~[within]~~ *:*

(a) Within 135 days ~~[of]~~ *after* the filing of the amendment ~~[.]~~ *; or*

(b) Within 180 days after the filing of the amendment for all portions of the amendment which contain an element of the emissions reduction and capacity replacement plan.

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

4. The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805.

5. The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to subsection 4 of NRS 704.741.

6. ~~*[A utility that has filed]*~~ *Any order issued by the Commission accepting an element of an emissions reduction and capacity replacement plan* ~~*[which has been accepted by the Commission pursuant to NRS 704.751 shall take all reasonable steps necessary]*~~ *must include provisions authorizing the electric utility to construct or acquire* ~~*[facilities and implement programs and elements identified in the emissions reduction and capacity replacement plan, regardless of whether such reasonable steps are taken within the 3 years covered by the plan required to be filed pursuant to NRS 704.741.]*~~ *and own electric generating plants necessary to meet the capacity amounts approved in, and carry out the provisions of, the plan. As used in this subsection, "capacity" means an amount of firm electric generating capacity used by the electric utility for the purpose of preparing a plan filed with the Commission pursuant to NRS 704.736 to 704.754, inclusive.*

Sec. 18. NRS 704.7588 is hereby amended to read as follows:

704.7588 Except as otherwise provided in NRS 704.7591 ~~[.]~~ *and sections 2 to 13, inclusive, of this act:*

1. Before July 1, 2003, an electric utility shall not dispose of a generation asset.

2. On or after July 1, 2003, an electric utility shall not dispose of a generation asset unless, before the disposal, the Commission approves the disposal by a written order issued in accordance with the provisions of this section.

3. Not sooner than January 1, 2003, an electric utility may file with the Commission an application to dispose of a generation asset on or after July 1, 2003. If an electric utility files such an application, the Commission shall not approve the application unless the Commission finds that the disposal of the generation asset will be in the public interest. The Commission shall issue a written order approving or disapproving the application. The Commission may base its approval of the application upon such terms, conditions or modifications as the Commission deems appropriate.

4. If an electric utility files an application to dispose of a generation asset, the Consumer's Advocate shall be deemed a party of record.

5. If the Commission approves an application to dispose of a generation asset before July 1, 2003, the order of the Commission approving the application:

(a) May not become effective sooner than July 1, 2003;

(b) Does not create any vested rights before the effective date of the order; and

(c) For the purposes of NRS 703.373, shall be deemed a final decision on the date on which the order is issued by the Commission.

Sec. 19. NRS 444.495 is hereby amended to read as follows:

444.495 "Solid waste management authority" means:

1. ~~[The]~~ *Except as otherwise provided in subsection 2, the* district board of health in any area in which a health district has been created pursuant to NRS 439.362 or 439.370 and in any area over which the board has authority pursuant to an interlocal agreement, if the board has adopted all regulations that are necessary to carry out the provisions of NRS 444.440 to 444.620, inclusive.

2. In all other areas of the State ~~[.]~~ *and pursuant to section 10 of this act, at any site previously used for the production of electricity from a coal-fired electric generating plant in this State,* the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

Sec. 20. NRS 445B.500 is hereby amended to read as follows:

445B.500 1. Except as otherwise provided in this section and in NRS 445B.310 ~~[.]~~ *and section 10 of this act:*

(a) The district board of health, county board of health or board of county commissioners in each county whose population is 100,000 or more shall establish a program for the control of air pollution and administer the program within its jurisdiction unless superseded.

(b) The program:

(1) Must include, without limitation, standards for the control of emissions, emergency procedures and variance procedures established by

ordinance or local regulation which are equivalent to or stricter than those established by statute or state regulation;

(2) May, in a county whose population is 700,000 or more, include requirements for the creation, receipt and exchange for consideration of credits to reduce and control air contaminants in accordance with NRS 445B.508; and

(3) Must provide for adequate administration, enforcement, financing and staff.

(c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445B.100 to 445B.640, inclusive, and the Federal Act insofar as it pertains to local programs, and that agency is authorized to take all action necessary to secure for the county the benefits of the Federal Act.

(d) Powers and responsibilities provided for in NRS 445B.210, 445B.240 to 445B.470, inclusive, 445B.560, 445B.570, 445B.580 and 445B.640 are binding upon and inure to the benefit of local air pollution control authorities within their jurisdiction.

2. The local air pollution control board shall carry out all provisions of NRS 445B.215 with the exception that notices of public hearings must be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, once a week for 3 weeks. The notice must specify with particularity the reasons for the proposed regulations and provide other informative details. NRS 445B.215 does not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445B.610.

3. In a county whose population is 700,000 or more, the local air pollution control board may delegate to an independent hearing officer or hearing board its authority to determine violations and levy administrative penalties for violations of the provisions of NRS 445B.100 to 445B.450, inclusive, and 445B.500 to 445B.640, inclusive, or any regulation adopted pursuant to those sections. If such a delegation is made, 17.5 percent of any penalty collected must be deposited in the county treasury in an account to be administered by the local air pollution control board to a maximum of $17,500 per year. The money in the account may only be used to defray the administrative expenses incurred by the local air pollution control board in enforcing the provisions of NRS 445B.100 to 445B.640, inclusive. The remainder of the penalty must be deposited in the county school district fund of the county where the violation occurred and must be accounted for separately in the fund. A school district may spend the money received pursuant to this section only in accordance with an annual spending plan that is approved by the local air pollution control board and shall submit an annual report to that board detailing the expenditures of the school district under the plan. A local air pollution control board shall approve an annual spending plan if the proposed expenditures set forth in the plan are reasonable and limited to:

(a) Programs of education on topics relating to air quality; and

(b) Projects to improve air quality, including, without limitation, the purchase and installation of equipment to retrofit school buses of the school district to use biodiesel, compressed natural gas or a similar fuel formulated to reduce emissions from the amount of emissions produced by the use of traditional fuels such as gasoline and diesel fuel,

➥ which are consistent with the state implementation plan adopted by this State pursuant to 42 U.S.C. §§ 7410 and 7502.

4. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the State, or may establish its own program for the control of air pollution. If the county establishes such a program, it is subject to the approval of the Commission.

5. No district board of health, county board of health or board of county commissioners may adopt any regulation or establish a compliance schedule, variance order or other enforcement action relating to the control of emissions from plants which generate electricity by using steam produced by the burning of fossil fuel.

6. As used in this section, "plants which generate electricity by using steam produced by the burning of fossil fuel" means plants that burn fossil fuels in a boiler to produce steam for the production of electricity. The term does not include any plant which uses technology for a simple or combined cycle combustion turbine, regardless of whether the plant includes duct burners.

Sec. 21. ~~[1. There is hereby appropriated from the State General Fund to the Legislative Fund the sum of $150,000 for the purpose of contracting with a consultant to conduct a study of the impact of energy related tax incentives on renewable energy development in this State.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2015, and must be reverted to the State General Fund on or before September 18, 2015.~~] (Deleted by amendment.)

Sec. 21.5. The amendatory provisions of this act do not prohibit an electric utility, as defined in section 4 of this act, from requesting pursuant to NRS 704.736 to 704.751, inclusive, or the Public Utilities Commission of Nevada from authorizing, the issuance by the electric utility of requests for proposals for renewable energy facilities in addition to any requests for proposals necessary to carry out the provisions of paragraph (b) of subsection 2 of section 7 of this act, but the electric utility must demonstrate that the issuance of any such request for proposals for renewable energy facilities complies with the requirements of NRS 704.7801 to 704.7828, inclusive.

Sec. 22. This act becomes effective upon passage and approval.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 790 makes several changes to Senate Bill No. 123. First, it requires an electric utility to file, as part of an integrated resource plan, an emissions reduction and capacity replacement plan. Second, it reduces the utility-owned gas replacement capacity from 2,000 megawatts to 550 megawatts of electricity-generated capacity. Third, it reduces utility-owned renewable facilities from 150 to 50. Fourth, it reduces the scheduled request for renewable energy proposals from 450 to 300 megawatts to be issued in 2014, 2015 and 2016. Fifth, it requires the Public Utilities Commission of Nevada to review the emissions-reduction and capacity-replacement plan under the existing law. The Public Utilities Commission of Nevada must accept or modify the plan. Sixth, it requires the Public Utilities Commission of Nevada to ensure the rates charged by the utility are just and reasonable.

Finally, it removes the appropriation to conduct a study.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Senate Bill No. 221 be taken from the General File and placed on the Secretary's Desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 330.

Bill read third time.

Remarks by Senator Settelmeyer.

Thank you, Mr. President. Senate Bill No. 330 allows an individual to qualify as both a veteran and a surviving spouse of a veteran to claim both veterans' exemptions. I had a situation with a constituent who came and testified that he served in the Army Air Corps. He was not allowed to claim his exemption and that as a spouse of a veteran. His wife served in the Burma-Indies Conflict. This bill tries to resolve that inequity. I urge everyone to support this bill.

Roll call on Senate Bill No. 330:

YEAS—21.

NAYS—None.

Senate Bill No. 330 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 446.

Bill read third time.

Remarks by Senator Woodhouse.

Thank you, Mr. President. Senate Bill No. 446 provides our university system the opportunity to enter into reciprocity agreements with the Western Interstate Commission for Higher Education, which will open a lot of doors for them.

Roll call on Senate Bill No. 446:

YEAS—21.

NAYS—None.

Senate Bill No. 446 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 97.

Bill read third time.

Remarks by Senator Segerblom.

Thank you, Mr. President. Assembly Bill No. 97 requires a district attorney to file a habitual criminal charge not less than two days before the start of the trial on the primary offense, if the charge is filed separately from the primary offense.

Roll call on Assembly Bill No. 97:

YEAS—21.

NAYS—None.

Assembly Bill No. 97 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 99.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Assembly Bill No. 99 revises various provisions of the Uniform Law on Notarial Acts. The measure prohibits a notarial officer from performing a notarial act with respect to a document to which the officer, or the officer's spouse or domestic partner, is a party, or in which either of them have a direct beneficial interest. The bill also establishes a standard for determining whether a notarial officer has personal knowledge of the identity of a person appearing before the notarial officer. A notary public is not required to have a person, for whom he or she performs a notarial act, sign a journal if he or she has performed a notarial act for the same person within the last six months, has personal knowledge of the person's identity, is an employee or coworker of the person, and the notarial act relates to a transaction performed in the ordinary course of the person's business. The bill specifically authorizes a notarial act to be performed by a person, who is authorized to perform such an act by the law of a federally recognized Indian tribe or nation. This measure is effective on January 1, 2014. The 1993 Legislature enacted Assembly Bill 362, Chapter 115, *Statutes of Nevada*, to establish the Uniform Law on Notarial Acts in *Nevada Revised Statutes*.

Roll call on Assembly Bill No. 99:

YEAS—21.

NAYS—None.

Assembly Bill No. 99 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 129.

Bill read third time.

Remarks by Senators Spearman and Smith.

SENATOR SPEARMAN:

Thank you, Mr. President. Assembly Bill No. 129 authorizes certain persons to apply for the issuance of license plates specially designed to honor peace officers, who have received one or more of several specified medals or the equivalent thereof. The special license plates may also be issued to a family member of a peace officer, who received posthumously the Medal of

Honor or the equivalent thereof. This bill is effective on July 1, 2013. The medals specified in the bill are: the Medal of Honor, the Purple Heart, the Medal of Valor, the Lifesaving Medal, the Meritorious Service Medal and the Distinguished Service Medal.

SENATOR SMITH:

Thank you, Mr. President. Regarding Assembly Bill No. 129: votes on bills like these are difficult for me. However, I believe we have a License Plate Commission for a reason, and I try to stick to the reason we created that commission as opposed to trying to circumvent it. It results in us picking some groups over others. It is hard to vote against anything that supports our veterans, but I have a hard time going outside of what this Legislature has already established as protocol. I attempt to consistently vote no on these bills.

Roll call on Assembly Bill No. 129:

YEAS—20.

NAYS—Smith.

Assembly Bill No. 129 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 131.

Bill read third time.

Remarks by Senator Hammond.

Thank you, Mr. President. Assembly Bill No. 131 amends the Virgin Valley Water District Act by requiring that all members of the Board of the Virgin Valley Water District be elected from the service area of the water district. Two members of the Board must reside in and be elected by voters in the area south of the Virgin River, and three members must reside in and be elected by voters in the area north of the Virgin River. All five members of the Board serve four-year terms, after two members' initial two-year terms, which will establish staggered terms.

Roll call on Assembly Bill No. 131:

YEAS—21.

NAYS—None.

Assembly Bill No. 131 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 156.

Bill read third time.

Remarks by Senator Jones.

Thank you, Mr. President. Assembly Bill No. 156 provides that a person may not petition the court to seal records related to a felony conviction for: driving a vehicle or watercraft under the influence; driving a vehicle or watercraft under the influence resulting in death or substantial bodily harm; vehicular homicide; or homicide by watercraft. The bill also authorizes a person to petition the court, after the statute of limitations has run, ten years after the arrest or pursuant to a stipulation between the parties, for the sealing of all records relating to his or her arrest and proceedings, if the prosecuting attorney declined to prosecute.

Roll call on Assembly Bill No. 156:

YEAS—21.

NAYS—None.

Assembly Bill No. 156 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 165.

Bill read third time.

Remarks by Senator Spearman.

Thank you, Mr. President. Assembly Bill No. 165 prohibits the Director of the Department of Motor Vehicles from providing personal information to individuals or companies for the purpose of marketing extended vehicle warranties. The bill also eliminates the authority of the Director to release personal information for use in the bulk distribution of surveys, marketing material or solicitations. This bill is effective on July 1, 2013.

Roll call on Assembly Bill No. 165:

YEAS—21.

NAYS—None.

Assembly Bill No. 165 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 172.

Bill read third time.

Remarks by Senators Hammond, Settelmeyer and Parks.

SENATOR HAMMOND:

Thank you, Mr. President. Assembly Bill No. 172 limits the requirement, that 50 percent of the design professionals working on a public work project for a bidder who received a bid preference must register their vehicles in this State, to only design professionals on a design-build team. The measure eliminates the requirement that 25 percent of the suppliers of materials used for a public work project be located in Nevada; again, this is relevant to a bidder who received a preference. Either a person who submitted a bid on a public work or an entity, who believes that a contractor who was awarded a contract for the public work was wrongfully awarded a certificate of eligibility, may challenge the validity of the certificate of eligibility.

Assembly Bill No. 172 provides that a contractor is not deemed qualified to bid certain State and local public work projects if the person materially breached a public work contract costing at least $25 million within the preceding year. The measure further provides that a contractor is not deemed qualified to receive a bidder preference from the State Contractors' Board for certain State and local public work projects if the person materially breached a public work contract costing at least $5 million within the five preceding years. Following the opening of bids, a two-hour deadline is imposed for the submittal of an affidavit to the public body or its authorized representative certifying compliance with bid preference requirements. Any contract for such a public work that fails to comply with the provisions of this bill is void.

SENATOR SETTELMEYER:

Thank you, Mr. President. I appreciate Assembly Bill No. 172. It cleans up some of the problems that were in the bidders' preference bill from last Session. In Commerce, Labor and Energy, we had a bill dealing with recyclables and individuals taking things in. We included, beyond a driver's license and an identification card, another card. Has there been any discussion to allow people with bidders' preference to use of one of those types of cards to prove they are residents of the State of Nevada. I am curious if that came up?

SENATOR HAMMOND:

Thank you, Mr. President. The card of which was spoken of by my colleague from Senate District No. 17 was not brought up during discussions to my knowledge. Although I do not know if that may have been discussed in the Assembly.

SENATOR PARKS:

Thank you, Mr. President. This was not an item that came up during the hearings on the bill. It simply required that the vehicles must be registered in the State. There were no other references made.

Roll call on Assembly Bill No. 172:

YEAS—21.

NAYS—None.

Assembly Bill No. 172 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Senate Bill No. 221 be taken from the Secretary's Desk and placed at the top of the General File.

Motion carried.

Senator Smith moved that Assembly Bill No. 202 be taken from the General File and placed on the Secretary's Desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 221.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 815.

"SUMMARY—Makes certain changes relating to public safety. (BDR 14-943)"

"AN ACT relating to public safety; requiring a court to transmit within 5 business days certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; authorizing the inclusion, correction and removal of the information in such records in each appropriate database of the National Crime Information Center; requiring each agency of criminal justice to submit information relating to records of criminal history within 60 days after the date of the conviction; requiring certain persons to request a background check before transferring a firearm to another person under certain circumstances; prohibiting certain persons from having possession, custody or control of a firearm; prohibiting certain persons from selling a firearm under certain circumstances; revising the functions of the Division of Mental Health and Developmental Services of the Department of Health and Human Services; requiring a mental health professional to notify certain persons when a patient makes certain explicit threats of imminent serious physical harm or

death; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person with a mental defect, a finding that a person is incompetent to stand trial, a verdict acquitting a defendant by reason of insanity or a plea or finding of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.0593, 174.035, 175.533, 175.539, 178.425, 433A.310) Sections 1-4, 7 and 11 of this bill require such records to be transmitted to the Central Repository within 5 business days.

Existing law requires the inclusion, correction and removal of information in records of criminal history in each appropriate database of the National Instant Criminal Background Check System. (NRS 179A.163, 179A.165, 179A.167, 433A.310) Sections 4.5, 4.6, 4.7 and 11 of this bill also authorize or require, as appropriate, the inclusion, correction and removal of such information in each appropriate database of the National Crime Information Center. Section 4.1 of this bill defines "National Crime Information Center" to mean the computerized information system created and maintained by the Federal Bureau of Investigation pursuant to 28 U.S.C. § 534.

Existing law requires each agency of criminal justice to submit information relating to records of criminal history within the period prescribed by the Director of the Department of Public Safety. (NRS 179A.075) Section 4.3 of this bill requires the submission of such information within 60 days after the date of the conviction.

Existing law authorizes a private person who wishes to transfer a firearm to another person to request the Central Repository to perform a background check on the person who wishes to acquire the firearm. (NRS 202.254) Section 8 of this bill requires, with certain exceptions ~~[,]~~ which are set forth in section 7.8 of this bill, that a private person who wishes to transfer a firearm to another person ~~[must]~~ request that a federally licensed firearms dealer submit a request for a background check to the ~~[Central Repository.]~~ National Instant Criminal Background Check System. Under section 8, the private person who wishes to transfer the firearm and the private person who wishes to acquire the firearm must appear jointly at the place of business of a licensed dealer and, upon receipt of a request, the licensed dealer must contact the National Instant Criminal Background Check System to initiate a background check on the person who wishes to acquire the firearm. Section 8 ~~[also provides that a private person may not transfer a firearm to another person unless the private person has received notification from]~~ requires the licensed dealer ~~[that the background check indicates that the receipt of a firearm by the person who wishes to acquire the firearm would not violate a]~~

to comply with all requirements of state ~~[or]~~ and federal law ~~[, except that the private person may make the transfer if he or she has not received notification from the licensed dealer regarding the request by the close of business on the third business day after making the request.]~~ concerning the transfer of a firearm as though the licensed dealer were selling the firearm from his or her own inventory, except that the background check must be obtained from the National Instant Criminal Background Check System and not the Central Repository. The licensed dealer is required to inform the parties of the response from the National Instant Criminal Background Check System and the consequences of the response. If the response is that the transfer would violate state or federal law, the licensed dealer is required to so inform the parties and the transfer must not take place. In addition, section 8 ~~[provides that the Central Repository]~~ limits any fee that a licensed dealer may ~~[not]~~ charge ~~[a fee]~~ for the background check ~~[. Finally, section 8]~~ to not more than $30.

Section 7.9 of this bill establishes criminal penalties for a private person who ~~[violates]~~ transfers a firearm in violation of ~~[this]~~ section ~~[,]~~ 8 or section 7.85 of this bill. Section 8 further makes it a misdemeanor for a licensed dealer to request a background check for any purpose other than the purpose set forth in that section or to disseminate information obtained from a background check to a person other than a person authorized to receive that information. Section 8 also makes it a category E felony for a person to make a materially false statement or furnish or exhibit any false identification to deceive a licensed dealer in connection with the transfer or attempted transfer of a firearm by a private person.

Section 7.85 requires a private person who wishes to transfer a firearm to another private person who holds a permit to carry a concealed firearm to appear jointly at the place of business of a licensed dealer and demonstrate to the licensed dealer the firearm that is the subject of the transfer and the permit to carry a concealed firearm of the person who wishes to acquire the firearm. A background check is not required, but the licensed dealer is required to maintain a record of the transaction.

Existing law prohibits a person who has been adjudicated as mentally ill, has been committed to any mental health facility or is illegally or unlawfully in the United States from possessing or having custody or control of a firearm. (NRS 202.360) Section 9 of this bill also prohibits a person who has entered a plea of guilty but mentally ill, has been found guilty but mentally ill or has been acquitted by reason of insanity from possessing or having custody or control of a firearm.

Existing law prohibits a person from selling or otherwise disposing of any firearm or ammunition to another person if he or she has actual knowledge that the other person: (1) is under indictment for, or has been convicted of, a felony; (2) is a fugitive from justice; (3) has been adjudicated as mentally ill or has been committed to a mental health facility; or (4) is illegally or unlawfully in the United States. (NRS 202.362) Section 10 of this bill

prohibits a person from selling or otherwise disposing of any firearm or ammunition to another person if he or she has reasonable cause to believe that the other person meets any of those listed conditions or if the other person is otherwise prohibited from possessing a firearm.

Existing law provides that a patient has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications between the patient and the patient's psychologist or doctor. (NRS 49.209, 49.225) Sections 5 and 6 of this bill provide exceptions to the privilege for certain determinations which are now required pursuant to this bill.

Existing law: (1) designates the Division of Mental Health and Developmental Services of the Department of Health and Human Services as the official state agency for developing and administering outpatient mental health services; and (2) requires the Division to perform certain functions relating to mental health. (NRS 436.123) Section 12 of this bill requires the Division to assist and consult with local governments and all law enforcement agencies in this State in providing community mental health services.

Existing law imposes various requirements and duties on certain health care professionals. (Chapter 629 of NRS) Section 13 of this bill provides that if a patient of a mental health professional makes an explicit threat of imminent serious physical harm or death to a person, and the mental health professional believes the patient has the intent and ability to carry out the threat, the mental health professional must notify the threatened person and the appropriate law enforcement agency. A mental health professional who exercises reasonable care in determining whether or not to provide notice of such a threat is not subject to civil or criminal liability or disciplinary action by a professional licensing board for disclosing confidential or privileged information or for any damages caused by the actions of a patient.

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

Section 1. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.

2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty, guilty but mentally ill or nolo contendere, reserving in writing the right, on appeal from the judgment, to a

review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing the defendant's mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish by a preponderance of the evidence that:

(a) Due to a disease or defect of the mind, the defendant was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, the defendant either did not:

(1) Know or understand the nature and capacity of his or her act; or

(2) Appreciate that his or her conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

7. A defendant may not enter a plea of guilty or guilty but mentally ill pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if the defendant is represented by counsel, and the prosecuting attorney.

8. If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause, *within 5 business days after acceptance of the plea,* on a form prescribed by the Department of Public Safety, a record of that plea 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.

9. As used in this section:

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 2. NRS 175.533 is hereby amended to read as follows:

175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, the defendant was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that the defendant is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause, *within 5 business days after the finding,* on a form prescribed by the Department of Public Safety, a record of the finding 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.

4. As used in this section:

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 3. NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and the defendant is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if the defendant were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport the person to a forensic facility for detention pending a hearing to determine the person's mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a person with mental illness, the court must order the person's discharge; or

(b) That there is clear and convincing evidence that the person is a person with mental illness, the court must order that the person be committed to the

custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until the person is discharged or conditionally released therefrom in accordance with NRS 178.467 to 178.471, inclusive.

➥ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the reports and the court shall proceed in the manner provided in NRS 178.467 to 178.471, inclusive.

4. If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause, *within 5 business days after accepting the verdict,* on a form prescribed by the Department of Public Safety, a record of that verdict 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. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and dangerous to himself or herself or to society and that commitment is required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or the Administrator's designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders the defendant's release or until the defendant is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or herself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or the Administrator's designee as an outpatient for treatment, if it might be beneficial, and for a determination of the defendant's ability to receive treatment to competency and to attain competence. The court may

require the defendant to give bail for any periodic appearances before the Administrator or the Administrator's designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or the Administrator's designee or, if the defendant is charged with a misdemeanor, the judge finds the defendant capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

6. If a defendant is found incompetent pursuant to this section, the court shall cause, *within 5 business days after the finding,* on a form prescribed by the Department of Public Safety, a record of that finding 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.

7. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 4.1. Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:

"National Crime Information Center" means the computerized information system created and maintained by the Federal Bureau of Investigation pursuant to 28 U.S.C. § 534.

Sec. 4.2. NRS 179A.010 is hereby amended to read as follows:

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, *and section 4.1 of this act* have the meanings ascribed to them in those sections.

Sec. 4.3. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates *,* ~~[or]~~ issues ~~[,]~~ *or collects,* and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

➥ within ~~[the period prescribed by the Director of the Department.]~~ *60 days after the date of the disposition of the case.* If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 62B.270, 424.031, 427A.735, 432A.170, 433B.183 and 449.123; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➥ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for the issuance or renewal of a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➥ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➥ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or

convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 62B.270, 424.031, 427A.735, 432A.170, 433B.183, 449.122 or 449.123.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, 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, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 4.5. NRS 179A.163 is hereby amended to read as follows:

179A.163 1. Upon receiving a record transmitted pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310, the Central Repository ~~[shall]~~ *:*

(a) Shall take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Instant Criminal Background Check System ~~[.]~~ *; and*

(b) May take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Crime Information Center.

2. Except as otherwise provided in subsection 3, if the Central Repository receives a record described in subsection 1, the person who is the subject of the record may petition the court for an order declaring that:

(a) The basis for the adjudication reported in the record no longer exists;

(b) The adjudication reported in the record is deemed not to have occurred for purposes of 18 U.S.C. § 922(d)(4) and (g)(4) and NRS 202.360; and

(c) The information reported in the record must be removed from the National Instant Criminal Background Check System ~~[.]~~ *and the National Crime Information Center, if applicable.*

3. To the extent authorized by federal law, if the record concerning the petitioner was transmitted to the Central Repository pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310, the petitioner may not file a petition pursuant to subsection 2 until 3 years after the date of the order transmitting the record to the Central Repository.

4. A petition filed pursuant to subsection 2 must be:

(a) Filed in the court which made the adjudication or finding pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310; and

(b) Served upon the district attorney for the county in which the court described in paragraph (a) is located.

5. The Nevada Rules of Civil Procedure govern all proceedings concerning a petition filed pursuant to subsection 2.

6. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the petitioner has established that:

(a) The basis for the adjudication or finding made pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310 concerning the petitioner no longer exists;

(b) The petitioner's record and reputation indicate that the petitioner is not likely to act in a manner dangerous to public safety; and

(c) Granting the relief requested by the petitioner pursuant to subsection 2 is not contrary to the public interest.

7. Except as otherwise provided in this subsection, the petitioner must establish the provisions of subsection 6 by a preponderance of the evidence. If the adjudication or finding concerning the petitioner was made pursuant to

NRS 159.0593 or 433A.310, the petitioner must establish the provisions of subsection 6 by clear and convincing evidence.

8. The court, upon entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository.

9. Within 5 business days after receiving a record of an order transmitted pursuant to subsection 8, the Central Repository shall take reasonable steps to ensure that information concerning the adjudication or finding made pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310 is removed from the National Instant Criminal Background Check System ~~[.]~~ *and the National Crime Information Center, if applicable.*

10. If the Central Repository fails to remove a record as provided in subsection 9, the petitioner may bring an action to compel the removal of the record. If the petitioner prevails in the action, the court may award the petitioner reasonable attorney's fees and costs incurred in bringing the action.

11. If a petition brought pursuant to subsection 2 is denied, the person who is the subject of the record may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.

Sec. 4.6. NRS 179A.165 is hereby amended to read as follows:

179A.165 1. Any record described in NRS 179A.163 is confidential and is not a public book or record within the meaning of NRS 239.010. A person may not use the record for any purpose other than for *a purpose related to criminal justice, including, without limitation,* inclusion in the appropriate database of the National Instant Criminal Background Check System ~~[.]~~ *and the National Crime Information Center, if applicable. The Central Repository may disclose the record to any agency of criminal justice.*

2. If a person or governmental entity is required to transmit, report or take any other action concerning a record pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425, 179A.163 or 433A.310, no action for damages may be brought against the person or governmental entity for:

(a) Transmitting or reporting the record or taking any other required action concerning the record;

(b) Failing to transmit or report the record or failing to take any other required action concerning the record;

(c) Delaying the transmission or reporting of the record or delaying in taking any other required action concerning the record; or

(d) Transmitting or reporting an inaccurate or incomplete version of the record or taking any other required action concerning an inaccurate or incomplete version of the record.

Sec. 4.7. NRS 179A.167 is hereby amended to read as follows:

179A.167 1. The Central Repository shall permit a person who is or believes he or she may be the subject of information relating to records of mental health held by the Central Repository to inspect and correct any information contained in such records.

2. The Central Repository shall adopt regulations and make available necessary forms to permit inspection, review and correction of information relating to records of mental health by those persons who are the subjects thereof. The regulations must specify:

(a) The requirements for proper identification of the persons seeking access to the records; and

(b) The reasonable charges or fees, if any, for inspecting records.

3. The Director of the Department shall adopt regulations governing:

(a) All challenges to the accuracy or sufficiency of information or records of mental health by the person who is the subject of the allegedly inaccurate or insufficient record;

(b) The correction of any information relating to records of mental health found by the Director to be inaccurate, insufficient or incomplete in any material respect;

(c) The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and

(d) A reasonable time limit within which inaccurate or insufficient information relating to records of mental health must be corrected and the corrected information disseminated.

4. As used in this section, "information relating to records of mental health" means information contained in a record:

(a) Transmitted to the Central Repository pursuant to NRS 159.0593, 174.035, 175.533, 175.539, 178.425 or 433A.310; or

(b) Transmitted to the National Instant Criminal Background Check System *or the National Crime Information Center* pursuant to NRS 179A.163.

Sec. 5. NRS 49.213 is hereby amended to read as follows:

49.213 There is no privilege pursuant to NRS 49.209 or 49.211:

1. For communications relevant to an issue in a proceeding to hospitalize the patient for mental illness, if the psychologist in the course of diagnosis or treatment has determined that the patient requires hospitalization.

2. *For communications relevant to any determination made pursuant to NRS 202.360.*

3. For communications relevant to an issue of the treatment of the patient in any proceeding in which the treatment is an element of a claim or defense.

~~[3.]~~ *4.* If disclosure is otherwise required by state or federal law.

~~[4.]~~ *5.* For communications relevant to an issue in a proceeding to determine the validity of a will of the patient.

~~[5.]~~ *6.* If there is an immediate threat that the patient will harm himself or herself or other persons.

~~[6.]~~ *7.* For communications made in the course of a court-ordered examination of the condition of a patient with respect to the specific purpose of the examination unless the court orders otherwise.

~~[7.]~~ *8.* For communications relevant to an issue in an investigation or hearing conducted by the Board of Psychological Examiners if the treatment of the patient is an element of that investigation or hearing.

~~[8.]~~ *9.* For communications relevant to an issue in a proceeding relating to the abuse or neglect of a person with a disability or a person who is legally incompetent.

Sec. 6. NRS 49.245 is hereby amended to read as follows:

49.245 There is no privilege under NRS 49.225 or 49.235:

1. For communications relevant to an issue in proceedings to hospitalize the patient for mental illness, if the doctor in the course of diagnosis or treatment has determined that the patient is in need of hospitalization.

2. *For communications relevant to any determination made pursuant to NRS 202.360.*

3. As to communications made in the course of a court-ordered examination of the condition of a patient with respect to the particular purpose of the examination unless the court orders otherwise.

~~[3.]~~ *4.* As to written medical or hospital records relevant to an issue of the condition of the patient in any proceeding in which the condition is an element of a claim or defense.

~~[4.]~~ *5.* In a prosecution or mandamus proceeding under chapter 441A of NRS.

~~[5.]~~ *6.* As to any information communicated to a physician in an effort unlawfully to procure a dangerous drug or controlled substance, or unlawfully to procure the administration of any such drug or substance.

~~[6.]~~ *7.* As to any written medical or hospital records which are furnished in accordance with the provisions of NRS 629.061.

~~[7.]~~ *8.* As to records that are required by chapter 453 of NRS to be maintained.

~~[8.]~~ *9.* If the services of the physician are sought or obtained to enable or aid a person to commit or plan to commit fraud or any other unlawful act in violation of any provision of chapter 616A, 616B, 616C, 616D or 617 of NRS which the person knows or reasonably should know is fraudulent or otherwise unlawful.

Sec. 7. NRS 159.0593 is hereby amended to read as follows:

159.0593 1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause *, within 5 business days after issuing the order,* a record of the 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.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:

(1) A danger to himself or herself or others; or

(2) Lacks the capacity to contract or manage his or her own affairs.

Sec. 7.1. Chapter 202 of NRS is hereby amended by adding thereto the provisions set forth as sections 7.2 to 7.9, inclusive, of this act.

Sec. 7.2. *As used in NRS 202.254 and sections 7.2 to 7.9, inclusive, of this act, the words and terms defined in sections 7.3 to 7.7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 7.3. *"Background check" means a report from the National Instant Criminal Background Check System.*

Sec. 7.4. *"Licensed dealer" means a person who holds a license as a dealer in firearms issued pursuant to 18 U.S.C. § 923.*

Sec. 7.5. *"Mental health professional" has the meaning ascribed to it in section 13 of this act.*

Sec. 7.6. *"National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.*

Sec. 7.7. *"Private person" means a person who is not a licensed dealer.*

Sec. 7.8. *The provisions of NRS 202.254 do not apply to:*

1. A transfer of a firearm to a person who is a holder of a permit to carry a concealed firearm issued pursuant to the provisions of NRS 202.3653 to 202.369, inclusive.

2. A transfer of a firearm to a person who holds a license as a manufacturer or importer in firearms issued pursuant to 18 U.S.C. § 923.

3. A transfer of an antique firearm, as defined in 18 U.S.C. § 921, or a curio or relic, as defined in 27 C.F.R. § 478.11.

4. A transfer of a firearm that is a gift or loan between family members who are related by consanguinity or affinity within the second degree.

5. A transfer of a firearm that occurs by operation of law or because of the death of a person for whom the person transferring the firearm is an executor or administrator of an estate or a trustee of a trust created in a will.

6. A transfer of a firearm that is temporary and occurs while in the home of the person to whom the firearm is transferred if the person to whom the firearm is transferred:

(a) Is not prohibited from possessing a firearm; and

(b) Reasonably believes that possession of the firearm is necessary to prevent imminent death or serious bodily injury to the person making the transfer or others.

7. A temporary transfer of possession of a firearm without transfer of ownership or title to ownership of the firearm, if such transfer takes place:

(a) At a shooting range located in or on any premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency with firearms;

(b) At a target firearm shooting competition under the auspices of, or approved by, a state agency or a nonprofit organization; or

(c) While hunting, fishing, target shooting or trapping if:

(1) The hunting, fishing, target shooting or trapping is legal in all places where the person to whom the firearm is transferred possesses the firearm; and

(2) The person to whom the firearm is transferred holds all licenses or permits required for such hunting, fishing, target shooting or trapping.

8. A temporary transfer of a firearm that occurs while in the presence of the owner of the firearm.

9. A transfer of a firearm from a person serving in the Armed Forces of the United States to an immediate family member if the person transferring the firearm will be deployed outside the United States within 30 days after the transfer.

10. A temporary transfer of a firearm from a person to a mental health professional or to the person's physician if the mental health professional, the physician or the person believes the transfer is necessary to protect the health or safety of the person or others.

Sec. 7.85. 1. A private person who wishes to transfer a firearm to another private person who holds a permit to carry a concealed firearm issued pursuant to the provisions of NRS 202.3653 to 202.369, inclusive, shall, before transferring the firearm, appear jointly at the place of business of a licensed dealer during the licensed dealer's normal business hours and demonstrate to the licensed dealer the firearm that is the subject of the transfer and the permit to carry a concealed firearm of the private person who wishes to acquire the firearm.

2. The licensed dealer shall maintain a record of the transaction in the same manner as though the licensed dealer were selling the firearm from his or her own inventory.

Sec. 7.9. A private person who transfers a firearm to another private person in violation of NRS 202.254 or section 7.85 of this act:

1. For a first offense:

(a) Is guilty of a gross misdemeanor; and

(b) Is prohibited from possessing a firearm for a period of 2 years after the date of the conviction. If the convicted person possesses a firearm during the 2-year period in violation of this paragraph, the person is guilty of a gross misdemeanor and is prohibited from possessing a firearm for an additional period of 2 years after the date of the conviction.

2. For a second or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 8. NRS 202.254 is hereby amended to read as follows:

202.254 1. ~~[A]~~ *Except as otherwise provided in ~~[subsection 6,]~~ section 7.8 of this act, a* private person who wishes to transfer a firearm to another *private* person ~~[may,]~~ *shall,* before transferring the firearm, ~~[request that a licensed dealer submit a request to the Central Repository for Nevada Records of Criminal History to perform]~~ *obtain from a licensed dealer* a background check on the person who wishes to acquire the firearm ~~[.]~~ *in accordance with the provisions of this section.*

2. ~~[The]~~ *To obtain a background check from a licensed dealer as required pursuant to subsection 1, the private* person who ~~[requests the]~~ [information] ~~*[background check* pursuant to subsection 1]~~ [shall] ~~*[:*~~

~~*(a) Shall* provide the]~~ [Central Repository] ~~*[licensed dealer* with identifying information about the person who wishes to acquire the firearm]~~ [.] ~~*[for submission to the Central Repository.*~~

~~*(b) Except as otherwise provided in this paragraph, shall not transfer the firearm to the person who wishes to acquire the firearm unless the person has received notification from the licensed dealer that the information available to the Central Repository indicates that the receipt of a firearm by the person who wishes to acquire the firearm would not violate a state or federal law. If the person who requests the background check has not received notification from the licensed dealer regarding the request by the close of business on the third business day after making the request, the person may transfer the firearm to the person who wishes to acquire the firearm without receiving notification from the licensed dealer.]~~ *wishes to transfer the firearm and the private person who wishes to acquire the firearm must appear jointly at the place of business of a licensed dealer during the licensed dealer's normal business hours and request the licensed dealer to obtain a background check on the private person who wishes to acquire the firearm. The private person who wishes to transfer the firearm and the private person who wishes to acquire the firearm must comply with any requirement necessary for the licensed dealer to obtain the background check.*

3. *A licensed dealer who receives a request to obtain a background check pursuant to subsection 2 shall comply with all requirements of federal and state law concerning the transfer of a firearm as though the licensed dealer were selling the firearm from his or her own inventory, including, without limitation, 18 U.S.C. § 922, except that the licensed dealer must obtain the background check from the National Instant Criminal Background Check System and not the Central Repository.*

4. Upon receiving a request ~~[from a]~~ ~~[private person]~~ ~~*[licensed dealer* pursuant to subsection 1 and the identifying information required]~~ pursuant to subsection 2 ~~[, the Central Repository shall within]~~ ~~[5]~~ ~~*[3* business days after receiving the request:~~

~~(a) Perform a]~~ *, obtaining any necessary information and complying with any requirements of state or federal law to obtain the background check, the licensed dealer shall contact the National Instant Criminal Background*

Check System to initiate a background check on the *private* person who wishes to acquire the firearm*.* ~~[; and~~

~~(b) Notify the]~~ [person who requests the information] ~~*[licensed dealer whether the information available to the Central Repository indicates that the receipt of a firearm by the person who wishes to acquire the firearm would violate a state or federal law.*~~

~~4. If the]~~ [person who requests the information] ~~*[licensed dealer*~~ ~~does not receive notification from the Central Repository regarding the request within]~~ [5] ~~*[3*~~ ~~business days after making the request, *the licensed dealer shall, not later than the close of business on that third business day, inform*~~ ~~the person *who requested the background check that he or she*~~ ~~may presume that the receipt of a firearm by the person who wishes to acquire the firearm would not violate a state or federal law.]~~

5. The ~~[Central Repository]~~ *licensed dealer shall inform the private person who wishes to transfer the firearm and the private person who wishes to acquire the firearm of the response from the National Instant Criminal Background Check System and the consequences of the response. If the response is that the transfer would violate state or federal law, the licensed dealer must notify the parties of that fact and the transfer shall not take place.*

6. A licensed dealer may ~~*[not]*~~ charge a ~~[reasonable]~~ fee *of not more than $30* for performing a background check ~~[and notifying]~~ [a person] ~~*[the licensed dealer*~~ ~~of the results of the background check]~~ pursuant to this section.

~~[6.]~~ ~~[The failure of a person to request the Central Repository to perform a background check pursuant to this section before transferring a firearm to another person does not give rise to any civil cause of action.]~~ ~~*[The provisions of this section do not apply to:*~~

~~*(a) A transfer of a firearm to a person who is a holder of a permit to carry a concealed firearm issued pursuant to the provisions of NRS 202.3653 to 202.369, inclusive.*~~

~~*(b) A transfer of an antique firearm, as defined in 18 U.S.C. § 921, or a curio or relic, as defined in 27 C.F.R. 478.11.*~~

~~*(c) A transfer of a firearm that is a gift or loan between family members who are related by consanguinity or affinity within the second degree.*~~

~~*(d) A transfer of a firearm that occurs by operation of law or because of the death of a person for whom the person transferring the firearm is an executor or administrator of an estate or a trustee of a trust created in a will.*~~

~~*(e) A transfer of a firearm that is temporary and occurs while in the home of the person to whom the firearm is transferred if the person to whom the firearm is transferred:*~~

~~*(1) Is not prohibited from possessing a firearm; and*~~

~~*(2) Reasonably believes that possession of the firearm is necessary to prevent imminent death or serious bodily injury to the person.*~~

~~(f) A temporary transfer of possession of a firearm without transfer of ownership or title to ownership of the firearm, if such transfer takes place:~~

~~(1) At a shooting range located in or on any premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency with firearms;~~

~~(2) At a target firearm shooting competition under the auspices of, or approved by, a state agency or a nonprofit organization; or~~

~~(3) While hunting, fishing, target shooting or trapping if:~~

~~(I) The hunting, fishing, target shooting or trapping is legal in all places where the person to whom the firearm is transferred possesses the firearm; and~~

~~(II) The person to whom the firearm is transferred holds all licenses or permits required for such hunting, fishing, target shooting or trapping.~~

~~(g) A transfer of a firearm that is made to facilitate the repair or maintenance of the firearm, if the person to whom the firearm is transferred is not prohibited from possessing a firearm.~~

~~(h) A temporary transfer of a firearm that occurs while in the presence of the owner of the firearm.~~

~~(i) A temporary transfer of a firearm for not more than 72 hours. A person who transfers a firearm pursuant to this paragraph is liable for damages proximately caused by any unlawful use of the firearm.~~

~~(j) A transfer of a firearm from a person serving in the Armed Forces of the United States to an immediate family member if the person transferring the firearm will be deployed outside of the United States within 30 days after the transfer.~~

~~(k) A temporary transfer of a firearm from a person to a mental health professional or to the person's physician if the mental health professional, the physician or the person believes the transfer is necessary to protect the health or safety of the person or others.~~

~~7. A person who transfers a firearm to another person in violation of this section:~~

~~(a) Is guilty of a gross misdemeanor; and~~

~~(b) Is prohibited from possessing a firearm for a period of 2 years after the date of the conviction. If the convicted person possesses a firearm during the 2-year period in violation of this paragraph, the person is guilty of a gross misdemeanor and is prohibited from possessing a firearm for an additional period of 2 years after the date of the conviction.~~

~~8. As used in this section:~~

~~(a) "Background check" includes a report from the National Instant Criminal Background Check System.~~

~~(b) "Licensed dealer" means a person who holds a license as a dealer in firearms issued pursuant to the provisions of 18 U.S.C. § 923.~~

~~(c) "Mental health professional" has the meaning ascribed to it in section 13 of this act.~~

~~*(d) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.]*~~

7. A licensed dealer who willfully and intentionally requests a background check from the National Instant Criminal Background Check System for any purpose other than to comply with the provisions of this section, or who willfully and intentionally disseminates any information obtained from a background check performed pursuant to this section to a person other than to the private person who requested the background check or to the person who is the subject of the background check is guilty of a misdemeanor.

8. A person who, in connection with the transfer or attempted transfer of a firearm pursuant to this section, willfully and intentionally makes any materially false oral or written statement or who willfully and intentionally furnishes or exhibits any false identification intended or likely to deceive a licensed dealer is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 9. NRS 202.360 is hereby amended to read as follows:

202.360 1. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been convicted of a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the person has received a pardon and the pardon does not restrict his or her right to bear arms;

(b) Is a fugitive from justice; ~~[or]~~

(c) Is an unlawful user of, or addicted to, any controlled substance ~~[.]~~ *; or*

(d) Is otherwise prohibited by federal law from having a firearm in his or her possession or under his or her custody or control.

➥ A person who violates the provisions of this subsection 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, and may be further punished by a fine of not more than $5,000.

2. A person shall not own or have in his or her possession or under his or her custody or control any firearm if the person:

(a) Has been adjudicated as mentally ill or has been committed to any mental health facility ~~[; or]~~ *by a court of this State, any other state or the United States;*

(b) *Has entered a plea of guilty but mentally ill in a court of this State, any other state or the United States;*

(c) Has been found guilty but mentally ill in a court of this State, any other state or the United States;

(d) Has been acquitted by reason of insanity in a court of this State, any other state or the United States; or

(e) Is illegally or unlawfully in the United States.

➥ A person who violates the provisions of this subsection is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. As used in this section:

(a) "Controlled substance" has the meaning ascribed to it in 21 U.S.C. § 802(6).

(b) "Firearm" includes any firearm that is loaded or unloaded and operable or inoperable.

Sec. 10. NRS 202.362 is hereby amended to read as follows:

202.362 1. Except as otherwise provided in subsection 3, a person within this State shall not sell or otherwise dispose of any firearm or ammunition to another person if he or she has ~~[actual knowledge]~~ *reasonable cause to believe* that the other person:

(a) Is under indictment for, or has been convicted of, a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless the other person has received a pardon and the pardon does not restrict his or her right to bear arms; *or*

(b) ~~[Is a fugitive from justice;~~

~~(c) Has been adjudicated as mentally ill or has been committed to any mental health facility; or~~

~~(d) Is illegally or unlawfully in the United States.]~~ *Is prohibited from possessing a firearm pursuant to NRS 202.360.*

2. A person who violates the provisions of subsection 1 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.

3. This section does not apply to a person who sells or disposes of any firearm or ammunition to:

(a) A licensed importer, licensed manufacturer, licensed dealer or licensed collector who, pursuant to 18 U.S.C. § 925(b), is not precluded from dealing in firearms or ammunition; or

(b) A person who has been granted relief from the disabilities imposed by federal laws pursuant to 18 U.S.C. § 925(c) or NRS 179A.163.

4. For the purposes of this section, a person has "reasonable cause to believe" if, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, a reasonable person would believe, under those facts and circumstances, that an act, transaction, event, situation or condition exists, is occurring or has occurred.

Sec. 11. 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, the court shall enter its finding to that effect and the person must not be involuntarily detained in such a facility.

(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, the court may order the involuntary admission of the person for the most appropriate course of treatment. 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. 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. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division or any mental health facility that is not operated by the Division may petition to renew the detention 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. 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 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. If the court issues an order involuntarily admitting a person to a public or private mental health facility pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, *within 5 business days after issuing the order,* on a form prescribed by the Department of Public Safety, a record of ~~[such]~~ *the* 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 ~~[.]~~ *and the National Crime Information Center.*

5. As used in this section ~~[,]~~ *:*

(a) "National Crime Information Center" has the meaning ascribed to it in section 4.1 of this act.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 12. NRS 436.123 is hereby amended to read as follows:

436.123 The Division is designated as the official state agency responsible for developing and administering preventive and outpatient

mental health services, subject to administrative supervision by the Director of the Department. It shall function in the following areas:

1. Assisting and consulting with local health authorities *, local governments and all law enforcement agencies in this State* in providing community mental health services, which services may include prevention, rehabilitation, case finding, diagnosis and treatment of persons with mental illness, and consultation and education for groups and individuals regarding mental health.

2. Coordinating mental health functions with other state agencies.

3. Participating in and promoting the development of facilities for training personnel necessary for implementing such services.

4. Collecting and disseminating information pertaining to mental health.

5. Performing such other acts as are necessary to promote mental health in the State.

Sec. 13. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a patient communicates to a mental health professional an explicit threat of imminent serious physical harm or death to a clearly identified or identifiable person and, in the judgment of the mental health professional, the patient has the intent and ability to carry out the threat, the mental health professional shall make a reasonable effort to communicate the threat in a timely manner to:

(a) The person who is the subject of the threat;

(b) The law enforcement agency with the closest physical location to the residence of the person; and

(c) If the person is a minor, the parent or guardian of the person.

2. A mental health professional who exercises reasonable care in determining that he or she:

(a) Has a duty to communicate a threat pursuant to subsection 1 is not subject to civil or criminal liability or disciplinary action by a professional licensing board for disclosing confidential or privileged information.

(b) Does not have a duty to communicate a threat pursuant to subsection 1 is not subject to civil or criminal liability or disciplinary action by a professional licensing board for any damages caused by the actions of a patient.

3. The provisions of this section do not:

(a) Limit or affect the duty of the mental health professional to report child abuse or neglect pursuant to NRS 432B.220; or

(b) Modify any duty of a mental health professional to take precautions to prevent harm by a patient:

(1) In the custody of a hospital or other facility where the mental health professional is employed; or

(2) Who is being discharged from such a facility.

4. As used in this section, "mental health professional" includes:

(a) A psychiatrist licensed to practice medicine in this State pursuant to chapter 630 or 633 of NRS;

(b) A psychologist who is licensed to practice psychology pursuant to chapter 641 of NRS;

(c) A social worker who:

(1) Holds a master's degree in social work or a related field;

(2) Is licensed as a clinical social worker pursuant to chapter 641B of NRS; and

(3) Is employed by the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

~~*[(c)]*~~ *(d) A registered nurse who:*

(1) Is licensed to practice professional nursing pursuant to chapter 632 of NRS; and

(2) Holds a master's degree in psychiatric nursing or a related field ; ~~[.~~

~~*[(d)]*~~ *(e) A marriage and family therapist licensed pursuant to chapter 641A of NRS ~~[.~~*

~~*[(e)]*~~ *; and*

(f) A clinical professional counselor licensed pursuant to chapter 641A of NRS.

Sec. 14. As soon as practicable after the effective date of this act, the Central Repository for Nevada Records of Criminal History shall enter into an agreement with the Federal Bureau of Investigation, if necessary, and take any other necessary actions to allow licensed dealers, as defined in section 8 of this act, to contact the National Instant Criminal Background Check System, as defined in NRS 179A.062, to initiate a background check by the National Instant Criminal Background Check System as required pursuant to section 8 of this act.

Sec. 15. 1. This section and section 14 of this act become effective upon passage and approval.

2. Sections 1 to 7, inclusive, and 9 to 13, inclusive, of this act become effective on October 1, 2013.

3. Sections 7.1 to 8, inclusive, of this act become effective on January 1, 2014.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senators Kieckhefer, Brower, Jones and Hardy.

SENATOR KIECKHEFER:

Thank you, Mr. President. Amendment No. 815 to Senate Bill No. 221 changes several provisions of the bill related to the private-party transfer of firearms. It changes the allowable fee that will be charged by a federal firearms dealer for background checks provided. It also adds psychologist to the list of mental-health professionals listed in the bill. And, while I move the adoption of the amendment, I do not necessarily endorse the terms.

SENATOR BROWER:

Thank you, Mr. President. I have been trying to read and digest this bill. Frankly, I do not understand Amendment No. 815 to Senate Bill No. 221. If the sponsor of the amendment would care to explain it, I would appreciate it.

SENATOR JONES:

Thank you, Mr. President. Senate Bill No. 221 was discussed in the Senate Committee on Health and Human Services, which passed out the bill. There were concerns raised that are addressed in Amendment No. 815. Specifically, this will allow private-party purchasers to go to a federally-licensed firearms dealer instead of going through the central repository. They would contact the Federal Bureau of Investigation through the National Instant Criminal Background Check System, or NICS, directly. That will eliminate the cost to the State of that option. Also, as my colleague mentioned, we had missed a category under Section 13 with regard to mental health professionals, so psychologists were added to that section.

SENATOR BROWER:

Thank you, Mr. President. I appreciate the Senator's explanation. Does Amendment No. 815 to Senate Bill No. 221 allow or mandate a private-party purchaser to be subjected to a background check?

SENATOR JONES:

Thank you, Mr. President. Private-party sellers are required to undergo background checks. However, there are a number of exceptions to those checks in the bill which include family transfers within the second degree of consanguinity, temporary transfers at a sporting or hunting event, transfers upon death and a couple of other categories that I can review with my colleague.

SENATOR BROWER:

Thank you, Mr. President. My understanding is that, even in the case of private-party transactions, the background checks are now mandated under this bill? If my understanding is correct, then my question has been answered.

SENATOR JONES:

Thank you, Mr. President. Yes, that is correct, except the categories that I listed. I am happy to go through the categories if that would be helpful.

SENATOR BROWER:

Thank you, Mr. President. I have read the categories of exceptions in the bill which, frankly, seem to swallow up the bill entirely. I thank the sponsor. The answer he gave will suffice.

SENATOR HARDY:

Thank you, Mr. President. I have been trying to look at Amendment No. 815 to Senate Bill No. 221 in order to clarify Section 8 and Section 7.85. If I, as a physician, interview someone and determine they are suicidal with a plan that includes a gun that they possess, and I ask for, and take the gun, to keep the person safe, returning it to the person when it is determined they are safe, as I read this, this would preclude me from doing that or getting the gun, and also preclude me from giving it back. Is that a misinterpretation?

SENATOR JONES:

Thank you, Mr. President. Pursuant to Subsection 10 of Section 7.8 of the bill, a temporary transfer of a firearm from a person to a mental health professional or to the person's physician, if the mental health professional, the physician or the person believe the transfer is necessary to protect the health or safety of the person or others, is exempted from the requirement of a background check.

SENATOR HARDY:

Thank you, Mr. President. And, is giving the gun back to the person?

SENATOR JONES:

Thank you, Mr. President. That is not specifically called out in the bill. My colleague from Senate District No. 12 and I have spoken about this in the past. I am happy to discuss it with him offline if he would like.

SENATOR HARDY:

Thank you, Mr. President. I thank my colleague from Senate District No. 9 for that.

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

Assembly Bill No. 181.
Bill read third time.
Remarks by Senators Jones, Ford and Atkinson.

SENATOR JONES:
Thank you, Mr. President. Assembly Bill No. 181 makes it unlawful for an employer to require an employee or prospective employee to disclose a user name, password or any other information that provides access to the person's social media account. It also prohibits an employer from discharging, disciplining or discriminating against an employee or prospective employee who refuses to disclose this information. However, these provisions shall not prevent an employer from complying with any State or federal law or regulation or with any rule of a self-regulatory organization. The bill expressly allows an employer to require disclosure of such information for the purpose of accessing the employer's own internal computer or information system.

Assembly Bill No. 181 also prohibits an employer from requiring employees and applicants to provide a consumer credit report for the purposes of hiring, promotion, reassignment or retention unless certain criteria are met.

SENATOR FORD:
Thank you, Mr. President. I do not mean to sound unreasonable. However, I am interested in knowing what the rationale is for protecting this form of communication?

SENATOR ATKINSON:
Thank you, Mr. President. There are provisions in the bill, one of which relates to credit. To an employer whose credit is not valuable, or there is not a reason they should be using it—for example, a bank may want to use it since they deal with money. As we have heard nationally, there are prospective employers using social networks as reasons to, or not to, hire someone. We are trying to make it clear in which instances those actions are appropriate.

Roll call on Assembly Bill No. 181:
YEAS—21.
NAYS—None.

Assembly Bill No. 181 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 198.
Bill read third time.
Remarks by Senator Atkinson.
Thank you, Mr. President. Assembly Bill No. 198 repeals provisions of existing law requiring a vehicle that is acquired for use as a taxicab in a county that is not subject to regulation by the Taxicab Authority to be new or have not more than 30,000 miles on its odometer. The bill also repeals provisions requiring those taxicabs to be retired from service after a certain length of time. This bill is effective on July 1, 2013.

Roll call on Assembly Bill No. 198:
YEAS—21.
NAYS—None.

Assembly Bill No. 198 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 200.

Bill read third time.

Remarks by Senators Hardy, Gustavson, Settelmeyer and Ford.

SENATOR HARDY:

Thank you, Mr. President. Assembly Bill No. 200 allows a farm to hold a farm-to-fork event, in certain circumstances and with limited frequency, without being considered a food establishment for purposes of inspections by a health authority. A farm must register with a local health authority in order to hold such an event and pay a fee, although the health authority shall not conduct inspections of the farm except in certain circumstances. Prior to food being consumed, event guests must be provided with a notice that indicates no inspection was conducted by a State or local health department, except for butchering and processing of rabbit meat or poultry.

SENATOR GUSTAVSON:

Thank you, Mr. President. I have a question for the presenter of the Assembly Bill No. 200, or anyone who sat on the Committee to hear the bill: in Section 3.5 on page 3, it says a health authority may charge a fee for the registration for a farm pursuant to this section, not to exceed the actual cost to the health authority to establish and maintain a registry of farms holding farm-to-fork events. Is this something that is fairly common? Or is the health authority going to establish a fee to just inspect one or two farms? It seems to me, if so, that could be quite expensive.

SENATOR HARDY:

Thank you, Mr. President. So far, to my knowledge, we have one farm-to-fork place in Nevada: Quail Farms in the Logandale-Overton area. I do not expect it to be a major issue.

SENATOR GUSTAVSON:

Thank you, Mr. President. Thank you for the answer Senator. However, you did not really answer my question. Is there going to be a large fee involved? The health authority will have to come way out to Overton to inspect a farm. It seems like there could be a considerable expense to do so.

SENATOR SETTELMEYER:

Thank you, Mr. President. I am not sure I can allay my colleague's concerns. However, when I read the bill, the premise is supported by the industry. They came forth and asked for the bill. I suppose, if they do not want the particular fee charged to them, they should not put on the event.

SENATOR GUSTAVSON:

Thank you, Mr. President. I am not trying to kill the bill. I am just trying to get more information. I will support Assembly Bill No. 200.

SENATOR FORD:

Thank you, Mr. President. As everyone knows, I have sponsored a comparable bill: Senate Bill No. 206. I recall that we have health authorities throughout the State involved. I want to be certain the health authorities have signed off on Assembly Bill No. 200. If someone can speak to that, I would appreciate it.

SENATOR HARDY:

Thank you, Mr. President. The health authorities did buy off on this bill, and they have been willing to conduct the inspections, however diminished those costs may be.

Roll call on Assembly Bill No. 200:
YEAS—21.
NAYS—None.

Assembly Bill No. 200 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 233.
Bill read third time.
Remarks by Senator Ford.
Thank you, Mr. President. Assembly Bill No. 233 allows for the appeal of a denial of a court order that does not allow for genetic marker analysis to take place from those who are convicted. I believe the bill came out of Committee unanimously. I advocate this bill and urge you all to support it too.

Roll call on Assembly Bill No. 233:
YEAS—21.
NAYS—None.

Assembly Bill No. 233 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 262.
Bill read third time.
Remarks by Senator Hutchison.
Thank you, Mr. President. Assembly Bill No. 262 provides that, in an action for child custody and visitation, the court may order the parties to pay reasonable attorney's fees, expert fees and other costs, in proportions and at times determined by the court.

Roll call on Assembly Bill No. 262:
YEAS—21.
NAYS—None.

Assembly Bill No. 262 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 263.
Bill read third time.
Remarks by Senator Spearman.
Thank you, Mr. President. Assembly Bill No. 263 requires that, rather than consider only a person's experience relating to public transportation projects, the Director of the Department of Transportation also consider any other comparable experience a person may have when determining if the person is sufficiently qualified to bid on certain highway construction projects.
The bill also requires persons wishing to bid on certain smaller transportation projects to submit certain information to the Director before the Director furnishes the person with the necessary forms and information to submit a bid on the project. This bill is effective on July 1, 2013.

Roll call on Assembly Bill No. 263:

YEAS—21.

NAYS—None.

Assembly Bill No. 263 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Assembly Bill No. 288 be taken from the General File and re-referred to the Committee on Finance.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 305.

Bill read third time.

Remarks by Senator Atkinson.

Thank you, Mr. President. Assembly Bill No. 305 requires the Board of Directors of Nevada's Department of Transportation to prescribe regulations specifying the operational requirements for commercial electronic variable message signs. I urge the passage of this bill.

Roll call on Assembly Bill No. 305:

YEAS—21.

NAYS—None.

Assembly Bill No. 305 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 306.

Bill read third time.

Remarks by Senator Jones.

Thank you, Mr. President. Assembly Bill No. 306 includes within the definition of "private investigator" activities relating to the review, analysis and investigation of computerized data not available to the public. The bill also adds to the definition reference to crimes or torts that have been committed, attempted, threatened or suspected to occur, except by an expert witness or a consultant who is retained for litigation or a trial or in anticipation of litigation or a trial and who performs duties and tasks within his or her field of expertise that are necessary to form an opinion. Assembly Bill No. 306 requires a licensee of the Private Investigator's Licensing Board to maintain a place of business in this State and to conspicuously post his or her license.

Finally, the bill requires each licensee to ensure that every registered person he or she employs in this State is supervised by a licensee who is physically located in this State and to maintain records relating to those employees within this State.

Roll call on Assembly Bill No. 306:

YEAS—21.

NAYS—None.

Assembly Bill No. 306 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 321.

Bill read third time.

Remarks by Senator Hammond.

Thank you, Mr. President. Assembly Bill No. 321 requires each State agency to provide its employees with information relating to the Merit Award Program.

Roll call on Assembly Bill No. 321:

YEAS—21.

NAYS—None.

Assembly Bill No. 321 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 324.

Bill read third time.

Senator Denis moved that Assembly Bill No. 324 be taken from the General File and placed on the Secretary's Desk.

Motion carried.

Assembly Bill No. 326.

Bill read third time.

Remarks by Senator Woodhouse.

Thank you, Mr. President. Assembly Bill No. 326 requires that if an agreement includes a provision requiring a person to submit to arbitration any dispute arising between the parties to the agreement, then the agreement must include specific authorization of that provision by the person. Further, if an agreement fails to include the specific authorization as required by this bill, the provision is void and unenforceable. Collective bargaining agreements are excluded from the provisions of the bill. This bill is effective on October 1, 2013, and applies only to agreements entered into or renewed on or after that date.

Roll call on Assembly Bill No. 326:

YEAS—21.

NAYS—None.

Assembly Bill No. 326 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 327.

Bill read third time.

Remarks by Senator Goicoechea.

Thank you, Mr. President. Assembly Bill No. 327 requires the Director of the Department of Administration to establish a telephone number to receive information relating to abuse, fraud and waste with respect to the receipt and use of public money. Written notice of the telephone number must be posted on the Internet website maintained by the Department and in each public building of an agency. This whistle-blower hotline is effective on July 1, 2013.

Roll call on Assembly Bill No. 327:

YEAS—21.

NAYS—None.

Assembly Bill No. 327 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 333.

Bill read third time.

Remarks by Senator Spearman.

Thank you, Mr. President. Assembly Bill No. 333 requires the Office of Economic Development and the Office of Energy periodically to conduct a cost/benefit analysis of economic development incentives previously approved by each respective office and in effect during the immediately preceding two fiscal years in accordance with a methodology prescribed by the Chief of the Budget Division, Department of Administration. The result of the agency's analysis must be reported to the Chief and included as part of the proposed State budget for each Biennium. Any such report created is a public record.

Assembly Bill No. 333 revises the information that must be included in certain reports regarding approved tax abatements or other economic development incentives which must be submitted to the Legislature. Finally, it modifies existing law requiring the Office of Economic Development to adopt regulations relating to the minimum level of benefits that certain businesses applying for a tax abatement must provide to employees to apply solely to health care benefits. This measure is effective on July 1, 2013.

Roll call on Assembly Bill No. 333:

YEAS—21.

NAYS—None.

Assembly Bill No. 333 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 334.

Bill read third time.

Remarks by Senator Hutchison.

Thank you, Mr. President. Assembly Bill No. 334 exempts a real estate licensee from regulation by the State Contractor Board if the licensee is acting within the scope of his or her license or permit to engage in property management and is assisting a client in scheduling work to repair or maintain residential property under certain circumstances.

Roll call on Assembly Bill No. 334:

YEAS—21.

NAYS—None.

Assembly Bill No. 334 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 337.

Bill read third time.

Remarks by Senator Woodhouse.

Thank you, Mr. President. Assembly Bill No. 337 strongly encourages the leadership of Nevada's school districts and schools to ensure that each school participates in the federal Fresh Fruit and Vegetable Program.

The measure further encourages the establishment of a farm-to-school program and a school garden program to promote the consumption of fresh fruits and vegetables by Nevada's children. This bill is effective upon passage and approval.

Roll call on Assembly Bill No. 337:
YEAS—21.
NAYS—None.

Assembly Bill No. 337 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 339.

Bill read third time.

Remarks by Senator Hardy.

Thank you, Mr. President. Assembly Bill No. 339 addresses the situation in which an employee is scheduled to work 10 hours per day, four days per week, and is unable to work all 40 hours. The measure allows an employer to pay the employee only for the hours actually worked if the employee is not able to work 40 hours in a particular week for various reasons. If the employee is not able to work 40 hours because of a decision by the employer, then the employer is required to pay the employee overtime for any hours worked over eight hours during a workday. Finally, the bill provides that an employee who is regularly scheduled to work 10 hours per day, four days per week, is entitled to overtime compensation whenever he or she works more than 10 hours in any workday.

Roll call on Assembly Bill No. 339:
YEAS—21.
NAYS—None.

Assembly Bill No. 339 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 341.

Bill read third time.

Remarks by Senator Settelmeyer.

Thank you, Mr. President. Assembly Bill No. 341 makes changes to the requirements for licensure by the Board of Homeopathic Medical Examiners and provides for licensure of graduates of a medical school located in the United Kingdom. It also makes many of the existing provisions related to homeopathic physicians applicable to advanced practitioners of homeopathy and homeopathic assistants.

Additionally, the bill revises the educational program requirements for an advanced practitioner of homeopathy and a homeopathic assistant and revises the number of homeopathic assistants who may be employed or supervised by a homeopathic physician. This bill is effective on October 1, 2013.

Roll call on Assembly Bill No. 341:
YEAS—21.
NAYS—None.

Assembly Bill No. 341 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Assembly Bills Nos. 50, 95, 176, 189, 352, 354, 358, 366, 381, 382, 383, 389, 393, 417, 418, 421, 432, 434, 437, 441, 442, 445, 455, 459, 460, 478, 483, 486, Assembly Joint Resolutions Nos. 1, 3, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 125.

The following Assembly amendments were read:

Amendment No. 608.

"SUMMARY—Revises provisions relating to rules and regulations of the Nevada Interscholastic Activities Association. (BDR 34-871)"

"AN ACT relating to interscholastic events; revising provisions relating to the rules and regulations of the Nevada Interscholastic Activities Association; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing regulations, the Nevada Interscholastic Activities Association may approve certain games, contests and meets in which all-star teams participate if the game, contest or meet is approved by the National Collegiate Athletics Association, or its successor organization, and the National Federation of State High School Associations, or its successor organization. (NAC 386.693) Section 1 of this bill provides that the rules and regulations adopted by the Nevada Interscholastic Activities Association must provide criteria to be used by the Nevada Interscholastic Activities Association when determining whether to approve or disapprove the staging of all-star games, contests or meets by any other organization and the participation of all-star teams in games, contests and meets without approval from any other organization. Section 3 of this bill requires the Nevada Interscholastic Activities Association, on or before ~~[October 1, 2013,]~~ June 30, 2014, to amend its rules and regulations as necessary to conform to the provisions of section 1.

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 a new section to read as follows:

The rules and regulations adopted by the Nevada Interscholastic Activities Association pursuant to NRS 386.430 must provide criteria to be used by the Association when determining whether to approve or disapprove:

1. The staging of an all-star game, contest or meet by any other organization; and

2. The participation of an all-star team in a game, contest or meet regardless of whether the game, contest or meet is approved by any other organization.

Sec. 2. NRS 386.430 is hereby amended to read as follows:

386.430 1. The Nevada Interscholastic Activities Association shall adopt rules and regulations in the manner provided for state agencies by chapter 233B of NRS as may be necessary to carry out the provisions of NRS 386.420 to 386.470, inclusive ~~[.]~~ *, and section 1 of this act.* The regulations must include provisions governing the eligibility and participation of homeschooled children in interscholastic activities and events. In addition to the regulations governing eligibility, a homeschooled child who wishes to participate must have on file with the school district in which the child resides a current notice of intent of a homeschooled child to participate in programs and activities pursuant to NRS 392.705.

2. The Nevada Interscholastic Activities Association shall adopt regulations setting forth:

(a) The standards of safety for each event, competition or other activity engaged in by a spirit squad of a school that is a member of the Nevada Interscholastic Activities Association, which must substantially comply with the spirit rules of the National Federation of State High School Associations, or its successor organization; and

(b) The qualifications required for a person to become a coach of a spirit squad.

3. If the Nevada Interscholastic Activities Association intends to adopt, repeal or amend a policy, rule or regulation concerning or affecting homeschooled children, the Association shall consult with the Northern Nevada Homeschool Advisory Council and the Southern Nevada Homeschool Advisory Council, or their successor organizations, to provide those Councils with a reasonable opportunity to submit data, opinions or arguments, orally or in writing, concerning the proposal or change. The Association shall consider all written and oral submissions respecting the proposal or change before taking final action.

4. As used in this section, "spirit squad" means any team or other group of persons that is formed for the purpose of:

(a) Leading cheers or rallies to encourage support for a team that participates in a sport that is sanctioned by the Nevada Interscholastic Activities Association; or

(b) Participating in a competition against another team or other group of persons to determine the ability of each team or group of persons to engage in an activity specified in paragraph (a).

Sec. 3. The Nevada Interscholastic Activities Association shall, on or before ~~[October 1, 2013,]~~ June 30, 2014, amend its rules and regulations, including, without limitation, NAC 386.693, as necessary to conform to the provisions of section 1 of this act.

Sec. 4. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations; and

2. On ~~[October 1, 2013,]~~ July 1, 2014, for all other purposes.

Amendment No. 672.

"SUMMARY—Revises provisions relating to rules and regulations of the Nevada Interscholastic Activities Association. (BDR 34-871)"

"AN ACT relating to interscholastic events; revising provisions relating to the rules and regulations of the Nevada Interscholastic Activities Association; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing regulations, the Nevada Interscholastic Activities Association may approve certain games, contests and meets in which all-star teams participate if the game, contest or meet is approved by the National Collegiate Athletics Association, or its successor organization, and the National Federation of State High School Associations, or its successor organization. (NAC 386.693) Section 1 of this bill provides that the rules and regulations adopted by the Nevada Interscholastic Activities Association must provide criteria to be used by the Nevada Interscholastic Activities Association when determining whether to approve or disapprove the staging of all-star games, contests or meets by any other organization and the participation of all-star teams in games, contests and meets without approval from any other organization. Section 3 of this bill requires the Nevada Interscholastic Activities Association, on or before June 30, 2014, to amend its rules and regulations as necessary to conform to the provisions of section 1. Section 3.5 of this bill authorizes the Nevada Interscholastic Activities Association to approve the staging of all-star games, contests or meets by any other organization and the participation of all-star teams in games, contests or meets without approval from any other organization during the period between the passage and approval of this bill and the adoption by the Nevada Interscholastic Activities Association of the rules and regulations required by section 3.

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 a new section to read as follows:

The rules and regulations adopted by the Nevada Interscholastic Activities Association pursuant to NRS 386.430 must provide criteria to be used by the Association when determining whether to approve or disapprove:

1. The staging of an all-star game, contest or meet by any other organization; and

2. The participation of an all-star team in a game, contest or meet regardless of whether the game, contest or meet is approved by any other organization.

Sec. 2. NRS 386.430 is hereby amended to read as follows:

386.430 1. The Nevada Interscholastic Activities Association shall adopt rules and regulations in the manner provided for state agencies by chapter 233B of NRS as may be necessary to carry out the provisions of NRS 386.420 to 386.470, inclusive [.] *, and section 1 of this act.* The

regulations must include provisions governing the eligibility and participation of homeschooled children in interscholastic activities and events. In addition to the regulations governing eligibility, a homeschooled child who wishes to participate must have on file with the school district in which the child resides a current notice of intent of a homeschooled child to participate in programs and activities pursuant to NRS 392.705.

2. The Nevada Interscholastic Activities Association shall adopt regulations setting forth:

(a) The standards of safety for each event, competition or other activity engaged in by a spirit squad of a school that is a member of the Nevada Interscholastic Activities Association, which must substantially comply with the spirit rules of the National Federation of State High School Associations, or its successor organization; and

(b) The qualifications required for a person to become a coach of a spirit squad.

3. If the Nevada Interscholastic Activities Association intends to adopt, repeal or amend a policy, rule or regulation concerning or affecting homeschooled children, the Association shall consult with the Northern Nevada Homeschool Advisory Council and the Southern Nevada Homeschool Advisory Council, or their successor organizations, to provide those Councils with a reasonable opportunity to submit data, opinions or arguments, orally or in writing, concerning the proposal or change. The Association shall consider all written and oral submissions respecting the proposal or change before taking final action.

4. As used in this section, "spirit squad" means any team or other group of persons that is formed for the purpose of:

(a) Leading cheers or rallies to encourage support for a team that participates in a sport that is sanctioned by the Nevada Interscholastic Activities Association; or

(b) Participating in a competition against another team or other group of persons to determine the ability of each team or group of persons to engage in an activity specified in paragraph (a).

Sec. 3. The Nevada Interscholastic Activities Association shall, on or before June 30, 2014, amend its rules and regulations, including, without limitation, NAC 386.693, as necessary to conform to the provisions of section 1 of this act.

Sec. 3.5. Notwithstanding the amendatory provisions of this act, the Nevada Interscholastic Activities Association may, before the effective date of the regulations required by section 3 of this act or July 1, 2014, whichever is earlier, approve:

1. The staging of an all-star game, contest or meet by any other organization; and

2. The participation of an all-star team in a game, contest or meet regardless of whether the game, contest or meet is approved by any other organization.

Sec. 4. 1. This section and section 3.5 of this act ~~[becomes]~~ become effective ~~[:~~

~~1.]~~ upon passage and approval.

2. Sections 1, 2 and 3 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations; and

~~[2.]~~ (b) On July 1, 2014, for all other purposes.

Senator Woodhouse moved that the Senate concur in the Assembly Amendments Nos. 608, 672, to Senate Bill No. 125.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 9.

The following Assembly amendment was read:

Amendment No. 593.

"SUMMARY—Makes various changes relating to the regulation of gaming. (BDR 41-328)"

"AN ACT relating to gaming; revising various definitions relating to gaming; revising provisions relating to the registration of persons who hold an ownership interest in certain business entities which hold a gaming license; revising provisions relating to the inspection of games, gaming devices, associated equipment, cashless wagering systems, inter-casino linked systems, mobile gaming systems and interactive gaming systems; revising provisions relating to the regulation of independent testing laboratories; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Nevada Gaming Commission and the State Gaming Control Board are required to administer state gaming licenses and manufacturer's, seller's and distributor's licenses, and to perform various acts relating to the regulation and control of gaming. (NRS 463.140) Sections 1-4 of this bill revise the definitions of the terms "cashless wagering system," "gaming employee," "gross revenue" and "wagering credit" for the purposes of the statutory provisions governing the licensing and control of gaming.

Existing law requires audits of the financial statements of all nonrestricted licensees whose annual gross revenue is $5,000,000 or more, and requires the amount of annual gross revenue to be increased or decreased annually in an amount determined by the Commission and corresponding to the Consumer Price Index. (NRS 463.159) Section 5 of this bill requires the Board to make such a determination.

Existing law also requires a limited partner holding a 5 percent or less ownership in a limited partnership or a member holding a 5 percent or less ownership in a limited-liability company, who holds or applies for a state gaming license, to register with the Board and submit to the Board's jurisdiction within 30 days after the person acquires a 5 percent or less

ownership interest. (NRS 463.569, 463.5735) Sections 6 and 7 of this bill remove the requirement to register with the Board after acquiring such an ownership, and instead require a person to register upon seeking to hold a 5 percent or less ownership.

Finally, existing law requires the Commission to adopt regulations providing for the registration of independent testing laboratories, which may be utilized by the Board to inspect and certify gaming devices, equipment and systems, and any components thereof, and providing for the standards and procedures for the revocation of the registration of such independent testing laboratories. (NRS 463.670) Section 8 of this bill: (1) extends the requirement of registration to additional persons that own, operate or have significant involvement with an independent testing laboratory; (2) provides that a person who is registered pursuant to section 8 is subject to the same investigatory and disciplinary procedures as all other gaming licensees; and (3) authorizes the Commission to require a registered independent testing laboratory and certain persons associated with a registered independent testing laboratory to file an application for a finding of suitability.

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

Section 1. NRS 463.014 is hereby amended to read as follows:

463.014 "Cashless wagering system" means a method of wagering and accounting:

1. In which the validity and value of a wagering instrument or wagering credits are determined, monitored and retained by a computer operated and maintained by a licensee which maintains a record of each transaction involving the wagering instrument or wagering credits, exclusive of the game or gaming device on which wagers are being made. The term includes computerized systems which facilitate electronic transfers of money directly to or from a game or gaming device; or

2. Used in a race book or sports pool in which the validity and value of a wagering instrument *or wagering credits* are determined, monitored and retained on a computer that maintains a record of each transaction involving the wagering instrument *or wagering credits* and is operated and maintained by a licensee.

Sec. 2. NRS 463.0157 is hereby amended to read as follows:

463.0157 1. "Gaming employee" means any person connected directly with an operator of a slot route, the operator of a pari-mutuel system, the operator of an inter-casino linked system or a manufacturer, distributor or disseminator, or with the operation of a gaming establishment licensed to conduct any game, 16 or more slot machines, a race book, sports pool or pari-mutuel wagering, including:

(a) Accounting or internal auditing personnel who are directly involved in any recordkeeping or the examination of records associated with revenue from gaming;

(b) Boxpersons;

(c) Cashiers;

(d) Change personnel;

(e) Counting room personnel;

(f) Dealers;

(g) Employees of a person required by NRS 464.010 to be licensed to operate an off-track pari-mutuel system;

(h) Employees of a person required by NRS 463.430 to be licensed to disseminate information concerning racing and employees of an affiliate of such a person involved in assisting the person in carrying out the duties of the person in this State;

(i) Employees whose duties are directly involved with the manufacture, repair, sale or distribution of gaming devices, cashless wagering systems, mobile gaming systems, equipment associated with mobile gaming systems, interactive gaming systems or equipment associated with interactive gaming;

(j) Employees of operators of slot routes who have keys for slot machines or who accept and transport revenue from the slot drop;

(k) Employees of operators of inter-casino linked systems, mobile gaming systems or interactive gaming systems whose duties include the operational or supervisory control of the systems or the games that are part of the systems;

(l) Employees of operators of call centers who perform, or who supervise the performance of, the function of receiving and transmitting wagering instructions;

(m) Employees who have access to the Board's system of records for the purpose of processing the registrations of gaming employees that a licensee is required to perform pursuant to the provisions of this chapter and any regulations adopted pursuant thereto;

(n) Floorpersons;

(o) Hosts or other persons empowered to extend credit or complimentary services;

(p) Keno runners;

(q) Keno writers;

(r) Machine mechanics;

(s) Odds makers and line setters;

(t) Security personnel;

(u) Shift or pit bosses;

(v) Shills;

(w) Supervisors or managers;

(x) Ticket writers;

(y) Employees of a person required by NRS 463.160 to be licensed to operate an information service; ~~[and]~~

(z) *Employees of a licensee who have local access and provide management, support, security or disaster recovery services for any hardware or software that is regulated pursuant to the provisions of this chapter and any regulations adopted pursuant thereto; and*

(aa) Temporary or contract employees hired by a licensee to perform a function related to gaming.

2. "Gaming employee" does not include barbacks ~~[,]~~ *or* bartenders ~~[,]~~ *whose duties do not involve gaming activities,* cocktail servers or other persons engaged exclusively in preparing or serving food or beverages.

3. As used in this section, "local access" means access to hardware or software from within a licensed gaming establishment, hosting center or elsewhere within this State.

Sec. 3. NRS 463.0161 is hereby amended to read as follows:

463.0161 1. "Gross revenue" means the total of all:

(a) Cash received as winnings;

(b) Cash received in payment for credit extended by a licensee to a patron for purposes of gaming; and

(c) Compensation received for conducting any game *, or any contest or tournament in conjunction with interactive gaming,* in which the licensee is not party to a wager,

➥ less the total of all cash paid out as losses to patrons, those amounts paid to fund periodic payments and any other items made deductible as losses by NRS 463.3715. For the purposes of this section, cash or the value of noncash prizes awarded to patrons in a contest or tournament are not losses, except that losses in a contest or tournament conducted in conjunction with an inter-casino linked system ~~*[for interactive gaming]*~~ may be deducted to the extent of the compensation received for the right to participate in that contest or tournament.

2. The term does not include:

(a) Counterfeit facsimiles of money, chips, tokens, wagering instruments or wagering credits;

(b) Coins of other countries which are received in gaming devices;

(c) Any portion of the face value of any chip, token or other representative of value won by a licensee from a patron for which the licensee can demonstrate that it or its affiliate has not received cash;

(d) Cash taken in fraudulent acts perpetrated against a licensee for which the licensee is not reimbursed;

(e) Cash received as entry fees for contests or tournaments in which patrons compete for prizes, except for a contest or tournament conducted in conjunction with an inter-casino linked system ~~*[for interactive gaming;]*~~ .

(f) Uncollected baccarat commissions; or

(g) Cash provided by the licensee to a patron and subsequently won by the licensee, for which the licensee can demonstrate that it or its affiliate has not been reimbursed.

3. As used in this section, "baccarat commission" means:

(a) A fee assessed by a licensee on cash paid out as a loss to a patron at baccarat to modify the odds of the game; or

(b) A rate or fee charged by a licensee for the right to participate in a baccarat game.

Sec. 4. NRS 463.01963 is hereby amended to read as follows:

463.01963 "Wagering credit" means a representative of value, other than a chip, token or wagering instrument, that is used for wagering at a game *,* ~~[or]~~ gaming device *, race book or sports pool* and is obtained by the payment of cash or a cash equivalent, the use of a wagering instrument or the electronic transfer of money.

Sec. 5. NRS 463.159 is hereby amended to read as follows:

463.159 1. The Commission shall by regulation require audits of the financial statements of all nonrestricted licensees whose annual gross revenue is $5,000,000 or more.

2. The Commission may require audits, compiled statements or reviews of the financial statements of nonrestricted licensees whose annual gross revenue is less than $5,000,000.

3. The amounts of annual gross revenue provided for in subsections 1 and 2 must be increased or decreased annually in an amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding year. On or before December 15 of each year, the ~~[Commission]~~ *Board* shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts of annual gross revenue in effect for the succeeding calendar year. The audits, compilations and reviews provided for in subsections 1 and 2 must be made by independent accountants holding permits to practice public accounting in the State of Nevada.

4. Except as otherwise provided in subsection 5, for every audit required pursuant to this section:

(a) The independent accountants shall submit an audit report which must express an unqualified or qualified opinion or, if appropriate, disclaim an opinion on the statements taken as a whole in accordance with standards for the accounting profession established by rules and regulations of the Nevada State Board of Accountancy, but the preparation of statements without audit does not constitute compliance.

(b) The examination and audit must disclose whether the accounts, records and control procedures maintained by the licensee are as required by the regulations published by the Commission pursuant to NRS 463.156 to 463.1592, inclusive.

5. If the license of a nonrestricted licensee is terminated within 3 months after the end of a period covered by an audit, the licensee may submit compiled statements in lieu of an additional audited statement for the licensee's final period of business.

Sec. 6. NRS 463.569 is hereby amended to read as follows:

463.569 1. Every general partner of, and every limited partner with more than a 5 percent ownership interest in, a limited partnership which holds a state gaming license must be licensed individually, according to the provisions of this chapter, and if, in the judgment of the Commission, the

public interest will be served by requiring any other limited partners or any or all of the limited partnership's lenders, holders of evidence of indebtedness, underwriters, key executives, agents or employees to be licensed, the limited partnership shall require those persons to apply for a license in accordance with the laws and requirements in effect at the time the Commission requires the licensing. Publicly traded corporations which are limited partners of limited partnerships are not required to be licensed, but shall comply with NRS 463.635 to 463.645, inclusive. A person who is required to be licensed by this section as a general or limited partner shall not receive that position until the person secures the required approval of the Commission. A person who is required to be licensed pursuant to a decision of the Commission shall apply for a license within 30 days after the Commission requests the person to do so.

2. All limited partners ~~[holding]~~ *seeking to hold* a 5 percent or less ownership interest in a limited partnership, other than a publicly traded limited partnership, which hold or apply for a state gaming license, must register in that capacity with the Board and submit to the Board's jurisdiction. Such registration must be made on forms prescribed by the Chair of the Board. The Chair of the Board may require a registrant to apply for licensure at any time in the Chair's discretion. ~~[A person who is required to be registered by this section shall apply for registration within 30 days after the person becomes a limited partner holding a 5 percent or less ownership interest in a limited partnership.]~~

3. The Commission may, with the advice and assistance of the Board, adopt such regulations as it deems necessary to carry out the provisions of subsection 2.

Sec. 7. NRS 463.5735 is hereby amended to read as follows:

463.5735 1. Every member and transferee of a member's interest with more than a 5 percent ownership interest in a limited-liability company, and every director and manager of a limited-liability company which holds or applies for a state gaming license, must be licensed individually according to the provisions of this chapter.

2. All members ~~[holding]~~ *seeking to hold* a 5 percent or less ownership interest in a limited-liability company, other than a publicly traded limited-liability company, which hold or apply for a state gaming license, must register in that capacity with the Board and submit to the Board's jurisdiction. Such registration must be made on forms prescribed by the Chair of the Board. The Chair of the Board may require a registrant to apply for licensure at any time in the Chair's discretion. ~~[A person who is required to be registered by this section shall apply for registration within 30 days after the person becomes a member holding a 5 percent or less ownership interest in a limited-liability company.]~~

3. If, in the judgment of the Commission, the public interest will be served by requiring any members with a 5 percent or less ownership interest in a limited-liability company, or any of the limited-liability company's

lenders, holders of evidence of indebtedness, underwriters, key executives, agents or employees to be licensed:

(a) The limited-liability company shall require those persons to apply for a license in accordance with the laws and requirements in effect at the time the Commission requires the licensing; and

(b) Those persons shall apply for a license within 30 days after being requested to do so by the Commission.

4. A publicly traded corporation which is a member of a limited-liability company is not required to be licensed, but shall comply with NRS 463.635 to 463.645, inclusive.

5. No person may become a member or a transferee of a member's interest in a limited-liability company which holds a license until the person secures the required approval of the Commission.

6. A director or manager of a limited-liability company shall apply for a license within 30 days after assuming office.

7. The Commission may, with the advice and assistance of the Board, adopt such regulations as it deems necessary to carry out the provisions of subsection 2.

Sec. 8. NRS 463.670 is hereby amended to read as follows:

463.670 1. The Legislature finds and declares as facts:

(a) That the inspection of *games,* gaming devices, associated equipment, cashless wagering systems, *inter-casino linked systems,* mobile gaming systems and interactive gaming systems is essential to carry out the provisions of this chapter.

(b) That the inspection of *games,* gaming devices, associated equipment, cashless wagering systems, *inter-casino linked systems,* mobile gaming systems and interactive gaming systems is greatly facilitated by the opportunity to inspect components before assembly and to examine the methods of manufacture.

(c) That the interest of this State in the inspection of *games,* gaming devices, associated equipment, cashless wagering systems, *inter-casino linked systems,* mobile gaming systems and interactive gaming systems must be balanced with the interest of this State in maintaining a competitive gaming industry in which games can be efficiently and expeditiously brought to the market.

2. The Commission may, with the advice and assistance of the Board, adopt and implement procedures that preserve and enhance the necessary balance between the regulatory and economic interests of this State which are critical to the vitality of the gaming industry of this State.

3. The Board may inspect every *game or* gaming device which is manufactured, sold or distributed:

(a) For use in this State, before the *game or* gaming device is put into play.

(b) In this State for use outside this State, before the *game or* gaming device is shipped out of this State.

4. The Board may inspect every *game or* gaming device which is offered for play within this State by a state gaming licensee.

5. The Board may inspect all associated equipment, every cashless wagering system, *every inter-casino linked system,* every mobile gaming system and every interactive gaming system which is manufactured, sold or distributed for use in this State before the equipment or system is installed or used by a state gaming licensee and at any time while the state gaming licensee is using the equipment or system.

6. In addition to all other fees and charges imposed by this chapter, the Board may determine, charge and collect an inspection fee from each manufacturer, seller, distributor or independent testing laboratory which must not exceed the actual cost of inspection and investigation.

7. The Commission shall adopt regulations which:

(a) Provide for the registration of independent testing laboratories ~~[,]~~ *and of each person that owns, operates or has significant involvement with an independent testing laboratory,* specify the form of the application required for such registration *, set forth the qualifications required for such registration* and establish the fees required for the application, the investigation of the applicant and the registration of the applicant.

(b) Authorize the Board to utilize independent testing laboratories for the inspection and certification of any *game,* gaming device, associated equipment, cashless wagering system, *inter-casino linked system,* mobile gaming system or interactive gaming system, or any components thereof.

(c) Establish uniform protocols and procedures which the Board and independent testing laboratories must follow during an inspection performed pursuant to subsection 3 or 5, and which independent testing laboratories must follow during the certification of any *game,* gaming device, associated equipment, cashless wagering system, *inter-casino linked system,* mobile gaming system or interactive gaming system, or any components thereof, for use in this State or for shipment from this State.

(d) Allow an application for the registration of an independent testing laboratory to be granted upon the independent testing laboratory's completion of an inspection performed in compliance with the uniform protocols and procedures established pursuant to paragraph (c) and satisfaction of such other requirements that the Board may establish.

(e) Provide the standards and procedures for the revocation of the registration of an independent testing laboratory.

(f) Provide the standards and procedures relating to the filing of an application for a finding of suitability pursuant to this section and the remedies should a person be found unsuitable.

(g) Provide any additional provisions which the Commission deems necessary and appropriate to carry out the provisions of this section and which are consistent with the public policy of this State pursuant to NRS 463.0129.

8. *The Commission shall retain jurisdiction over any person registered pursuant to this section and any regulations adopted pursuant thereto, in all matters relating to a game, gaming device, associated equipment, cashless wagering system, inter-casino linked system, mobile gaming system or interactive gaming system, or any component thereof or modification thereto, even if the person ceases to be registered.*

9. A person registered pursuant to this section 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.

10. The Commission may, upon recommendation of the Board, require the following persons to file an application for a finding of suitability:

(a) A registered independent testing laboratory.

(b) An employee of a registered independent testing laboratory.

(c) An officer, director, partner, principal, manager, member, trustee or direct or beneficial owner of a registered independent testing laboratory or any person that owns or has significant involvement with the activities of a registered independent testing laboratory.

11. If a person fails to submit an application for a finding of suitability within 30 days after a demand by the Commission pursuant to this section, the Commission may make a finding of unsuitability. Upon written request, such period may be extended by the Chair of the Commission, at the Chair's sole and absolute discretion.

12. As used in this section, unless the context otherwise requires, "independent testing laboratory" means a private laboratory that is registered by the ~~[Commission]~~ *Board* to inspect and certify *games,* gaming devices, associated equipment, cashless wagering systems, *inter-casino linked systems,* mobile gaming systems ~~[and]~~ *or* interactive gaming systems, and any components thereof ~~[,]~~ *and modifications thereto,* and to perform such other services as the Board and Commission may request.

Sec. 9. This act becomes effective upon passage and approval.

Senator Segerblom moved that the Senate do not concur in the Assembly Amendment No. 593 to Senate Bill No. 9.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 97, 98, 102, 103, 104, 105, 108, 110, 114, 117, 122, 127, 130, 136, 140, 148, 153, 154, 157, 158, 159, 163, 175, 189, 215, 216, 227, 264, 268, 272, 274, 281; Assembly Bills Nos. 28, 53, 69, 493, 495; Assembly Joint Resolutions Nos. 4, 5, 7.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Chris Edwards.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Frank Perez.

On request of Senator Smith, the privilege of the Floor of the Senate Chamber for this day was extended to the students, teachers and chaperones from Bailey Charter Elementary School; students: Nicole Acebu, Samuel Avalos-Medina, Anthony Bejarano, Alycia Buchanan de Rodriguez, Viridiana Carmona-Palomino, Carlos Castaneda Estrada, Maya Chamberlain, Alondra Cisneros Villa, Justin Cruz-Noguera, Jose Diaz, Chevelle Erspamer, Gerome Garrett, Jr., Jaycee Goins, Llajayra Gomez Diaz, Graciela Herrera, Christian Hernandez Martinez, Iris Josephson, Katie Lawrence, Rickson Lenon, Emily Linebeck, Skyler Lujan, Collin Manser, Elizabeth Marquez, Makayla Martin, Xzorion Morgan, Michael Neve, Nickolas Provencio, Armando Ramirez, Jacob Rodriguez Gutierrez, Citlaly Ruiz Ruvalcaba Mauryha Saldana, Rachelle Solorzano Plascencia, Keyonni Wasington and Nora Williams-Pavlatos; teachers: Lindsey Angus, Elizabeth Hoops and Joann Wood; chaperones: Alondra Cisneros, Amie Erspamer, Kaci Lujan, Samantha Manser, Deloras McKay, Cecilia Medina, Jessica Middleton, Michael Rodriguez, Thya Slusher, Lekeya Washington and Justin Williams; and also, to the students and chaperones from Legacy Christian School; students: Daniel Cline, Derek Cooley, Logan Fulton, Logan Lorentzen, Anjelica Myers, William Ryan, Eric Stutzman, Madelynn Uhrik and Lauren Vanderslice; chaperones: Joleen Cline, Cyndi Cooley, Jeff Myers and Lisa Stone.

Senator Denis moved that the Senate adjourn until Wednesday, May 22, 2013, at 11:00 a.m.

Motion carried.

Senate adjourned at 10:12 p.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate