

THE ONE HUNDRED AND TWENTIETH DAY

CARSON CITY (Monday), June 3, 2013

Senate called to order at 9:56 a.m.

President Krolicki presiding.

Roll called.

All present except for Senator Woodhouse, who was excused.

Prayer by the Chaplain Laureate, Pastor Albert Tilstra.

Father of Lights, You are light and in You there is no darkness. Your word is a lamp unto our feet and a light unto our path. I beseech You therefore, to enable these servants of Yours to see clearly the issues set before them today. Grant them the wisdom and the courage necessary to make good decisions in the best interest of all the citizens of the great State of Nevada.

I pray in the Name of the One whose light still shines brightly.

AMEN.

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.

REMARKS FROM THE FLOOR

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

SENATOR DENIS:

Thank you, Mr. President. We have a young man here who has been serving us in the Nevada Senate and Assembly for more than 25 years, Pastor Al Tilstra. We have put together a special proclamation for Pastor Al. I would like to read this into the record, it being a special occasion:

“Whereas, The Nevada Legislature is comprised of members who come from many faith backgrounds, representing constituents of the diverse religious community of Nevada; and

Whereas, The Legislature is dependent on—and grateful for—the spiritual guidance of the many chaplains who freely give of their time to offer the daily invocations that begin each Session of the Senate and Assembly; and

Whereas, Pastor Albert Tilstra has served as a chaplain at the Nevada Legislature for nearly 25 years, since April 10, 1989, and as clergy coordinator for the past five Legislative Sessions, fulfilling the crucial need to have coordination of chaplains for both the Senate and Assembly; and

Whereas, Pastor Tilstra has performed this role in an extraordinary manner, offering prayers that are both thoughtful and timely, grounded in an unshakable faith; now, therefore, be it proclaimed, By the Legislature of the State of Nevada that Albert Tilstra is hereby conferred the title of Chaplain Laureate of the Nevada Legislature, with the profound appreciation of its members.”

MR. PRESIDENT:

Chaplain Laureate—that is a great term. I believe it was selected because you are not retired; laureate means you still have to do stuff.

SENATOR CEGAVSKE:

Thank you, Mr. President. I would like to address Pastor Al. He has actually been here longer than I have, and he will continue to be here longer than me. Al, thank you so much for your words of wisdom, for your faith and for your friendship. You have been stellar for me. I want to

thank you for your devotion, for the hours you sit and wait for us to arrive. I want to thank you for attending the Bible studies that we do on Tuesdays, and for the many different things we have done over the years in both Houses. It has been my absolute pleasure to know you. I am so proud to call you my friend. May God bless you in all you do. Thank you for serving us in this great State.

MR. PRESIDENT:

What you all do not get to enjoy most mornings is his play-by-play commentary on this Chamber. I have a special seat listening to the wisdom as professed by our Chaplain Laureate. Al, thank you. It is so incredibly well deserved. Congratulations.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 505, 507, 511, 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. 46, 138, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RUBEN J. KIHUEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 2, 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. 56, 390, 395, 452, 464, 465, 481, 490, 502, 515, 518.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 512.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 407, Amendment No. 948; Senate Bill No. 467, Amendment No. 900; Senate Joint Resolution No. 8, Amendment No. 911, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 38, 239, 360, 367.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 12.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 874 to Assembly Bill No. 24; Senate Amendment No. 932 to Assembly Bill No. 145; Senate Amendment No. 934 to Assembly Bill No. 153; Senate Amendment No. 928 to Assembly Bill No. 226.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 916 to Assembly Bill No. 139.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Healey, Carrillo and Ellison as a Conference Committee concerning Assembly Bill No. 379.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 38.

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

Motion carried.

Assembly Bill No. 239.

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

Motion carried.

Assembly Bill No. 360.

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

Motion carried.

Assembly Bill No. 367.

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

Motion carried.

Assembly Bill No. 512.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 322.

Bill read third time.

Remarks by Senator Manendo.

Thank you, Mr. President. Senate Bill No. 322 revises the membership of the Department of Transportation's Board of Directors by removing the Attorney General from the board and increasing the number of appointed members from three to four.

The bill was introduced with the purpose of updating the governance of the State Board of Transportation. The original intent was to have representation on the Board of Transportation reflected in the State's population with one voice or member of the Board for every 250,000 people using the model of the Board of Regents with districts reflective of the population. Today's Nevada population is 2,759,000. Southern Nevada's population is 2,250,000. The Transportation Board is responsible for directing the Nevada Department of Transportation and recommending transportation projects, many of which are funded with federal dollars based on population formulas. Those dollars are usually distributed to projects within our State based on population formulas.

Our current Board of Transportation design was implemented in 1957. We have not changed the Board since then. The Governor chairs the Board, and we appreciate our Lieutenant Governor's service as well. Let us go back to 1957. All cars were made in America. Sinatra was the King. The Las Vegas Strip was in its infancy. The Tropicana Hotel opens. The University of Nevada, Las Vegas, holds its first class. Nevada's population is approximately 285,000 people, and southern Nevada's population was about 127,000 people.

Senate Bill No. 322 as adopted by the Senate Committee on Finance reflects the population of 1970, with one additional voice for southern Nevada. We moved from 1957 to 1970—43 years ago when Nixon was president, the Watergate break-in had not yet occurred. Elvis was the King. The Las Vegas Hilton opened. Howard Hughes leaves Las Vegas after becoming Nevada's largest private employer, largest casino owner and largest private property owner. Nevada's population was 488,000 people. Southern Nevada had a population of 304,000 people.

Southern Nevada would like more of a voice in transportation issues and projects. Federal funding of transportation is allocated to states based on a population formula. It is not too much to ask that those funds be distributed along the federal formula just as most other states

reallocate those dollars within their borders. We do appreciate southern Nevada getting an additional voice on the Board. It is an important piece of legislation for our State.

Roll call on Senate Bill No. 322:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Senate Bill No. 322 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 357.

Bill read third time.

Remarks by Senators Roberson and Atkinson.

SENATOR ROBERSON:

Thank you, Mr. President. Senate Bill No. 357 enacts the Nevada New Markets Job Act. The measure allows certain business entities to receive a credit against the premium tax imposed on insurance companies in exchange for investing in a qualified community development entity, particularly those that are local and minority-owned. The bill also requires certified-development entities to make qualified low-income community investments in businesses located in severely distressed census tracts.

Senate Bill No. 357 sets forth the application procedures, as well as the requirements the Department of Business and Industry must follow when determining whether to approve or disapprove an application. The measure provides for the recapture of tax credits under the provisions of the bill if certain conditions are met, as well as providing for an exception from recapture. The bill also requires the Director of the Department of Business and Industry to review the qualified community-development entities annually and report to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, concerning the impact of the program on the economy and the compliance of the qualified community-development entities with the provisions of this bill. Further, the bill sets forth the amount of the performance fee that a qualified community-development entity must include with an application made to the department and procedure for obtaining a refund of such a fee. The bill becomes effective on October 1, 2013, for starting the program, and upon passage and approval for passing regulations and administrative preparatory tasks. I encourage my colleagues to support Senate Bill No. 357.

SENATOR ATKINSON:

Thank you, Mr. President. I joined my colleague in sponsoring Senate Bill No. 357. I would like to thank him for his willingness to put me on as a co-sponsor, especially given he did all of the work. In listening to this bill in Committee, it became evident to me this is a piece of legislation that would not only be great for the Minority Leader's district and good legislation, but I think it is also good for the State including the folks I represent. I extend my thanks to him for inviting me to participate. I encourage my colleagues to support this bill.

Roll call on Senate Bill No. 357:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Senate Bill No. 357 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 475.

Bill read third time.

Remarks by Senator Roberson, Settelmeyer, Smith, Goicoechea and Hutchison.

SENATOR ROBERSON:

Thank you, Mr. President. Senate Bill No. 475 revises the Modified Business Tax on Nonfinancial Institutions by increasing the level of taxable wages that are exempt from the tax per quarter, from \$62,500 to \$85,000 through June 30, 2015. Effective July 1, 2015, the Modified Business Tax on Nonfinancial Institutions will revert to a flat rate of 0.63 percent on all taxable wages.

The bill continues the advanced payment of the tax on the net proceeds of minerals and royalties for two years by extending the expiration date from June 30, 2013, to June 30, 2015, and also extends the expiration date for two years for which certain expenses are not allowed as deductions against gross proceeds. The bill also continues the \$200 Business License Fee by continuing the \$100 increase for two years by extending the expiration date from June 30, 2013, to June 30, 2015. Finally, the bill continues the 2.6 percent sales tax rate by continuing the 0.35 percent increase in the Local School Support Tax for two years by extending the expiration date from June 30, 2013, to June 30, 2015. This act becomes effective upon passage and approval. Section 1 of this act expires by limitation on June 30, 2015.

SENATOR SETTELMAYER:

Thank you, Mr. President. I rise with grave concerns on Senate Bill No. 475. I can agree with some of the things my colleague said such as raising the exemption level for the Modified Business Tax. However, I object to the concept of the sunsets because, once again, we are extending them when they are supposed to sunset. Businesses need predictability.

I see we are continuing to double the Business License Fee. I have many small businesses in my district that have decided not to conduct their small businesses on the side—businesses that were providing income. I am not so sure how a prepayment on mines will work going forward, especially if the citizens of the State of Nevada decide to weigh in on a certain matter we passed earlier. An issue I hear about regularly, when I go door to door, is the Basic Government Service Tax. When I look at my trailer, the registration fee for the trailer is \$44. Yet, my government service tax on that trailer is \$187. The Rainy Day Fund—if this State has a small hiccup and something goes wrong, what are we going to do? The reality is we will be right back here for a not-so-special Special Session. With these concerns, I cannot go forward lightly and vote for extending these sunsets. If we decide as a Body we need more money, we need to come back and on Day 1 of the next Legislative Session and discuss that in order to create some kind of certainty and predictability for the citizens and the businesses of this State.

SENATOR SMITH:

Thank you, Mr. President. I rise in reluctant support of Senate Bill No. 475 for a different reason than my colleague from Senate District No. 17. I am concerned about some of the instability as well. I think it would have been prudent for us to make the Business License Fee increase permanent, for example. It has been in place for a few years as a \$200 fee.

I have greater concern about lowering the Modified Business Tax that is a cost to the budget of a little more than \$25 million over the Biennium. That benefit goes to businesses of all sizes, big and the largest benefit in addition to small businesses. At a time when we are sweeping the Rainy Day Fund, at a time when we are taking \$150 million from the Highway Fund, we could have well used that money for some jobs. That money is better used in the Highway Fund where it can be bonded rather than using it dollar-for-dollar in the General Fund.

This is a team sport here and, as a team player, I need to support this bill so that our budget is balanced. We have done some good things in the budget, and I am happy about that. I support Senate Bill No. 475, and I look forward to doing better next time.

SENATOR GOICOECHEA:

Thank you, Mr. President. I rise in support of Senate Bill No. 475. It is the only way we can balance a good budget sent to us from the Governor. In it, there is a tax decrease for some of our small businesses which they clearly need. We are climbing out of the hole. We have to be careful that we do not hiccup. I am supportive of the bill and the Governor's budget. I urge my colleagues to support it as well.

SENATOR HUTCHISON:

Thank you, Mr. President. I rise in support of Senate Bill No. 475. I look forward to the day that we will no longer have to tax payroll in order to fund government. I think most who seriously consider tax policy, believe that a payroll tax is a mistake. As we are trying to grow our State economy and trying to be as pro-business and as pro-growth as we reasonably can be, I agree with the Governor that we ought to be focused on economic growth opportunities to grow our way out of some of these fiscal challenges that we have faced during the last several years.

I am the one who signs the check to cover payroll taxes every quarter in my own business. I believe the payroll tax does impede business growth and it does impede and hinder job creation. We need to find ways to accomplish real tax reform. I am not here to give you all the answers, but there have been some in this Body who have suggested that mining tax reform can be a big part of the answer in the future. I hope that subject is on the table in the future. I hope the margins tax that will be on the ballot in 2014 will not be successful. Far more than the payroll tax, it will be a disaster for businesses. We need to consider all other approaches. That is why I have supported a strong evaluation of mining-tax reform throughout this Legislative Session. It will help us solve some of the challenges the State has faced financially.

I will be supporting Senate Bill No. 475. As my colleague from rural Nevada has indicated, it is necessary for us to close out the budget. I ran as a candidate in support of this concept when asked during the course of the campaign, and I am committed to the Governor's budget and his plan to fund that budget.

Roll call on Senate Bill No. 475:

YEAS—17.

NAYS—Cegavske, Gustavson, Settlemeyer —3.

EXCUSED—Woodhouse.

Senate Bill No. 475 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 46.

Bill read third time.

Remarks by Senators Kihuen, Smith, Gustavson, Hutchison, Goicoechea, Spearman, Settlemeyer, Kieckhefer, Hardy, Denis, Cegavske, Roberson and Brower.

SENATOR KIHUEN:

Thank you, Mr. President. Assembly Bill No. 46 authorizes the Board of County Commissioners in a county whose population is 100,000 or more but less than 700,000, to impose an additional sales and use tax rate of one-quarter percent for deposit in the school district's fund for capital projects. The bill also authorizes the Board of County Commissioners to impose an additional property tax rate of 5 cents per \$100 of assessed value for deposit to this fund. The imposition of the additional sales and use tax rate or the additional property tax rate requires approval by a two-thirds majority of the members of the board and must occur on or before January 1, 2014.

The property tax rate is exempt from the provisions of Section 453 of Chapter 361 of *Nevada Revised Statutes*, which limits the total combined property tax rate in any district to

\$3.64 per \$100 of assessed value. The property tax rate is also not subject to the partial abatements that were approved by the Legislature pursuant to Assembly Bill 489 of the 2005 Session. This act becomes effective upon passage and approval.

SENATOR SMITH:

Thank you, Mr. President. I rise in support of Assembly Bill No. 46. This is not my preference for the way this bill would look. I am concerned about this being enabling only. My preference was it be a stronger bill that would truly assure something for the schools in Washoe County. The lack of designated funding in Washoe County for school maintenance and repair, as Clark County has, is so detrimental. With the recession and the decline in property values, there is no money left for the Washoe County School District to do anything about our schools. Over half of our schools are in a serious aging position. We have schools 50- and 60- years old. We cannot have the current technology in schools of that age. We cannot have the type of facility that kids are going to school in across town with no funding.

In 1997, this Legislative Body gave the Clark County School District two funding streams dedicated to school maintenance and repair that the Washoe County School District never had access to. Over the years, while one school district has been able to earn tens of millions, if not hundreds of millions, of dollars for school repair, Washoe County has fallen further behind.

Assembly Bill No. 46 is not the perfect bill, but it does give us an opportunity to go to the Board of County Commissioners and make the case of how desperately the Washoe County School District needs this funding source. I urge you to truly think about the need for the taxpayers to be able to keep up the buildings that the taxpayers own. It is an important part of this—every month that goes by when a school is not being maintained means we are shirking our duties. We cannot fix the roofs, the parking lots or the windows.

Beyond that, we have safety issues for these children. We owe this to the children in this school district. We should not be giving them facilities that are not equitable because they are nowhere near the newer schools. The schools need to be improved. They need to be kept up in a better fashion with technology, with windows you can see through, with doors that can be locked for security purposes. We have a lot of security issues in today's world, and we need to make sure these schools are safe. I do not want security issues on my watch, and I would hope you do not want them on yours either. I encourage your support, and if you have the opportunity and this bill passes, please encourage the Washoe County Commission to do something for their schools.

SENATOR GUSTAVSON:

Thank you, Mr. President. I have visited schools in Washoe County, and I know there is a major need out there we need to take care of. As I understand Assembly Bill No. 46, the Legislature is creating a mechanism to allow a school district in one county to lend their permission to their local county commissioners to raise taxes on all of the citizens. Doing it this way gives Legislators an out by saying to the voters later, "We did not raise your taxes." So crafty is this idea, that it does not even require two-thirds majority vote in the Legislature to approve the scheme. Thus begins the slippery slope that allows a procedure to take root in all the counties. Such a clever idea is described by some as thinking outside the box. Many of you pat each other on the back and declare, "Victory due to bipartisan support."

Ever since I have been a Legislator, I have watched repeatedly as record-breaking taxes were raised on our citizens. Every Session, we return to the tune that it is still not enough. I keep hearing that tax increases are the only options, but I disagree. I ask where is all of the bipartisan support for prevailing-wage reform? Little has been done to get needed reforms that so many spoke about earlier on prevailing-wage costs. We could easily expand the construction and maintenance of public projects if we were to bring a prevailing-wage structure closer to what we experience in the private sector. There was a study done on prevailing-wage costs in Washoe County. The study matched prevailing-wage rates against comparable occupations and discovered that the inflated cost in wages alone amounted to a 44 percent increase. If we could see reforms in this area, the school districts would be better able to complete more projects and provide for better job sustainability. Instead, the only option seems to be to ask more and more from the same people who are still unemployed and who still have their own roofs to replace and houses to repair.

The economy is still bad. This tax increase will hit everyone, and no sunset is being offered, not that the sunsets would make much difference at this point anyway. The property tax limit in Washoe County is already over the cap. When is a cap really a cap? When is a sunset really a sunset? Is it any wonder why so many distrust politicians? It is this type of policy implementation that causes a citizenry to be suspicious of their Legislators. This is a local issue. Let the local voters decide. For us to skirt our duties, and circumvent our *Nevada Constitution* by discovering a new scheme to allow taxes to be raised without allowing the voice of the people is poor policy that will soon bleed into the other counties. Assembly Bill No. 46 is a bad piece of legislation. I ask your no vote on this bill.

SENATOR HUTCHISON:

Thank you, Mr. President. I appreciate the opportunity to address the merits of Assembly Bill No. 46. I am in support of the bill. I want to address the objections I have received through communications—I have had some in support, but others are strongly opposed to this measure.

The first issue raised by some is that the Legislature is raising taxes, and that this Body should not raise taxes. If we were raising taxes, the President of the Senate would tell us this is a two-thirds vote. But, it is not a two-thirds vote. This is enabling legislation. The Legislature is not raising taxes on anyone. What we are saying is that this is a local issue, let us let a local elected body make a decision on this local issue. We are not raising taxes. We are allowing and enabling a local body to do that if, in fact, they decide that is what they wish to do.

Another point that has been raised in opposition is that somehow this bill circumvents the two-thirds' vote obligation of the Legislature. It does not. By the express terms of this legislation, two-thirds of the Washoe County Commission would have to approve any tax increase, I am told that means four-fifths of that body.

Beyond that, I want to address a larger principle, and that is the idea that somehow allowing local legislative bodies to make a decision about tax policy is an abrogation of our responsibility, or it is unprincipled or imprudent. I embrace the Jeffersonian principle expressed by him and others that government closest to the people governs best. It is a principle that I believe many of my colleagues have embraced in other situations. For some reason, now, we are told not to trust the local elected body, in this instance, the county commissioners who are directly accountable to the voters to make the decision. This is a representative form of government that we have here in this State. Unless you are going to legislate through the initiative process, the representatives of the people represent the people. If they do not like it, they vote their representatives out of office. If Washoe County voters decide the schools ought to crumble and fall apart, they will pay the price for that decision. Or, they will vote out the county commissioners who do not vote for the tax increases to address deteriorating schools.

With people as persuasive as my colleague from Senate District No. 13, advocates can stand up in front of the county commission and do what she did here, today, as can other like-minded people. If those county commissioners continue to reject their pleas for increased revenues, then Washoe County will get exactly what they asked for. If Washoe County voters want more revenue, then they can vote out of office those representatives. That is representative government.

I do not have a lot of patience with the idea that at the State level we must stop any enabling legislation dealing with taxes. Why don't we enable the local elected officials to do their jobs, and to respond to local needs? That is the best thing we can do. That is Jeffersonian. Those are conservative principles. Those are Republican and Democratic principles. I urge this Body to embrace those principles. It is good government. Assembly Bill No. 46 embraces good government, and I will be supporting it.

SENATOR GOICOECHEA:

Thank you, Mr. President. That was a forceful statement by my colleague from southern Nevada. There is no doubt a need in Washoe County. As a former county commissioner, I do appreciate the enabling language in Assembly Bill No. 46. My big concern is that we are exceeding the property-tax cap in that enabling language. I would have preferred the bill language did require a ballot question. Let the voters approve it before we exceed the property-tax cap.

SENATOR SPEARMAN:

Thank you, Mr. President. I rise in support of Assembly Bill No. 46. I agree with my colleague from Sparks. In a perfect world, we probably would not have to do this. I have sat in the seat of school board president before, and I know how heart-wrenching it is to see things that need to be done for the students and you do not have the money to do it. In a perfect world we would pass a budget that would take care of all of this. In a perfect world, everyone that does business in Nevada would invest in Nevada. We are not in a perfect world.

We expect our students to compete in a 21st century global economy and global workforce, yet we saddle them with materials and facilities that have not yet made it into the 19th century. As a former school board member, I strongly urge my colleagues to support this legislation. It is necessary.

SENATOR SETTELMAYER:

Thank you, Mr. President. I agree with many of the things that have been said here today. One of the concerns I have was expressed by our colleague from Eureka. This should go to a vote of the people. In my district, as you well know, constituents are against the idea of raising taxes in general.

I helped out with a school bond just recently, I stuck my neck out a little bit because I agreed with the principles of it, and the citizens of our county voted for the additional funding. In Douglas County, we exceeded the property tax by a vote of the people for fire protection in the Tahoe Basin. It is possible to go to a vote of the people.

My real concern is, as my predecessor Lynn Hettrick indicated to me, the concept of a “cap” was to help diffuse a revolt from the people coming with a “Prop 13”-type system. I am afraid we may start to spark that interest again. That is why I am opposed to Assembly Bill No. 46.

SENATOR KIECKHEFER:

Thank you, Mr. President. I do not think I can more eloquently state some of the governmental principles than did my colleague from Senate District No. 6. Assembly Bill No. 46 has gone through a long process in coming to this Body. I have not been shy about saying I preferred the original version of this bill, and I would have supported this as a direct increase in taxes in Washoe County as my colleague from Senate District No. 13 stated. I made that commitment early, and I have not shied away from that. But, this is the bill we have before us now. I am still proud to support it. This is something the schools in Washoe County need. The students and their families deserve this. They also deserve an opportunity to keep this process moving.

I want to stand on this Floor and say thank you to all who have been involved in the process over the past Interim, starting with the Washoe County School District, who is actively engaged, and the business community, who stepped up to advocate for a tax increase in their county in a way that I have never seen before. We had the Chamber of Commerce in support of it, along with realtors’ associations. Support was countywide including Incline Village, knowing that it was a property tax increase. The Economic Development Authority of Western Nevada was in support. A wide range of business groups came out in support: the Northern Nevada Builders’ Association, Association of General Contractors. They all recognized it as a community need, and the business community was ready to stand up and advocate for a tax increase. The parents were too: Parent Teachers Associations, Parent Leaders for Education, individual parents who reached out to us during the course of the Interim advocating for this as a way to address a need in our county.

This has been a community effort. I am glad the community is going to have an opportunity to move forward and continue to press the case. I encourage all of my colleagues to support this bill because I believe the majority of the community does.

SENATOR HARDY:

Thank you, Mr. President. I rise in support of Assembly Bill No. 46. I graduated from Sparks High School more than 45 years ago. When we look at the property-tax cap, we are the only Body that can change that. We have to give the incremental opportunity for home rule to the locals, allowing them to feel the responsibility and take on the accountability. This is one of the ways we incrementally allow them to do that. We can talk about special wages and special

capital improvements, but the bottom line is we have an economy that has not been flourishing in northern Nevada for some time. It would be wise to allow the children that go to Sparks High School to have some better accommodations. There are not that many schools in Clark County that are as old as me. I support the bill as something we can give to the local community to do home rule. It will give them the accountability they need and for our children to have better places to be educated.

SENATOR DENIS:

Thank you, Mr. President. I agree with many of the comments that have been stated this morning on Assembly Bill No. 46. I talk a lot about education and the things we do to help our kids. This is a commonsense way of being able to help school kids. As was mentioned before, in Clark County we have the opportunity to do some of these things. Many of the schools in my district have been able to get the repairs they need. I have been to schools in Washoe County. They need help. This is one way that has been put forth to do that. It gives the local folks an opportunity to weigh in on whether they think so too. I will be supporting this.

SENATOR CEGAVSKE:

Thank you, Mr. President. I rise in opposition to Assembly Bill No. 46. I want to talk about Clark County since that was brought up. I remember the first bond issue in the 1980s. My husband was asked to be a part of that. It was defeated by the people. The last one we did in 2000 was also defeated by the people. The voters had the choice to say "yes" or "no." The bond measures that passed did so during good times, when we had money and people felt comfortable and secure. Right now, my constituents do not feel comfortable and secure. That is why I have asked for other legislation that would ensure a vote of the people. The people need to be the ones to say "yes" or "no."

Emails I have received from people in the north ask to let the people make the decision. They want to be the ones to tell everyone what they want and what they do not want. I thank everyone who is working hard on this. I understand the dilemma, but it is also called planning. Clark County did get some bonds approved. They are still struggling, but part of that has to do with costs: the cost of materials, the cost of labor. We have done nothing to address the latter. It was something I wish we would have addressed through legislation this Session, but we have not. It affects what goes on and how the money is spent—we would have a lot more money to go around. However, this Body has not seen fit to do that. It hampers what we are doing for the schools.

SENATOR ROBERSON:

Thank you, Mr. President. I would like to point out to anyone in this room who may not be aware, the amount of this tax on the average family in Washoe County is \$8 per month. That is what we are talking about. I support the local government making a local-government decision. They can determine if better schools—schools that are not falling down—is worth \$8 per month. I stand in support of Assembly Bill No. 46.

SENATOR SMITH:

Thank you, Mr. President. I wanted to make the point that the Minority Leader just made, so I thank him for doing so. I want to respond to the idea that the Legislature should not be sending this to the Washoe County Commission. If I thought we could have the votes out of this Body to do what has been done for at least one other county, I would do that in a heartbeat. We have tried most every Session since I have been here to get some parity in that regard, and we have never been successful.

We had an interim committee after the 2005 Legislative Session that former Senator Townsend and former Assemblywoman Gansert served on with me. We came back with a recommendation that failed. We have tried every Session to enable this school district to be able to have a revenue stream to take care of their schools, and we have not had any luck. Now, we come here and we end up with a bill that simply enables the Washoe County Commission—with a super majority vote—to make a decision to help our schools. We are told there is something sneaky and nefarious about that—I resent that. This has been out in the open. It has been worked on for two years with many public meetings and opportunities to engage. As my colleague from

Washoe County stated, there is unprecedented support in Washoe County with business and community leaders and organizations. This is a local problem with a local solution. I appreciate the debate this morning. I urge your support.

SENATOR BROWER:

Thank you, Mr. President. I have sat here and listened to the various points made. I appreciate everyone's point of view. Let me offer a few of my thoughts.

First, with respect to the idea that this should go to a vote of the people, I appreciate that. If the Washoe County Board of County Commission wants to do that, they will figure out a way. Let us be honest about this. If every single decision to be made on behalf of the public was to go to a vote of the people, why have a Legislature and why have a county commission? Why have a school board? Welcome to representative democracy. We are all elected to make decisions, sometimes difficult ones. The same is true of our Washoe County Commission.

Ladies and gentlemen, we have a problem with respect to a lack of funding for capital improvement projects in Washoe County. If you agree there is a problem, this ought to be easy to vote for. I will say it again, all this bill does is enable the County Commission in Washoe County to solve the problem, if they believe there is one, in the way they see fit. That is all it does.

If you believe in representative democracy, you have to love Assembly Bill No. 46. If you do not believe there is a problem with our schools and the capital funding of our schools in Washoe County, I would submit you have not toured the schools in your district. Go look at the schools. Do not do a drive-by. Do not go to the nicest school in the most affluent part of your district. Have a nice meet-and-greet with the principal. Visit a class, and read a story to the kids. Look at the school. Go behind the scenes. Talk to the people at the school district who are responsible for the boilers and the heating, ventilation and air conditioning systems. Talk to the people who are responsible for the roofs that are leaking—like at Sparks High School. There is a problem, and there is no money to fix the problem.

All this bill would do is allow the County Commission to make a decision on how best to fix the problem. Because without statutory authority, the County Commission cannot do anything nor can the Washoe County School District do anything. The property-tax cap we are talking about, that is our cap—we, the Legislature, imposed that cap. It is an artificial number we picked at some point in time. We can change it, and if we do not change it, nothing can be done and the problem cannot be solved. It is a local problem.

I agree with the Assistant Minority Leader on the overall goal here—we might disagree a bit on how to get there. I do not think this Body should mandate that one county raise taxes. Think about that—mandate. Thou shall raise the property tax. Thou shall raise the sales tax. How does that make sense? What makes sense is this Body, because only this Body can do it, enable that one county to do what it thinks is best.

Again, a decision made at the local level by, remember this, elected officials, local representatives of the citizens of Washoe County. If the citizens of Washoe County do not want to raise these taxes, Washoe County Commissioners will hear about it. It ought to be their decision.

Sixty percent of the schools in Washoe County are older than 30 years. Twenty-five percent are more than 50-years old. There is a need. The County Commission ought to be able to evaluate that need, they ought to be able to have the flexibility to deal with it in the way it determines is best. Without this bill, it cannot do anything. I urge your support.

Roll call on Assembly Bill No. 46:

YEAS—16.

NAYS—Cegavske, Goicoechea, Gustavson, Settelmeyer—4.

EXCUSED—Woodhouse.

Assembly Bill No. 46 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 138.

Bill read third time.

Remarks by Senator Kihuen.

Thank you, Mr. President. Assembly Bill No. 138 allows a new or expanded business that makes a capital investment in an institution within the Nevada System of Higher Education to receive a partial abatement of taxes on personal property.

Roll call on Assembly Bill No. 138:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 138 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 338.

Bill read third time.

Remarks by Senator Ford.

Thank you, Mr. President. Assembly Bill No. 338 requires a law enforcement officer or a prosecuting attorney to make a preliminary assessment of a person, who reasonably appears to be a victim of human trafficking, to determine whether the person may be eligible for State or federal compensation or assistance. If the victim appears to be eligible, the bill requires the officer or attorney to notify the victim regarding any assistance, compensation or services that may be available and how to apply.

Assembly Bill No. 338 also requires an owner or operator of an establishment, who has been cited for maintaining a public nuisance relating to prostitution, and the owner or operator of a mass transit facility to post at least one sign in a conspicuous location with resource information related to human trafficking. The sign must include the toll-free telephone number of the National Human Trafficking Resource Center for access to help, referral to services and other information. The Department of Transportation and the Department of Business and Industry must also post the sign on their Internet websites. Finally, the measure requires the Department of Health and Human Services to develop a statewide plan for the delivery of services to victims of human trafficking and requires the Department of Education to develop resource materials for distribution to school districts, school personnel, students and parents. This measure is effective on October 1, 2013.

Roll call on Assembly Bill No. 338:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 338 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 423.

Bill read third time.

Remarks by Senator Brower.

Thank you, Mr. President. Assembly Bill No. 423 addresses the issue of presentence investigation reports in criminal cases. It creates a rule for the submission of such reports by parole and probation to the court and to defense counsel. For the period beginning October 1, 2013, and ending February 28, 2014, the disclosure must take place at least seven working days before sentencing. For the period beginning March 1, 2014, and ending

September 30, 2014, the disclosure must take place at least 14 working days before sentencing. And after October 1, 2014, the disclosure must take place at least 21 working days before sentencing. This matter was the subject of much debate, discussion and hard work throughout the Interim. I want to thank, in particular, Clark County Public Defender Phil Cohen for leading the charge on this. This is a reasonable solution to what many of us perceive to be a fundamental fairness problem with respect to sentencing in the criminal context. I urge your support.

Roll call on Assembly Bill No. 423:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 423 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 424.

Bill read third time.

Remarks by Senator Roberson.

Thank you, Mr. President. Assembly Bill No. 424 authorizes the State Fire Marshal or the State Board of Fire Services to issue an administrative citation to a person who has committed a violation of State fire regulations. The citation would order the offender to correct the violation, pay an administrative fine, and reimburse the State Fire Marshal or State Board of Fire Services for the expense incurred to investigate the violation. The citation must specify the time permitted for correcting the violation to be not less than 15 business days. The bill also requires the State Board of Fire Services to establish by regulation a schedule of fines not to exceed \$50,000, based on the severity and frequency of the violation. A written citation may be contested within 15 business days; if the citation is not contested within that time, then the citation shall be deemed final and not subject to review by any court or agency. The bill becomes effective upon passage and approval for adopting regulations and on January 1, 2014, for all other purposes.

Roll call on Assembly Bill No. 424:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 424 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 472.

Bill read third time.

Remarks by Senator Roberson.

Thank you, Mr. President. Assembly Bill No. 472 increases the maximum fee for the Program for Education of Motorcycle Riders, administered by the Department of Public Safety, from \$100 to \$150. The existing maximum program fee of \$100 was established by the 1991 Legislature. The bill enacts revenue enhancements included in the Executive Budget and becomes effective July 1, 2013.

Roll call on Assembly Bill No. 472:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 472 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 11:11 a.m.

SENATE IN SESSION

At 1:28 p.m.

President pro Tempore Parks presiding.

Quorum present.

Senator Smith moved that Assembly Bill No. 7 be taken from the Secretary's Desk and be re-referred to the Committee on Finance.

Motion carried.

Senator Denis moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 1:30 p.m.

SENATE IN SESSION

At 5:20 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was re-referred Senate Bill No. 501, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was referred Assembly Bill No. 260, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 509, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PAT SPEARMAN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 3, 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. 21, 328, 479, 516, 521, 522.

Also, I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 221.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 3, Amendment No. 950; Senate Bill No. 374, Amendment No. 961, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 273.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 676 to Assembly Bill No. 496.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that the action whereby Assembly Amendment No. 697 to Senate Bill No. 508 was concurred in be rescinded.

Motion carried.

REMARKS FROM THE FLOOR

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

SENATOR KIECKHEFER:

Thank you, Mr. President. Today marks the final day of the distinguished service of a couple of key individuals in this Body. One of them is sitting three people to my left and the other is standing up at the rostrum. I like to call him Mr. President. But, I would like to talk a little about Senator Barbara Cegavske. This being her final day in service here in the State Senate, we wanted to do a small tribute to talk about her tremendous accomplishments.

It is my honor to say a few words honoring my colleague and friend, Senator Barbara K. Cegavske. As you all know, the *Nevada Constitution* limits the terms of members of the Senate and Assembly to no more than 12 years in each House and, as such, this Session will be the last regular Session in which Barbara can serve in this House. Upon the completion of her current term in office, in November of 2014, Barbara will have served in the Nevada Legislature for 18 years, 12 years here in the Senate and 6 more over in the Assembly. She served with great energy and will be remembered for excellent legislative skills, commitment to good public policy and compassion for those less fortunate than her, as we all well know. Like most of us serving in the Nevada Legislature, Barbara is originally from out of state. She is from Minnesota, a good Midwest girl. She graduated from Mayo High School in Rochester, Minnesota; she relocated to Las Vegas nearly 40 years ago and married her husband Tim in 1980. Together they have raised two sons, Adam and Bret, both of whom attended public schools and graduated from Nevada universities. I think we have all met them.

As a small business owner and a parent in 1996, Barbara ran for a seat in the Nevada Assembly because she believed Nevada's small businesses and public education needed a strong advocate in the Legislature and she has been that. As a State Legislator, priority issues for Barbara have included creating new jobs, limiting tax burdens on individuals and businesses, improving public education as well as reducing health care costs. Barbara has held a number of leadership positions during her tenure in the Legislature including Assembly Assistant Minority Whip in 1997, Assembly Co-Assistant Minority Floor Leader in 1999, Assembly Assistant Minority Floor Leader in 2001, Senate Minority Whip in 2009, and Senate Assistant Minority Floor Leader in 2011. I would also note that during her 9 regular Sessions and 10 Special Sessions, 19 Sessions, Barbara ably served on a number of standing committees including the Assembly Committees on Education, Transportation and Ways and Means and the Senate Committee on Legislative Operations and Elections for all six regular Sessions, chairing that Committee in 2005 and 2007 and also the Senate Committees on Finance for four Sessions, Human Resources for four Sessions, Education for six Sessions and Energy, Infrastructure and Transportation for one.

Among her many measures, Barbara was the primary sponsor of successful legislation concerning the protection of children, which we know she feels passionately about,

technological crimes, the designation of Primary Stroke Centers, people with disabilities, screening tests performed by pharmacists, school district budgets and school choice for children in foster care. As we all know, the responsibilities of a State Legislator do not end when Session is over. In addition to her interim study and committee assignments, the people we represent need to know what we accomplish each Session. They often need us to provide information and advice on issues that affect their daily lives and, along those lines, Barbara has always valued the suggestions, ideas and requests for assistance she received from residents of Nevada and, in particular, residents of her legislative district. She deserves nothing but praise for her reputation as a responsive Legislator and someone who truly does pay attention to her constituents.

As I said, before the end of her current term in office, Barbara will have served in the Legislature for 18 years which is a significant accomplishment, to say the least; as only two women in the history of Nevada have served longer in this Body than Barbara Cegavske and they are Senator Ann O'Connell and Senator Dina Titus, each of whom served for 20 years. If my math is correct, I would guess that Barbara could go back to the Assembly and serve six more years and break all of the records, we will see if she wants to do that.

Senator Barbara K. Cegavske has been an ideal example of the citizen Legislator upon which this Nevada Legislature is built. She has established a legacy of positive legislation that helps the people of this State. Barbara, I extend to you my most sincere thanks for all of your dedication of service to this State, to the people of the Great State of Nevada as well as the Nevada State Legislature.

I do not think anyone here can question the level of commitment that you have. You are a woman of faith, a woman of dedication and commitment to your causes. I do not know anyone who cares more about making sure that people who have developmental disabilities are served. There are a lot of people in this State who have benefited because of your service here. You have a lot to be proud of and the State has a lot to thank you for.

With that, we have a proclamation, I am not going to read the whole thing, but I will read this part:

"Now, therefore be it proclaimed, Senator Barbara K. Cegavske has been an ideal example of the citizen Legislator upon which the Nevada Legislature is built and has established a legacy of positive legislation on behalf of Nevada's residents and business and be it further proclaimed that the members of the Nevada Senate extend their most sincere thanks and commendations to Senator Barbara K. Cegavske for her dedicated service to the people of Nevada and to the Nevada Legislature, dated on this third day of June, 2013."

Barbara, we have one more thing for you, which is just a small token of our appreciation, but we can add it to your collection. Being seniority number one right now, we got a good baseball jersey for you reading "Senator Number One, Cegavske." Barbara, thank you for all that you have done for the people of this State.

SENATOR DENIS:

Thank you, Mr. President. I, too, would like to take a moment to thank our colleague at the end of this first row of desks. I first met Barbara many years ago when I was just a PTA dad. She had just gotten elected, and we came up to the Legislature. She was serving in the other House, and we were fighting for similar issues on education and had that opportunity to meet her and work with her on those issues. I have had the privilege of serving with her now for the last ten years here and in the Assembly. I just want you to know that I appreciate all of the hard work that you do and the passion that you have. I know we have not always been on the same page on some of the issues, especially on education issues; in fact, many times we are on opposite sides, but the issue is: we are both trying to fight for our kids and I have always appreciated that about you. I know that you have a bright future in whatever you decide to do. I appreciate your service, and I know that Nevada is a better place for the service that you have given.

SENATOR SMITH:

Thank you, Mr. President. We will miss you, Barbara. It has been a long run. I, too, met Barbara in the same realm that the Majority Leader did. I actually remember that we were standing in line at the microphone at a PTA convention. We were probably arguing over the budget or the bylaws or something like that about the organization, not arguing with each other, but we were in line to debate an issue. That was a long time ago, and who knew that we would

end up here, at the far end of the hall, then later this end of the hall, working on the same issues again and caring about education in this State and many other things as well. I value everything you did then and everything you do now. All of the time you have put in on the Senate Committees on Education and Finance over the years greatly benefited the State and the citizens of the State and this Body. I wish you well in whatever you do and I am sure that we have not seen the last of you.

SENATOR SETTELMAYER:

Thank you, Mr. President. Senator, it has been an absolute, sincere pleasure to work with you over the last eight years. You have not only been a colleague, where we have worked together on issues and I know some people are going to be surprised by this, but we actually do not agree 100 percent of the time on everything. But more than anything, you have been a friend. We have had the ability to talk to each other. At times when you keep talking about the same issue to your spouse, sometimes, they will just give you that look: “didn't we talk about this last week?” And we respond by saying, “no, it's a different issue” because it is slightly different. And to us, because we are in it, it is a completely different issue. So it has been a great ability to talk with each other and to be able to vent at times about subjects so that we do not drive our spouses completely crazy. In that respect, you are not going to get off that easy. I am still looking to be able to call you, just as I have always done with other individuals who have left this building. I remember talking to Assemblyman John Marvel, just before he passed away, Assemblyman Lynn Hettrick and other individuals—you are not getting off that easy. In that respect, I will still continue to give you a call. Thank you for all you have done for this Body and this State.

SENATOR HARDY:

Thank you, Mr. President. Barbara, it has been good to be seated next to you in here. It has been good to be counted as your friend. May the Lord bless you, as you have been a blessing to all of us and to the people of Nevada.

SENATOR HUTCHISON:

Thank you, Mr. President. I, too, want to offer my gratitude and appreciation for my friend Barbara Cegavske. I am reminded of a quote by Margaret Thatcher who said, “If you want something said, ask a man, if you want something done, ask a woman.” Barbara has been a woman of action, not just of words. She has consistently stood by principles of good government, principles of values and principles of faith. It has been my pleasure to serve in this Body as a freshman during her last term. I will always remember that, Barbara. I do not know if I will be coming back after my term or if I will be back here for as many terms as you have returned. I do not know what is going to happen in the future, but I will always remember my freshman year with you and remember what you taught me in terms of integrity and honor. You are a true stateswoman. It has been pleasure and an honor.

SENATOR GUSTAVSON:

Thank you, Mr. President. It has been a long time Barbara. Barbara and I were freshmen together for the Class of '97. We had a large class back then, and we are two of the few ones who are still here. Congressman Amodei was in that class among several others. It has been a real pleasure to serve with you. I have served with you on the Education Committees for many Sessions. I have served with you a total of seven different regular Sessions. You are somebody that we can go to and count on to be there. And, if we have an issue on education, we know where to go to and who to talk to. You are a woman of principle, integrity, and we really appreciate what you have done and how you have mentored us too and some of the other freshmen. I want to thank you for your dedication to your constituents and to the State of Nevada for all that you have done. We really appreciate that, and we love you, Barbara. We will miss you.

SENATOR MANENDO:

Thank you, Mr. President. To my friend, Barbara Cegavske, who I admire and respect. Her dedication beyond these hallowed halls goes beyond into our community. Her work with The Adoption Exchange, CLASS! Publications, Opportunity Village—I am trying to remember—there has been so many organizations that we have worked on together and our

relationship developed because of our work in the community. Obviously, your love and devotion extends to your family, but also to our children making sure that they are educated and have a better future. It was a pleasure to sit next to you this Session in the Senate Committee on Legislative Operations and Elections. But, we go way back, since you came in in 1997. I have always appreciated your honesty. I have appreciated the opportunity that we had to work together to make our State better. I had a good time working on transportation issues this Session. I was surprised to see that you were working on some of those issues, and it was great to work with you. I really enjoyed that. I know that, on a personal level, there is not day that goes by that Barbara Cegavske does not ask, "How's your mom? How's your family?" I appreciated that. My mother appreciates that, and you will be missed in the Senate. Who knows what is going to happen in the future because as somebody mentioned earlier you still have terms left in the Assembly—so who knows what will happen. Mrs. Cegavske, to you and your family, we are indebted; we have much gratitude for your countless years of public service to make our State a better place and we thank you for that. We are going to miss you in this House.

SENATOR ROBERSON:

Thank you, Mr. President. Barbara, I respect your integrity, your strong convictions and your passion for education. I do not think there is anyone in this State who cares more about education than you do. You are not going away, I know you are not, you have bigger and better things ahead, probably in politics, but certainly in public service. I just want to echo what everyone else has said and tell you I love you, I respect you and I honor you today.

SENATOR SEGERBLOM:

Thank you, Mr. President. I did have a chance to work with Barbara a little bit over the years, but I did not sit on any committees with her—though I think she is an honorary member on the Senate Committee on Judiciary this year because she spent so much time in front of us. The one side that I had never seen of her was her support for the underdog and for prisoners. We worked together for a bill regarding prisoner IDs so that when they come out of prison they can look for jobs. We have worked with HOPE for Prisoners, so you have a real heart there. She actually had a bill that had a fee in it this Session, that had to break her heart. I think she is finally becoming a liberal. It just took a long time.

SENATOR HAMMOND:

Thank you, Mr. President. I want to say a few words to my colleague sitting in the front with her baseball jersey on. I appreciate all of the support she has given me over the years. You came forward and really put a lot of faith in me, and it has been a tremendous boost. My family appreciates you. My wife appreciates that you are here, keeping me in line all the time. I look forward to modeling your dedication to public service. She has got good taste. She once told me that she had hoped that I could be a mentor to her son and I think that speaks a lot to her good taste and my ability to win people over.

I appreciate you, and I appreciate your smile every day. The Senator to my left is correct. There is something kind that you say about either the person you are talking to or about their family. I appreciate that. Thank you very much for all your hard work.

SENATOR JONES:

Thank you, Mr. President. I rise in admiration for Barbara. She is proof that you should not always believe what you hear; people said to me, "oh, she's just a right-wing conservative," but I have been proud to co-sponsor several legislative bills with her, work with her on other bills and pass a lot of them out because they are great bills and great ideas. I am proud to say that I have had the opportunity to work with you this Session. I remember a month or so ago, we were walking in the building one morning, and you commented to me that this was one of your best Sessions ever because people seemed to get along and respect each other. I am glad that you are able to walk away from this institution with those kinds of memories. Thank you for your service.

SENATOR FORD:

Thank you, Mr. President. Barbara, I just wanted to stand and say it has been a pleasure working with you on the Senate Committee on Education this year. We sat on virtually opposite

ends of the dais up there, but you and I saw eye to eye on quite a few things, disagreed on a couple things as well, but it was always cordial. It has been a joy to work with you for the brief time that I have been able to do so. I want to leave you with one pledge, so you can rest assured that at least one other person here shares one of your concerns: That is the permanent substitute, long-term substitute teacher issues. I will continue that battle for you. I am looking forward to working with you going forward.

SENATOR SPEARMAN:

Thank you, Mr. President. Barbara, I enjoyed serving with you on the Senate Committee on Legislative Operations and Elections. Whenever I am looking at something, I always try to get a 360-degree view. During our conversation if we got to 180 degrees, I could always count on you to get us the other 180 degrees. Thank you for your input.

SENATOR CEGAUSKE:

Thank you, Mr. President and thank you to my colleagues. Wow! I do not know if this is meant to be goodbye because I am leaving or if this is a eulogy. It was wonderful to listen to all of the comments. There are so many memories that keep flowing through my mind. Every day I am here sitting next to Doc Hardy and say that this is my last Tuesday, this is my last Wednesday and last night when we were here after 12:00 a.m. I said that this is my last Monday. It has been an incredible, incredible journey in my life.

Seventeen years in the Legislature, my family has supported me. My husband, who I know is listening, I love you Tim and thank you so much. Tim and my boys have just been the rock, there for me all of the time. There has never been a moment when I have not been able to go to one of them and talk to them about an issue or ask them a question. They have always been there for me, and I really appreciate my family. My legislative family here is incredible. In 1997, when I started at the Legislature, Assemblyman Lynn Hettrick and the rural cowboys taught me so much about the State of Nevada, and I am so appreciative of the lessons I have learned. I tell everybody this is a class that you cannot get at any university or community college, and I am so appreciative for each and every one of you. We are all different and bring such wonderful resources and ideas to this Body to share and talk about and that is so important. It is such a wonderful thing for all of us to be able to do. There are so many things I could say about each and every one of you but we would be here past the time that is allotted me. Each and every one of you have brought something to my life. When Mitch Fox was interviewing me, I told him my thoughts that I believe have been truly blessed—that this has been a blessing in my life.

Have there been downs? Yes. But, there are so many more ups. The friends that you make here, you keep for life. That is what I get to walk away with—the memories, the experience and the friendships. It is not just with the Legislators. There are lobbyists, so many friends there, people you can go to when the issues are rough, and some of these are really tough issues. To be able to get a handle on both sides to fully understand, it is important. If there is anything that I can share with this Body, it would be to trust your instincts, trust your heart and be honest with whatever it is that you are dealing with or whomever you are dealing with, those are the best traits that anybody can have. I am proud to say that my colleagues have those qualities. I want to thank my assistant Terri Miller, who has been with me every Session in the Senate except the first one. She stuck with me, and every time I would call her and say, "will you come back" and every time she would say "yes". Terri, thank you. I could not have done this without you. She has got a great laugh, a wonderful smile. It has been pure joy to be able to work with you. I want you to thank your husband and family for me—for your late hours and times that you have helped or assisted me in something— so I thank you very much.

This jersey means a lot to me. I do not know if any of you have been in my office, but I have a collection. Every Session, we either played softball or basketball, and I have every jersey and every t-shirt that we had. This one will be right in front and it is really an honor to have this. I hope we all remember everyone who has left because there is so much institutional knowledge that has walked out of these doors with term limits. I hope those who said they would like to reach out to me—that you will feel that you can. I would love to answer any questions, give you any advice. I am a mother. We love to give advice, and I am a Legislator, so we also love to give advice. But again, thank you all so much. Ben, thank you for your kind words. The pictures on the overhead brought back a lot of memories. To our leaders and our Caucus, thank you all so

much for being there and supporting me. I also want to thank this Body. During this Session, it is the most bills that I have ever gotten out. It is wonderful. It has been great. I think I have a baker's dozen, 13 bills, the thirteenth is in the Assembly at the moment, hopefully, that will be the last one going to the Governor. I just cannot thank you all enough. Your assistants—what fabulous people you have in your office—always so kind, always willing to help, no matter what. I really appreciate that. There is so much that I would love to say, but the biggest thing is thank you very, very much. God bless each and every one of you and may your paths and your journeys be as successful and as heartwarming as mine have been.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 5:51 p.m.

SENATE IN SESSION

At 5:53 p.m.

President pro Tempore Parks presiding.

Quorum present.

REMARKS FROM THE FLOOR

Senator Roberson requested that the following remarks be entered in to the Journal.

SENATOR ROBERSON:

Thank you, Mr. President pro Tempore. It is my distinct pleasure to commend and honor Brian K. Krolicki, the 33rd and current Lieutenant Governor of Nevada and President of this Nevada Senate. At the end of his current term of office on January 5, 2015, Brian will have served the people of Nevada with grace, skill and foresight in various official capacities for 24 consecutive years. Brian is another great Nevadan who had his original roots elsewhere. He was born in Warwick, Rhode Island on the last day of 1960 and went on to earn his Bachelor of Arts degree in political science from Stanford University in 1984. I know he is a proud Cardinal.

Brian worked for several years for private sector banking and investment companies in New York City, San Francisco and Bahrain. Later he established his home in the Lake Tahoe Basin of Douglas County where he continues to reside with his wife Kelly and their three daughters, Katherine, Caroline and Elizabeth. In 1990, Brian worked on the campaign team of Bob Seale, candidate for State Treasurer of Nevada. Following Mr. Seale's subsequent election to that office, Brian's education and experience made him the perfect candidate to serve as Chief Deputy State Treasurer of Nevada and Secretary to the Board of Finance, positions he was to hold from 1991 to 1998. With the pending retirement of State Treasurer Bob Seale at the end of 1998, Brian decided to seek elective office—successfully winning election to the office of State Treasurer, the 19th person in Nevada history to hold that important position.

Among his many accomplishments as State Treasurer, Brian worked with Governor Kenny Guinn to create the highly-ranked Nevada College Savings Plan and the Nevada Prepaid Tuition Program, successful efforts to make college education more affordable for Nevada families. Following Brian's excellent eight years as State Treasurer, from 1999 through 2006, he went on to seek and win election to another important constitutional office, Lieutenant Governor of Nevada starting in January of 2007. As Lieutenant Governor of Nevada, Brian, and we all know how true this is, has worked tirelessly to promote Nevada as an ideal place for the location and expansion of businesses. He also has worked diligently in promoting Nevada as one of the leading tourism destinations in the world. We thank you Brian.

As a strong advocate of the traditions and history of Nevada, Brian formed and led the committee that selected the design for the Nevada's submission to the 50 State Quarters Program in 2006, an award-winning coin that celebrates Nevada's open spaces and wild horses. Earlier this year he was appointed Chairman of the Nevada Sesquicentennial Commission to coordinate

efforts and events leading up to Nevada's 150th birthday on October 31, 2014. On behalf of the members of the Nevada State Senate, we extend our most sincere thanks and commendations to Lieutenant Governor Brian K. Krolicki for his exemplary service and accomplishments on behalf of the people of our great State.

Brian, we also thank you for serving with efficiency, congeniality and good humor as our Senate President over four regular and four special Legislative Sessions. In summary, the people of Nevada have been served with great effectiveness and vision by you, Brian, a man who truly has made a positive difference in the State of Nevada. Brian, you are such a good friend to all of us. You are one of the few people in politics where anyone who meets you says, "he's not a politician; he's a real guy; he's a real person." You are a wonderful human being. You truly are. We are so lucky to know you. We have been so lucky to serve with you. We have been so lucky to have you lead this Senate. Words cannot describe how much respect that I have for you and how much you have helped me since I have been here for the last four years.

I have a proclamation and I am not going to read all of it, but I will just read the last couple of sentences:

"We the Members of the Nevada State Senate, hereby extend their most sincere thanks and commendations to Lieutenant Governor Brian K. Krolicki for his exemplary service and accomplishments on behalf of the people of our great State and for serving with great skill and congeniality as our Senate President over four regular and four special sessions. Be it further proclaimed that the people of Nevada have been served with great effectiveness and vision. Brian K. Krolicki, a man who truly has made a positive difference in the State of Nevada. Dated this third day of June, 2013."

Now, before we go further with other speakers, I understand that you have said many of times this Session that our coffee machine was a life-changing experience for you. Here is a Keurig coffee machine for you, Lieutenant Governor Krolicki.

SENATOR DENIS:

Thank you, Mr. President pro Tempore. Brian, I just want to take a moment to thank you. It has been an honor and a privilege serving with you. I have known you for at least, the past ten years. We have been to different events together. We have served here together for the last two Sessions, but I have known you since I was over in the Assembly. I appreciate the opportunity that we have had when we get to talk, and when we are not talking politics, we just talk families and kids. I know you are doing this job for a great reason. You have been of great service to the State of Nevada. You have done a great service to this institution of the Senate. Your enthusiasm for Nevada reminds me of the first time in which I met you during an economic development meeting and you were talking about promoting this State and the things that you were doing. I consider you a friend. I appreciate our friendship and this opportunity to have worked together, especially more closely this Session than we ever have. I thank you and appreciate the example that you show to others.

SENATOR SMITH:

Thank you, Mr. President pro Tempore. I want to say thank you. I guess we became acquainted when I was serving in the other House on the money committee. You had the unfortunate job of coming before us now and then, and I learned to appreciate your kindness and your even keel. Over the years we have become friends and I have appreciated that. I have really appreciated your leadership here as I came into a new environment, had a new job to do and was not always sure what I was supposed to be doing—so I have appreciated your humor, your understanding and your guidance in this Body. I wish you only the best and thank you for your service to this State. You have done a great job and brought great things to Nevada.

SENATOR CEGAVSKE:

Thank you, Mr. President pro Tempore. Wow! What a great journey it has been with you Brian. I cannot thank you enough for your terms of service here. Not only have I loved you being the President of this Chamber, but I am proud that you are the only one in our Caucus that did not have to put money into the cuss jar. I think that says a lot about who you are. I want to thank you so much for your friendship, which has meant so much to me. I know the commitment that you have made and the sacrifice of your family, and what a beautiful family you have. I

know you are so proud of them and they are very, very proud of you. Nevada would not be the same if they did not have you. I go to a lot of women's club meetings, and I have never met anybody that they adore more than the Lieutenant Governor. First of all, they cannot stop saying how cute he is and once we get past that, they will talk about other things. You are admired and supported, not only by your party, but everybody. I cannot say enough about your demeanor and how you are with everyone. The Minority Leader was correct in saying that everyone does not look at you as a politician, and you are lucky for that. I want to thank you so much for your kindness, your support and sharing the knowledge that you have. I have been able to siphon off some of it and ask questions when there are issues that I know you can assist with. To my friend, my colleague, God bless you and thank you so much for your service to this State and Godspeed in whatever you decide to do.

SENATOR KIECKHEFER:

Thank you, Mr. President pro Tempore. To the original "B.K.," Brian, I do not have a lot of superlatives to throw around. I will try not to, but the best thing that I can say about you is that you are my friend. Thank you for being my friend. It is not going to end when we are out of here. Thank you for your leadership and your vision and all of your commitment to our State. But, most of all, thank you for being my friend.

SENATOR FORD:

Thank you, Mr. President pro Tempore. Brian, I do not need a lot of words to describe you or how I feel about you. You are just a great fellow. We have not known each other that long, but we have had some good conversations up here in the third row, and I have enjoyed them. I will just say this, you can be of counsel to the Law Firm of Ford, Hutch and Jones anytime.

SENATOR SETTELMAYER:

Thank you, Mr. President pro Tempore. Mr. President, Brian, our families have had long, deep history, to say the least. It goes back when you worked with my dad on issues in Douglas County when you were on the Planning Commission many years ago. My dad also worked with you when he was on the school board because your wife has always been involved in school issues, especially up in the Lake Tahoe Basin. It is kind of interesting that we are the only two people in this room that are each other's constituents. But, above all, you have always been a great friend especially when you were campaigning for the Olympics. I wish we would have gotten it, to say the least. We also share a very uncommon interest. We have always been meticulous about rules. We have always sat there and gone through the rules and discussed what is the proper procedure and things of that nature. You will always be a friend. More importantly, The one word that emphasizes who you are is "statesman." I thank you for that.

SENATOR HARDY:

Thank you, Mr. President pro Tempore. Brian, I have watched how gentle of a way you approach the prayers, the honor that you give to the flag and the dedication that you give to your State. I have watched you with your hand over your heart, the same hand that has reached across this well to so many visitors as they have come here. I have recognized how grateful they are to meet a Lieutenant Governor and the ease with which you make them feel comfortable. I have been impressed with the diplomat that you have been to so many people, to so many tense situations and in so many places across oceans. You are truly a Nevadan, you bleed silver and blue, no matter what college you went to. Thank you Brian for being you.

SENATOR BROWER:

Thank you, Mr. President pro Tempore. I cannot believe that we are doing this today. It is really just hard to believe this day has come. Brian, we have been on the same team for a long time now, and I cannot think of a better teammate in a political or any other sense. We have been at countless campaign events together over the years, Lincoln Day Dinners—too many to remember—around this great State, legislative Sessions, Caucus meetings, and I have to say that you have just been an unbelievably valuable member of our Caucus. It is hard to imagine the Caucus without you now. I do not know what we are going to do without you. Your dedication to our State, to your family, to our party, to everything that you are involved with has just been so impressive to watch. The way you led a presidential campaign in our State was something to

behold. It was a pleasure to work with you on that. The Stanford thing, as I like to say some of my best friends are Stanford graduates, and I am certainly proud and humbled to put you into that category. I just cannot say enough. You are going to be missed, but we know you are not going too far—we hope. You are obviously a young guy with an incredibly bright and limitless future ahead of you and we all just look forward to being part of that future.

SENATOR MANENDO:

Thank you, Mr. President pro Tempore. To our Lieutenant Governor, our Mr. President, I want to say thank you very much. I appreciate, as our colleague the Doctor mentioned, people just love to be in here when they get introduced. You make everybody feel so special and so welcome because you believe that. You believe everybody is special. You believe in this open process, and that this is the public's building so they can come in, soak it in and be a part of it. You have that welcome mat out for everybody. There is nothing fake or phony about you. You are a good, decent, big-hearted man who loves the State of Nevada more than anybody I have ever met. You are truly an ambassador. I appreciate the work that you have done. My nephews used to say to me, "is that the guy who wants to bring the Olympics here? Are they going to come here? I want to go!" I would respond by telling them that he is working so hard to do that, but it is a tough job. There are other cities that want to have that honor as well. I remember them growing up and always admiring you and your work, and they were right. What an honor and privilege for all of us to be here serving with you. I wish you and your family all the best. You are a wonderful man. I am going to miss you. Thank you for your service.

SENATOR HUTCHISON:

Thank you, Mr. President pro Tempore. Brian, it is a pleasure to rise and to honor you. Thank you for leaving a promising professional career and for entering public service. That is not an easy thing. That is not something that many people do. Thank you for being such a great example. I love the fact that when you are presiding here at the podium that you are the President of this Body. When people come here and visit us and we introduce people on the Floor to see us in action, you are the face and the image of this Body. I am proud of that, and we could not ask for a better image, a better face, a better person up there. You serve with class, with dignity and with honor. You do have gifts, God has blessed you with gifts of diplomacy, ease of personality and humor and you use all of those gifts that uniquely qualify you to be the presiding officer of this Body. I also know that you have gone through difficult times in your professional and public career and you have handled those difficult times with the same kind of grace, integrity and honor that you have handled the easy, more successful times. For that, I thank you as well. You are just a wonderful example, not only to us, but to our children. To the rising generation I would say that Brian Krolicki is the type of person that you ought to seek to become if you want to be a public servant. He is the embodiment of the adage, "It has nice to be important but it is more important to be nice." Your kindness, honor and integrity are the attributes that I think of when I consider you. I will add to the list that my colleague Senator Settelmeyer described, when he said that you are a statesman. I would also describe you as a gentleman. I mean that in the highest and most complimentary way.

SENATOR GUSTAVSON:

Thank you, Mr. President pro Tempore. Brian, it has been a pleasure serving with you for these four years that I have served in this Body. I know there are a lot of accolades that have been said about you, and I agree and echo those. I am not sure what else can be said. I do know that when you get done here, whatever choice you make, wherever you go, whatever you do that you will be of benefit to the State of Nevada. It is just who you are. You are not going to leave your love of this State. You know what you have done for the State of Nevada and what the needs of this State are. Thank you for being here and serving us the way that you have. It has been a pleasure serving with you, and I look forward to seeing what your next steps are going to be.

SECRETARY BYERMAN:

Thank you, Mr. President pro Tempore. I appreciate the opportunity to address the Body. There are 21 of you as Senators who face toward us during every Session and there are eight of

us facing you: the Front Desk and then President Krolicki and myself as the nonmember officers of this Body. Brian, you have, literally and figuratively, always had our back. Every time that we have had issues or problems your primary concern has been the smooth operation of this Chamber. On behalf of the Front Desk, I want to thank you for that. I am wrapping up my second term as Secretary of the Senate and I do not know what this job is going to be like with somebody else serving as President. I have appreciated our banter and our ability to have some fun in this Chamber. More than anything, though, I will miss the sense of decorum and the gravitas that you brought to this Body. You took your responsibilities as President seriously. I recognize, respect and appreciate that. We all love the Senate, but you give us all the more to love when you treat the Senate with that kind of respect.

I am about to get to know you in a different manner because your daughter Katherine has recently been appointed to the Nevada Youth Legislature. I am going to get to know Brian Krolicki, the father, soon. I am looking forward to continuing our relationship in that manner.

It has been a pleasure to stand with you, Mr. President. The two of us have, literally, stood together through some long days in this Chamber. Thank you on behalf of the Front Desk for everything that you have done to make this Senate a special place to work and to serve.

PRESIDENT KROLICKI:

Thank you, Mr. President pro Tempore. I have never used a microphone on the Floor before. It is strange not to have all of you in front of me. I now know what it feels like to be eulogized—how special, how warm. I am really surprised. What you are doing here is unexpected, it is unnecessary, but from the bottom of my heart it is appreciated. I knew we were going to fête Senator Cegavske, my dear friend, but I am an Executive Branch guy. Through the job of Lieutenant Governor, I am allowed to spend 120 privileged days with all of you every other year. It has been about 500 days doing this all together. It is just an amazing vantage point to sit on two branches, but this Senate, this Legislature has meant so much to me. I cherish the Executive Branch, I love what I have done. I am the first person in Nevada's history, and it will be some time for someone to follow me, to be term-limited two times, maybe that is an argument for term limits. To me, this is about the people. The Executive Branch is certainly not like this, in the activities that we do, and I have seen some of the most brilliant people in this Chamber. I have seen the future of this Chamber, and I am just grateful to be part of the present.

Public service is incredibly hard. It has probably never been as hard, but it has never been as important as it is today. We have reached a point where the brutality often discourages some of our finest men and women from pursuing these special opportunities, but you all give me great hope with the camaraderie here. You all know we have disagreements, we know that we do not agree on certain things, but this group of 21 has never made it personal. You are my friends. Thank you for making me part of this Chamber; again, I have a fascinating spot to watch all of you, but it has been an exquisite pleasure and ride.

I have to say thank you to the other folks who work in this building, besides the 21 of you. To the Front Desk, thank you, you are part of my world forever, the people who are not in this room, the Brenda Erdoes' of the world. For 22 years, I have been doing this incredible opportunity of public service. One bad day on an airplane falling out of the sky changed my life. I regret the tragedy, but I will never regret the opportunity that it has given to me. Thank you, I do not want to be blamed for the reason why we had to go into a Special Session. You honor me, you caffeinate me. Thank you so much for opening your hearts, your minds, your friendship and you will always be part of the fabric of what I am. I do have to say thank you to my family, to Kelly, who has been extraordinary to be married to, and to my kids who think parade is a verb. They have never watched one. They have only moved in them, but it is a family enterprise. Thank you for letting me share the last eight years as part of this incredible Body and work, God bless.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Denis moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 6:22 p.m.

SENATE IN SESSION

At 6:23 p.m.

President Krolicki presiding.

Quorum present.

SENATOR ROBERSON:

Thank you, Mr. President. In addition to honoring you, Lieutenant Governor Krolicki and Senator Cegavske we would like to thank all of our staff in Legal, Policy, Research, Constituent Services, General Services, Janitorial, Broadcast and Production Services, ITS, Senate staff, Legislative Police, Sergeants at Arms, Front Office and Front Desk. All of you are invited to join us in room 3100 for some cake.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 273.

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

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 473.

Bill read third time.

Remarks by Senator Goicoechea.

Thank you, Mr. President. Assembly Bill No. 473 provides for an additional fee to be paid to the Department of Motor Vehicles to defray the cost of producing license plates. The fees must be deposited into the new License Plate Factory account. It also authorizes the department to determine the amount of the fee by regulation. The Senate Committee on Finance and Assembly Committee on Ways and Means approved the Governor's recommendation to make the License Plate Factory self-supporting by changing the funding source for the License Plate Factory from Highway Funds totaling \$3.4 million over the Biennium, to a new funding source based primarily on revenues collected from a new license plate fee.

The Senate Committee on Finance and Assembly Committee on Ways and Means approved a license-plate fee of \$3 per license plate (excluding specialty plates), which is \$.50 higher than the per license-plate fee recommended by the Governor. The \$0.50 increase will allow for the repayment of Highway Fund appropriations over a five-year period for a \$500,000 reserve recommended by the Governor in the License Plate Factory budget for cash flow purposes, and will repay the \$3.8 million Capital Improvement Project for a new building to house the License Plate Factory, if ultimately approved by the money committees. The bill becomes effective on July 1, 2013.

Roll call on Assembly Bill No. 473:

YEAS—19.

NAYS—Gustavson.

EXCUSED—Woodhouse.

Assembly Bill No. 473 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 488.

Bill read third time.

Remarks by Senators Smith and Gustavson.

SENATOR SMITH:

Thank you, Mr. President. Assembly Bill No. 488 implements the transfer of several activities within the Department of Health and Human Services. The Health Division would be renamed as the Division of Public and Behavioral Health, and mental health services would be transferred from the Division of Mental Health and Developmental Services to the renamed division, creating a holistic healthcare approach that integrates services for both the body and mind. To create a continuum of care to serve individuals with disabilities across the lifespan within one State agency, developmental services from the Division of Mental Health and Developmental Services and Early Intervention Services from the existing Health Division would transfer to the Aging and Disability Services Division. As a result of these transfers, the Division of Mental Health and Developmental Services would be eliminated. In addition, the bill renames the Commission on Mental Health and Developmental Services as the Commission on Behavioral Health and replaces the State Health Officer with a Chief Medical Officer. This bill implements recommendations included in the Executive Budget for the 2013-15 Biennium. The bill becomes effective on July 1, 2013.

I would like to mention that this is one of a long string of budget bills that we will be hearing tonight. For the benefit of my colleagues, we have already considered several budget bills. These are the policy bills that implement the budget bills.

SENATOR GUSTAVSON:

Thank you, Mr. President. To my colleague from Senate District No. 13, I have questions regarding this departmental consolidation. Will employees be losing their jobs as a result of Assembly Bill No. 488? Or, will there be hiring of new staff as a result? Perhaps, it will retain the status quo?

SENATOR SMITH:

Thank you, Mr. President. To my colleague from Washoe County, there will not be job losses as a result of Assembly Bill No. 488. In some areas, there are increased job opportunities. You will see an improvement in the services by realigning employees from one agency to another to attempt to have a continuum of service. I reiterate, there are no job losses to our employees.

Roll call on Assembly Bill No. 488:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 488 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 491.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Assembly Bill No. 491 redirects \$20.8 million of governmental services tax commissions and \$4.1 million of governmental services tax penalties in the Department of Motor Vehicles' Field Services and Motor Carrier budget accounts to the State General Fund for unrestricted use in fiscal year 2015 only, offset by an increase in Highway Fund authorization in a like amount, and increases the administrative cap on Highway Funds for the department from 22 percent to 32 percent for fiscal year 2015 only. This bill also extends the deposit of the governmental services tax to the General Fund, resulting from the increase in the amount of the basic governmental services tax due annually that was increased for used vehicles, by reducing the amount of depreciation allowed and increasing the minimum tax, which was approved by the 2009 Legislature in Senate Bill 429. The revenue from these increases in the basic governmental services tax is allocated to the State General Fund until June 30, 2015. The most recent projection is \$64.22 million in fiscal year 2014 and \$65.13 million in fiscal year 2015. The bill is effective on July 1, 2013.

This is one of the budget implementation sunset provisions. These taxes would not go down if we did not pass this bill. They would simply be redirected back to the Highway Fund.

Roll call on Assembly Bill No. 491:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 491 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 502.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Assembly Bill No. 502 authorizes the expenditure of \$1,262,000 by the Board of Regents from the Estate Tax Account in the Endowment Fund of the Nevada System of Higher Education for the design and construction of two buildings on the principal campus of the Nevada State College in Henderson, Nevada. The bill allows for the expenditure of the balance of estate tax receipts, held by the Nevada System of Higher Education on behalf of Nevada State College, to either defer or reduce the impact of the Special Building Fee approved by the students of Nevada State College for the design and construction of an academic building and a student activities/administration building on the college's campus. The bill is effective upon passage and approval.

Roll call on Assembly Bill No. 502:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 502 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 505.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Assembly Bill No. 505 provides for the implementation of the 2013 Capital Improvement Program as approved by the money committees. The bill includes funding in the amount of approximately \$102.7 million for the Capital Improvement Program. The bill includes the following major funding sources to support the program: (1) \$55.5 million in general obligation bonds; (2) \$22.9 million in excess funding reallocated from projects approved in prior Capital Improvement Programs; (3) \$7.4 million in State Highway Funds for Department of Motor Vehicles projects; (4) \$5.0 million from the Special Higher Education Capital Construction Fund; (5) \$3.8 million in federal funds for the Office of the Military and the Department of Health and Human Services projects; and (6) \$3.5 million in General Fund appropriations.

Assembly Bill No. 505 provides approximately \$12.5 million to support eight construction projects in the 2013 Capital Improvement Program. Notable construction projects are as follows. The bill provides funding in the amount of \$2.6 million to replace the bridge on the access road at the Caliente Youth Center. The bill provides funding in the amount of \$3.8 million to construct a new license plate factory adjacent to the Stewart Conservation Camp in Carson City. The bill provides funding in the amount of \$2.0 million to construct a new loading dock and freight elevator at the Nevada State Museum in Carson City. The bill provides funding in the

amount of \$2.1 million to renovate the first floor of the Stein Hospital at the Southern Nevada Adult Mental Health Services campus.

Assembly Bill No. 505 provides approximately \$61.3 million for various maintenance projects for existing State facilities; \$12.5 million for advance planning and design projects; and \$16.3 million for statewide projects, including roofing repairs, advance planning, paving, building official, fire and life safety, and accessibility projects. The maintenance projects include approximately \$28.3 million for the Department of Corrections for replacement of doors, locks and control panels, flooring, boilers, heating ventilation air conditioning systems, electrical and lighting upgrades, shower and bathroom renovations, exterior building protection and water system improvements. Additionally, the bill includes funding of \$15 million to address deferred maintenance projects for institutions of the Nevada System of Higher Education.

The bill includes a 15.55-cent property tax levy for debt service in each year of the 2013-15 Biennium for general obligation bonds issued to finance the Capital Improvement Program. The bill includes an additional 1.45-cent levy that must be used exclusively for the repayment of bonded indebtedness issued as a result of the approval by the voters of Question 1 on the November 2002 ballot. The approval of Question 1 by the voters requires the issuance of \$200 million in bonds to protect, preserve and obtain the benefits of the property and natural resources of the State. The total property tax levy of 17 cents remains unchanged from the levies approved for the 2011-13 Biennium. The levies above the historic \$.15-levy (\$.02) are not subject to the \$3.64 local government property tax cap. Assembly Bill No. 505 becomes effective upon passage and approval.

Roll call on Assembly Bill No. 505:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 505 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 507.

Bill read third time.

Remarks by Senators Smith, Goicoechea, Kieckhefer and Hutchison.

SENATOR SMITH:

Thank you, Mr. President. Assembly Bill No. 507, the General Appropriations Act, the General Authorizations Act, the salary bill, the school funding bill and the capital improvement bill are the final result of the long deliberations by the Assembly Committee on Ways and Means and the Senate Committee on Finance. The General Appropriations Act and other appropriations bills considered throughout the Session delineate the amount of the General Fund support approved by the money committees for the operation of Nevada State government for the 2013-15 Biennium. The General Fund appropriations included in the General Appropriations Act total \$1,978,031,300 in fiscal year 2014 and \$2,027,586,257 in fiscal year 2015, or \$4.0 billion over the 2013-15 Biennium, an increase of approximately \$163.8 million when compared to General Fund appropriations approved by the 2011 Legislature for the 2011-13 Biennium. The Act includes Highway Fund appropriations totaling \$114,199,810 in fiscal year 2014 and \$140,423,192 in fiscal year 2015, a reduction of approximately \$27.5 million from the previous Biennium.

The money committees approved General Fund appropriations of \$196,244 over the 2013-15 Biennium for a new liaison position in the Governor's Office to coordinate with the Office of Veterans' Services.

The money committees approved \$31.8 million in General Fund support for the Office of the Attorney General over the 2013-15 Biennium. Of this amount, \$28.7 million continues the support of the Attorney General Administrative Fund; \$1.2 million continues the support of the

Bureau of Consumer Protection; \$1.0 million supports the Extradition Coordinator account; approximately \$462,000 supports the Missing Children/Crime Prevention account; and approximately \$458,000 supports the Special Fund to continue legal activities in opposing the location of a federal nuclear waste repository at Yucca Mountain and unanticipated litigation.

The money committees approved the Governor's recommendation to reintegrate the State Business Portal activity into the Secretary of State's main operating account. The money committees also approved the Governor's recommendation for General Funds of \$354,746 for a disaster recovery plan for the State Business Portal. General Funds approved by the money committees totaled \$27.2 million over the Biennium for the Secretary of State.

The money committees approved \$8.8 million in General Fund support for the Office of the Controller, including \$22,500 over the 2013-15 Biennium to purchase editing software and maintenance for the Single Audit Reporting Form as recommended by the Governor. The money committees approved the Governor's recommendation to restore the Assistant Controller position and support 15 percent of the position costs with General Funds of \$28,315 over the Biennium. The money committees also approved \$204,749 in General Fund support over the 2013-15 Biennium for a computer training room for training on the State financial system. The new facility would be managed and maintained by the Controller's Office with availability to other State agencies.

The money committees approved a new Associate Counsel position for the Commission on Ethics, partially supported with General Funds of \$78,106.

The money committees approved General Fund support totaling \$62.7 million over the 2013-15 Biennium, a 5.3 percent increase when compared to the legislatively approved amount of \$59.5 million over the 2011-13 Biennium for the Judicial Branch (excluding the Commission on Judicial Discipline). To be consistent with the salary reductions approved for Executive and Legislative Branch employees, the money committees approved the inclusion of salary reductions, suspended merit pay increases, and suspended longevity payments for all Judicial Branch employees except Supreme Court Justices and District Court Judges. The money committees did not approve \$202,727 in General Fund support in fiscal year 2015 for the Foreclosure Mediation Program due to revised notice of default fees and projected reserve balances anticipated through the end of the 2013-15 Biennium to support the continuation of the Foreclosure Mediation Program. Finally, the money committees approved \$414,370 in General Fund support over the 2013-15 Biennium for 2.5 new positions, including operating costs, to provide dedicated security for the Supreme Court and Administrative Office of the Courts buildings in Carson City, and \$503,375 in General Fund support for two new attorney positions for caseload increases in the Las Vegas Civil Division.

For the Department of Administration's Budget and Planning, the money committees approved the Governor's recommendation to add a new Budget Analyst position and General Fund appropriations of \$100,000 over the 2013-15 Biennium for additional contractor programming resources to further develop the Priorities and Performance Based Budgeting Initiative.

For State Public Works, the money committees approved a new administration account, including the transfer of six existing positions within the division to the new account. Additionally, the money committees approved total funding of \$1.7 million for the new account over the 2013-15 Biennium through an allocation of costs to the four existing State Public Works Division budget accounts, as recommended by the Governor. That amount includes General Fund appropriations of \$55,959 in the 2013-15 Biennium to support costs allocated to the Facility Condition and Analysis budget.

The money committees approved the Governor's recommendation to purchase Motor Pool's Las Vegas facility through a General Fund loan of \$2.5 million, which is to be repaid over 20 years. The money committees also approved the Governor's recommendation for General Fund appropriations of \$1.8 million and Highway Fund authorizations of \$1.1 million over the 2013-15 Biennium to purchase 109 additional vehicles for the Motor Pool fleet for assignment to various State agencies.

The money committees approved \$51.7 million in General Fund support for the Department of Taxation over the 2013-15 Biennium. As recommended by the Governor, the money committees approved General Fund appropriations totaling \$801,383 over the

2013-15 Biennium for six new full-time positions, including one unclassified Chief Deputy, three Auditors and two Revenue Officer positions.

Funding for public education was considered separately in the school funding bill, which contains funding for basic support, class-size reduction, Full-Day Kindergarten, teacher and administrator training, teacher incentives, early childhood education, educational technology, career and technical education, adult education and other State education programs.

In closing the Department of Education budgets, the money committees approved General Fund support in the amount of \$24.6 million over the 2013-15 Biennium. Of this amount, \$13.3 million continues the statewide testing program, including support for the System for Accountability Information in Nevada; \$8.3 million supports personnel costs for statewide programs; \$2.3 million serves as maintenance of effort or match requirements to receive various federal funds; \$400,000 supports administrative expenses of the State's Career and Technical Education program; and \$320,000 supports the evaluation of the performance pay validation plan. Additionally, the money committees approved a one-time General Fund appropriation of \$750,000 in Foreclosure Mediation Program 2014 revenues to fund a revolving loan program for charter schools.

In closing the budgets of the Nevada System of Higher Education, the money committees approved revenue from all sources totaling \$1.5 billion over the 2013-15 Biennium. Of the total revenues, \$971.3 million, or 64.9 percent, are General Fund appropriations. When compared to the \$944.8 million in total General Funds approved by the 2011 Legislature, General Fund appropriations approved by the money committees increased by \$26.5 million or 2.8 percent. Non-General Fund revenues total \$524.8 million and include student registration fees, nonresident tuition, student application fees, federal and county revenues, and operating capital investment income. The money committees' discussions and review of the Executive Budget primarily focused on the adoption of a new funding formula to distribute available General Fund appropriations to the Nevada System of Higher Education teaching institutions' (University of Nevada, Reno; University of Nevada, Las Vegas; College of Southern Nevada; Great Basin College; Truckee Meadows Community College; Western Nevada College; and Nevada State College) State-supported operating budgets for the 2013-15 Biennium.

In approving the Nevada System of Higher Education budgets, the money committees adopted the recommendation of the Board of Regents, the 2011-12 Interim Committee to Study the Funding of Higher Education pursuant to Senate Bill No. 374 of the 2011 Session and the Governor to distribute General Fund appropriations through a funding formula based upon resident, completed weighted student credit hours. In approving the funding formula, the money committees approved Small Institution funding for Great Basin College and Western Nevada College and the funding of the operations and maintenance of research space at University of Nevada, Las Vegas and University of Nevada, Reno.

Regarding the issue of holding institutions harmless from funding shifts caused by use of the funding formula, the money committees did not concur with the Governor's recommendation to provide funding mitigation to Great Basin College and Western Nevada College through redistribution of \$6.4 million in General Funds over the 2013-15 Biennium from University of Nevada, Las Vegas, College of Southern Nevada and Nevada State College on a post-formula basis. However, the money committees did concur with the Governor and the Senate Bill 374 Study Committee that mitigation should be funded with new General Fund appropriations and provided appropriations totaling \$5.2 million and \$4.2 million to Great Basin College and Western Nevada College in fiscal year 2014 and fiscal year 2015, respectively, to mitigate the effect of the formula.

The money committees also adopted the Senate Bill 374 Study Committee's recommendation, that for purposes of calculating the level of General Fund appropriations to be budgeted in the Nevada System of Higher Education's State-supported operating budgets, projected non-General Fund revenues should not offset the amount of General Fund appropriations that would otherwise be budgeted. In addition, the money committees approved the recommendation that student fee and tuition revenues should continue to be budgeted in the institutions' State-supported operating budgets for transparency purposes.

The money committees approved the Senate Bill 374 Study Committee's recommendation of performance funding for the seven Nevada System of Higher Education teaching institutions.

Performance funding was approved for implementation in fiscal year 2015. In doing so, the money committees funded the performance funding pool by allocating 5 percent of each institution's fiscal year 2015 "base" General Fund appropriation, totaling \$18.9 million, that would be earned back based upon achieving performance criteria established by the Board of Regents. As recommended by the Governor, the Executive Budget did not include performance funding in fiscal year 2015.

Regarding the Nevada System of Higher Education's non-formula funded budgets, the money committees approved the Governor's recommended 2013-15 Biennium funding levels for the Nevada System of Higher Education non-formula, State-supported operating budgets, inclusive of \$500,000 in annual General Fund appropriations recommended for the Cooperative Extension Service. The money committees also restored General Fund appropriations over the 2013-15 Biennium totaling \$426,917 and \$404,124 to the University of Nevada, Las Vegas School of Law and Dental Medicine budget accounts, respectively. However, the money committees also reduced the General Fund appropriations recommended in the Executive Budget for University of Nevada, Reno's Statewide Programs budget account by \$1.0 million over the 2013-15 Biennium.

Finally, the money committees approved the Senate Bill 374 Study Committee's recommendation of a funding formula for Desert Research Institute and provided direction that Desert Research Institute should utilize the funding formula in the preparation of its 2015-17 Biennium budget.

The money committees approved a total of \$4.3 million in General Funds over the 2013-15 Biennium to support the Department of Agriculture, which represents an increase of 39.5 percent from the \$3.1 million legislatively approved for the 2011-13 Biennium. The increase is related to the money committees approving the Governor's recommendation to provide 11 new positions for the department's Administration Division, a new Conservation Staff Specialist II position for the Sage Grouse Ecosystem Team, and a new Administrator position for the Animal Industry Division. The money committees also approved the Governor's recommendation to transfer the Dairy Commission from the Department of Business and Industry, the Commodity Food Program from the Department of Administration, and the Nutrition Education Programs from the Department of Education to the Department of Agriculture to create a new Food and Nutrition Division.

The money committees approved the Governor's recommendation to eliminate 10 FTE positions in the Technology Division, resulting in a General Fund savings of \$528,502 over the 2013-15 Biennium.

In closing the budgets for the Department of Business and Industry, the money committees approved total funding of approximately \$284 million over the 2013-15 Biennium, net of funding through interagency transfers. Of the total funding, \$2.8 million in fiscal year 2014 and \$2.9 million in fiscal year 2015 represents General Fund appropriations. The money committees also approved Highway Funds of \$2.4 million in each year of the 2013-15 Biennium to support the Nevada Transportation Authority.

For the Real Estate Division, the money committees approved General Fund support totaling \$1.4 million for the 2013-15 Biennium, a 6 percent reduction from the amount approved for the 2011-13 Biennium. The money committees approved redirecting Mortgage Settlement funds of \$239,931 from the Mortgage Lending budget, and reducing General Funds in the Real Estate Administration budget in a like amount.

The money committees approved General Fund support of \$26.9 million over the 2013-15 Biennium for the Governor's Office of Economic Development. The money committees approved the Governor's recommendation to establish the Knowledge Fund account within the Governor's Office of Economic Development and provide General Funds of \$5 million in each year of the 2013-15 Biennium for the Knowledge Fund. The money committees also approved the Governor's amended recommendation to provide General Funds of \$1.5 million in fiscal year 2015 for the Catalyst Fund.

In closing the budgets for the Department of Tourism and Cultural Affairs, the money committees approved General Fund appropriations of \$6.3 million over the 2013-15 Biennium, which is an increase of 2 percent when compared to the legislatively approved amounts for the 2011-13 Biennium. General Funds will continue to support a portion of the expenditures for the

Division of Museums and History, the Nevada Arts Council, Nevada Humanities and the Nevada Indian Commission within the department. In closing the budgets for the Division of Museums and History, the money committees approved the Governor's recommendation to restore staff for the State's seven museums to full-time status with General Fund appropriations of \$631,185 over the 2013-15 Biennium.

In closing the budgets for the Aging and Disability Services Division, the money committees approved funding totaling \$494.2 million to support the division, including \$242.6 million in General Funds. The money committees approved the Governor's recommendation to transfer Developmental Services from the Division of Mental Health and Developmental Services and Early Intervention Services from the Health Division to the Aging and Disability Services Division to create a continuum of disability services to serve persons at all stages of life within one State agency. To accomplish this, 608 positions and 5 budget accounts, including Early Intervention Services, Family Preservation Program, Rural Regional Center, Desert Regional Center and Sierra Regional Center, would transfer to the division in their entirety.

The money committees approved additional funding totaling \$7.2 million, including \$2.4 million in General Funds, to increase the monthly caseload for the Autism Treatment Assistance Program from the 137 children approved by the 2011 Legislature to 572 children by the end of fiscal year 2015. Seven new positions would be added to support the caseload increase, which is projected to reduce the wait list by 50 percent.

The money committees voted to approve the Governor's recommendation to increase the Independent Living Program annual caseload from 216 to 360, at an additional General Fund cost of \$1.2 million over the Biennium. The money committees also approved additional General Funds totaling \$489,797 over the Biennium to add 7 new positions to increase the Home and Community Based Waiver caseload by 117 over the 2013-15 Biennium, resulting in a total monthly caseload of 1,830 at the end of fiscal year 2015.

As recommended by the Governor, the money committees approved \$3.2 million in General Fund appropriations to provide monthly cash assistance to low-income families, who care for relatives in their homes who have profound or severe mental disabilities or have children under six years of age who have developmental delays.

Based on expected caseload growth, the money committees approved General Fund appropriations of \$3.6 million over the 2013-15 Biennium for 41 new positions at the Desert Regional Center, and General Funds of \$189,040 for 4 new positions at the Sierra Regional Center.

Additionally, the money committees approved General Funds of \$347,693 for ten additional positions at Desert Regional Center's Intermediate Care Facility for the Intellectually Disabled. This enhancement in staff is due to an increase in individuals with a dual diagnosis of mental illness and a developmental disability, who require a staffing ratio of one to two.

Across the three regional centers, the money committees approved additional General Fund appropriations of \$11.4 million for Supported Living Arrangements, Family Support/Respite and Jobs and Day Training expenditures.

The money committees approved the Governor's recommendation to implement the second phase of the Medicaid Management Information System replacement project, including one new position to assist with the development of the procurement. Additionally, the money committees approved the Governor's recommendation to add four positions dedicated to various requirements of the Affordable Care Act and four positions to expand fraud, waste and abuse activities within the division. The money committees approved the Governor's recommendation to transfer 25.51 FTE from the Nevada Check Up account to either the Division of Health Care Financing and Policy Administration account (3.0 FTE) or the Division of Welfare and Supportive Services Field Services account (22.51 FTE), limiting the expenditures in the account to medical reimbursements only.

The money committees approved the Federal Medical Assistance Percentage rate, as amended, for the 2013-15 Biennium, which increased for fiscal year 2015 by 0.65 percent compared to the rate used in the Executive Budget, resulting in General Fund savings of approximately \$11.0 million in fiscal year 2015.

The money committees also approved the Governor's amended caseload projections for the Medicaid and Nevada Check Up programs, decreasing projected General Fund appropriations by

approximately \$2.8 million in fiscal year 2014 and \$7.7 million in fiscal year 2015. This includes caseload increases resulting from annual caseload growth, the implementation of the Affordable Care Act, and expansion of Medicaid to include adults ages 19 to 64 with household incomes up to 138 percent of the federal poverty level.

The money committees approved the Governor's recommendation to extend the primary care provider rate increases mandated by the Affordable Care Act for Medicaid providers through fiscal year 2015 and include the rate increases for Nevada Check Up providers for the 2013-15 Biennium. Additionally, the money committees approved the Governor's recommendation, as amended, to restore provider rate reductions imposed during the previous Biennium in the Medicaid and Nevada Check Up accounts. The provider rate increases include: (1) a 15 percent rate increase for free-standing ambulatory surgery centers and ambulance services; (2) a less than 1 percent rate increase for dental services; (3) an approximately 6.86 percent rate increase (representing a partial restoration) for partial anesthesia services; (4) a 28 percent increase for non-primary care obstetric services; and (5) a 30 percent increase (representing a partial restoration) to the enhancement rate for pediatric surgical services. The increase in provider rates required General Fund support of approximately \$6.0 million in fiscal year 2014 and \$14.2 million in fiscal year 2015.

The money committees also approved the Governor's recommendation, as amended, to pay the non-federal share of expenses for kidney dialysis needed to stabilize individuals with kidney failure and additional emergency care related to the treatment of kidney failure, resulting in a General Fund expenditure totaling approximately \$3.0 million over the 2013-15 Biennium.

The money committees also approved the Governor's recommendation to reduce the county contribution to the County Match Program and increase the General Fund appropriation by approximately \$1.3 million over the 2013-15 Biennium.

The money committees approved General Fund appropriations of \$158 million over the 2013-15 Biennium for the Division of Welfare and Supportive Services. General Funds totaling \$49.2 million over the 2013-15 Biennium were approved for the Temporary Assistance to Needy Families budget, primarily to support Temporary Assistance to Needy Families caseloads projected at 28,051 cases in fiscal year 2014 and 26,662 in fiscal year 2015.

The money committees approved the Governor's amended recommendation to provide an additional 410 positions and associated new office space in the Field Services account and 21 additional positions in the Administration account to address caseload increases for general program growth, the implementation of the Affordable Care Act, and the expansion of Medicaid. However, instead of adding the new positions and facilities at the beginning of each fiscal year, the money committees approved phasing in the new positions and facilities based on the space available to train eligibility workers in the division's training academies.

The money committees approved the inclusion of enhanced Medicaid funding offered by the federal government for the division's Field Services and Administration accounts. This enhanced funding increases the federal share of administrative costs related to the eligibility function performed by the division from 50 percent federal funds and 50 percent General Funds, to 75 percent federal funds and 25 percent General Funds, beginning on October 1, 2013. Accordingly, the money committees approved General Fund appropriations for the Field Services account and the Administration account combined, totaling \$82.0 million over the 2013-15 Biennium or \$19.8 million less than the \$101.8 million originally recommended in the Executive Budget.

The money committees approved the Governor's amended recommendation to provide an additional \$2.0 million in each year of the Biennium to increase childcare subsidies for working families. The funding will serve approximately 346 additional children per year in the at-risk population.

The money committees approved the reorganization of the Division of Mental Health and Developmental Services by combining the Mental Health accounts, including Southern Nevada Adult Mental Health Services, Northern Nevada Adult Mental Health Services, Rural Clinics, Lake's Crossing, Substance Abuse Prevention and Treatment Agency Alcohol Tax Program, Mental Health Administration and Mental Health Information System with most of the Health Division accounts to form a new division, the Division of Public and Behavioral Health.

In closing the budgets of the State Health Division, the money committees approved total funding of \$196.3 million in fiscal year 2014 and \$197.7 million in fiscal year 2015, including General Fund support of \$36.2 million in fiscal year 2014 and \$39.6 million in fiscal year 2015. This total includes the Early Intervention Services budget, which represents the majority of the General Fund appropriations within the Health Division. In approving the integration of the Health Division and Mental Health into a new Division of Public and Behavioral Health, the money committees also approved the transfer of Early Intervention Services from the newly consolidated division to the Aging and Disability Services Division.

The money committees approved sufficient funding for a 50/50 split of the total Early Intervention Services caseload between State Early Intervention Services clinics and community providers for the 2013-15 Biennium. As a result, the legislatively approved Early Intervention Services budget includes General Fund appropriations of \$28.9 million in fiscal year 2014 and \$32.5 million in fiscal year 2015, compared to the Governor's recommendation of \$27.4 million for fiscal year 2014 and \$31.2 million for fiscal year 2015. The increase is due to revised caseload as well as adding 37.75 positions to the Early Intervention Services clinic staff over the upcoming Biennium.

In closing the Immunization budget, the money committees approved General Fund appropriations of \$1.0 million over the 2013-15 Biennium, as recommended by the Governor, to make available additional pertussis vaccinations for the immunization of family members and close contacts of newborns.

As a result of expanding Medicaid eligibility to individuals who earn up to 138 percent of the federal poverty level and enrolling individuals who have been Medicaid-eligible in the past, but have failed to enroll, the money committees approved reductions in General Fund appropriations of \$26.8 million over the 2013-15 Biennium with corresponding increases in Medicaid reimbursements. Based on substance abuse treatment facilities' projected ability to bill Medicaid directly, the money committees also approved a reduction in General Fund appropriations totaling \$6.4 million over the 2013-15 Biennium from the Substance Abuse Prevention and Treatment Agency account.

The money committees approved General Fund appropriations of \$3.1 million over the 2013-15 Biennium for Southern Nevada Adult Mental Health Services to provide supported living housing and clinical services for individuals reentering the community from jails, prisons and forensic hospitals. The money committees also approved General Fund appropriations of \$984,000 for similar services in the Northern Nevada Adult Mental Health Services budget account.

The money committees approved the Governor's recommendation to close the Las Vegas downtown outpatient clinic and transfer services to the Southern Nevada Adult Mental Health Services campus on West Charleston. This closure will allow Southern Nevada Adult Mental Health Services to divert individuals from local hospital emergency rooms and provide quicker access to inpatient and outpatient psychiatric services by co-locating medical clearance and a 24-hour Urgent Care Center on the Southern Nevada Adult Mental Health Services campus. By closing the downtown clinic, the agency will save \$721,174 over the 2013-15 Biennium in operating expenditures, with savings used to offset a portion of \$1.0 million for two Senior Psychiatrists and two Accounting Assistants to help with increased caseload and expanded operating hours. In order to operate the proposed 24-hour Urgent Care Center, the money committees also approved General Fund appropriations of \$600,000 over the 2013-15 Biennium to enable Southern Nevada Adult Mental Health Services to obtain additional contract psychiatric services.

For Northern Nevada Adult Mental Health Services, the money committees approved General Fund appropriations of \$136,674 over the 2013-15 Biennium to fund contracts with a Psychiatric Nurse and an Administrative Assistant on a part-time basis to provide after-hours medical clearance to support the Psychiatric Observation Unit and inpatient units as needed to help reduce inappropriate use of local hospital emergency rooms. These contracts will allow Northern Nevada Adult Mental Health Services to extend weekday medical clearance services from 3:00 p.m. to 7:00 p.m.

The money committees approved General Fund appropriations of \$231.2 million over the 2013-15 Biennium for the Division of Child and Family Services. Funding was approved to

support projected caseload increases in foster care and adoption subsidies. Funding for child welfare services was approved for Clark and Washoe Counties in the form of capped block grants, with the provision that additional funds may be requested for adoption subsidy costs.

The money committees approved reopening the Summit View juvenile correctional facility with a private vendor using \$1.5 million in General Funds and \$3.6 million in budgetary savings realized through reducing beds at the Nevada Youth Training Center from 110 to 60, and eliminating 29 vacant Nevada Youth Training Center positions.

For rural child welfare, funding was approved for four new Family Support Worker and two Mental Health Counselor positions. The money committees also approved four new Psychiatric Nurse positions and a new Management Analyst position for Desert Willow Treatment Center. Additionally, a new Food Service Cook/Supervisor II position was approved for Caliente Youth Center.

In closing the budgets of the Department of Employment, Training and Rehabilitation, the money committees approved total General Fund appropriations of \$7.7 million for the 2013-15 Biennium, an increase of 3.6 percent when compared to the legislatively-approved amounts for the 2011-13 Biennium.

The money committees did not approve the fiscal consolidation of the Bureau of Services to the Blind and Visually Impaired and Vocational Rehabilitation accounts as recommended by the Governor, citing concerns voiced by blind and visually impaired consumers and advocates and the Legislature's need for oversight of these resources and expenditures. The money committees did approve the Governor's recommendation to transfer the Chief of the Office of Disability Employment Policy from the Rehabilitation Administration account to the Vocational Rehabilitation account and the transfer of the Workforce Solutions Unit from the Employment Security Division to the Department of Employment, Training and Rehabilitation Administration account.

In closing the Department of Corrections budgets, the money committees approved General Fund support totaling \$487.3 million over the 2013-15 Biennium. The funding approved will provide for housing an average of 12,667 inmates in fiscal year 2014 and 12,714 inmates in fiscal year 2015. The money committees approved General Fund reductions of \$7.9 million over the 2013-15 Biennium to account for the estimated medical expenditures that would be directly paid by Medicaid as a result of the Affordable Care Act and existing Medicaid eligibility for inmates. The money committees also approved General Fund reductions of \$645,743 over the 2013-15 Biennium to adjust for the replacement of kosher meals with the less expensive common fare meals, resulting from a Ninth District Court of Appeals ruling.

The money committees did not approve the transfer of 105 positions from the Department of Public Safety to the Department of Corrections to staff a newly proposed Parole Services Division.

The money committees approved Highway Fund appropriations of approximately \$45 million in fiscal year 2014 and \$70 million in fiscal year 2015 to support the operations of the department. This includes replacing approximately \$24.9 million in governmental services tax commissions and penalties revenue with direct Highway Fund appropriations for fiscal year 2015 only, and redirecting the governmental services tax commissions and penalties revenue to the General Fund for unrestricted use.

Due to the increase in Highway Fund appropriations for the department, the 22 percent cap on administration expenses will increase to 32 percent for fiscal year 2015 only. The actions taken by the money committees maintained the agency within the statutory 22 percent cap for fiscal year 2014 and within the 32 percent cap for fiscal year 2015.

The money committees approved three new Information Technology Professional positions funded with Highway Funds of \$639,271 over the 2013-15 Biennium to address the backlog of information technology projects and for the maintenance and programming of the Department of Motor Vehicles application. Additionally, the money committees approved Highway Funds of \$184,439 over the 2013-15 Biennium to reinstate a training budget for all Information Technology staff within the department.

The money committees approved Highway Funds of approximately \$1.1 million in fiscal year 2014 and \$1.2 million in fiscal year 2015 to continue 25 counter positions approved by the Interim Finance Committee during the 2011-13 Biennium. The continuation of the 25 positions

will maintain wait times at the six metropolitan offices at an average of 39 minutes, and will maintain resources in Elko and Winnemucca to respond to workload increases associated with population growth and mining activity.

The money committees approved Highway Funds of \$317,637 in fiscal year 2014 for a new automated customer flow queuing system for 12 field offices and \$49,272 in fiscal year 2015 for the ongoing maintenance and support of the new queuing system.

Finally, the money committees approved making the License Plate Factory self-supporting in lieu of funding operations with Highway Funds. The License Plate Factory will also relocate to a new building on the grounds, but outside the fence, of the Northern Nevada Correctional Center.

For the Department of Public Safety, the money committees approved approximately \$409.6 million over the 2013-15 Biennium, including General Fund appropriations of \$91.7 million and Highway Fund appropriations of \$133.1 million. Included in the Highway Fund appropriation is \$1.0 million over the 2013-15 Biennium to replace portable 800 MHz radios for Highway Patrol officers.

The money committees approved closing the Mesquite office of the Division of Investigations as recommended by the Governor, resulting in a General Fund savings of \$82,213 over the 2013-15 Biennium. One position would be eliminated with the closure of the office, and two positions would be reassigned to task forces in the Las Vegas area. The money committees also approved \$267,035 General Fund support for two new Management Analyst positions for the Nevada Threat Analysis Center.

In closing the Parole and Probation Division budget, the money committees did not approve the transfer of parole functions to the Department of Corrections. The money committees approved revised staffing and caseload projections for sworn and non-sworn positions as recommended by the Governor, resulting in a net reduction of six positions and reducing General Fund support by \$94,547.

For the Department of Conservation and Natural Resources, including the Tahoe Regional Planning Agency, the money committees approved General Fund appropriations totaling \$41.2 million over the 2013-15 Biennium. Of this amount, \$621,594 was approved for deferred maintenance at the South Fork Dam and various deferred maintenance projects at 11 State parks.

In closing the Division of Water Resources budget, the money committees approved General Fund support totaling \$6.0 million over the 2013-15 Biennium, a reduction of approximately 39 percent from the legislatively-approved appropriations of \$9.8 million for the 2011-13 Biennium. The reduction is primarily due to the money committees' approval to add fee revenue of approximately \$3.7 million in each year of the 2013-15 Biennium from new and existing fees, and to establish a reserve in the Water Resource budget account of approximately \$2.0 million by the end of fiscal year 2015. The money committees also approved General Fund appropriations of \$447,248 over the 2013-15 Biennium to support the new Wildland Fire Protection Program within the Division of Forestry, as well as \$89,552 to restore a maintenance position within the Division of State Parks that was eliminated during budget reductions.

In closing the Office of Veterans' Services budgets, the money committees approved General Fund support totaling \$3.5 million for the 2013-15 Biennium. The money committees approved the Governor's recommendation to add two additional Veterans' Services Representative positions for the Reno area. The money committees also added an Education and Information Officer and an Administrative Assistant to assist with the development of policies, initiatives and strategies concerning services provided to veterans, servicemen, servicewomen, and their families.

SENATOR GOICOECHEA:

Thank you, Mr. President. Unfortunately, I have to rise in opposition to Assembly Bill No. 507. Please do not think I am ungrateful to all the people in this building, as well as outside of it, who did a yeoman's job trying to find secure funding for the small-institution community colleges. As I look at this appropriation budget of \$4 billion, I thought there would have been enough in there somewhere to fund the smaller institutions, at least at a hold-harmless level when everyone else is getting increases.

SENATOR KIECKHEFER:

Thank you, Mr. President. I rise in support of Assembly Bill No. 507, the Appropriations Act. I would like to again thank my colleague from Senate District No. 13, the Chair of the Senate Committee on Finance. During this Session, there was a lot of hard work done. Getting this final product done is quite an accomplishment.

The bill is an increase in total General Fund spending for the upcoming Biennium over the current budget cycle. There are a lot of enhancements in this budget that will improve services to the citizens of our State, particularly in the Department of Health and Human Services, as do the other General Fund appropriations that we made previously to K-12 education. This is a new way in which we implement how we finance higher education and how we allocate the State General Fund dollars that go to higher education. As my colleague from Eureka just said, there are both winners and losers within. The desire is to get to a system where we demand some accountability and apply a formula that works across our State and incentivizes success.

I imagine others will speak to different aspects of this bill, but it is a good product. It is a good allocation of our State resources. I encourage your support.

SENATOR HUTCHISON:

Thank you, Mr. President. I will be voting in support of Assembly Bill No. 507. It is a package deal for which I cast my vote. I do rise though with some serious concerns over elements of this appropriations bill. In particular, before long, this Body will have some challenging policy decisions to make around fiscal choices because of the requirements of the Affordable Care Act and the expansion of Medicaid. The only reason this is not consuming much more of our budget is because the federal government is currently funding 100 percent of the expansion under Medicaid.

We are just beginning to see the fiscal effects of the Affordable Care Act. I have serious concerns that eventually the funding required by the Affordable Care Act will crowd out other priorities including education and public safety. Someone once told me when I was running for office, that the State government does three things: medicate, incarcerate and educate. We will have a budget that, I believe, will be consumed, in the future, by Medicaid and health-care costs. If we do not pay particular attention to this policy issue, we will not have the money necessary to effectively educate and incarcerate. Those priorities can be crowded out by one element of our budget under the Affordable Care Act.

Although, currently, we do not have a major problem in this appropriations act today, in the future I believe we will. There have already been discussions by high-level members of the federal government to cut back on the amount of matching funds to states under the Affordable Care Act. The federal government is currently borrowing 40 cents of every dollar it spends. I do not believe this kind of borrowing and spending is sustainable on a go-forward basis with the federal government supplementing the State health-care system as the federal government currently does. It is a big policy issue that will require a serious discussion about the purpose of State government and the true priorities of the State. While I rise in support of Assembly Bill No. 507, I am not in support of the all of the expenditures under the bill such as those I just discussed.

Roll call on Assembly Bill No. 507:

YEAS—16.

NAYS—Cegavske, Goicoechea, Gustavson and Settelmeyer—4.

EXCUSED—Woodhouse.

Assembly Bill No. 507 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 511.

Bill read third time.

Remarks by Senators Smith, Denis, Kieckhefer, Spearman and Ford.

SENATOR SMITH:

Thank you, Mr. President. I rise in support of Assembly Bill No. 511, which establishes the maximum allowable salaries for employees in the unclassified and classified service. The bill requires that the salary of each employee in all departments of State government be restored by 2.5 percent. The bill requires 48 hours of unpaid furlough leave each year for full-time employees of all branches of State government, including the Nevada System of Higher Education and the Public Employees' Retirement System, but holds employees harmless in the accumulation of retirement service credit for time taken as furlough leave. It also provides an exception to the requirement of furlough leave for employees identified by their employing agency as critical in the protection of public health, safety and welfare, with approval of the appropriate governing body. In lieu of furlough leave, these exempt employees will incur a 2.3 percent reduction in pay. Finally, the bill temporarily suspends four semi-annual longevity payments over the 2013-15 Biennium and merit pay salary increases in fiscal year 2014 to State employees—meaning they will get their merit pay restored in 2015—who would otherwise be entitled to a salary increase during the period beginning July 1, 2013, and ending on June 30, 2014. This act becomes effective on July 1, 2013.

I cannot say enough about how important this bill is. Our State employees have been so solid in helping us through this budget crisis. At times, they have offered to share the burden and take on both furloughs and salary-and-benefit decreases. They have also been stalwart in working harder for less money. They have continually helped us solve budget problems by finding where to cut and solving problems around how we can serve the State and all of our citizens with less money. I could not be more proud of the fact that we are about to pass a bill that will restore this pay cut. They have endured this for some time now. We have heard the many stories about how harmful this has been to them. I encourage you to join me in supporting this bill.

SENATOR DENIS:

Thank you, Mr. President. I rise in support of Assembly Bill No. 511. Five years—sometimes that seems like a long time, other times it does not. For our State employees who have had to endure cuts and furloughs as well as forego pay increases and have health insurance costs go up, it has been a sacrifice. We have heard the stories. Some have had to live out of their cars and other extremes to make it. But, even those, who did not live in dire situations, still had challenges. I want to take this opportunity to say that I appreciate—I think all of us appreciate—and love our State employees. They have done a yeoman's job. They do more with less. We have given them less, and now, it is time we do a little bit to start to restore some of the many things that were taken away. I stand in support and want our State employees to know we appreciate all they do.

SENATOR KIECKHEFER:

Thank you, Mr. President. I also rise in support of Assembly Bill No. 511. This is the last of our major budget bills. This is a strong statement that we do value our State employees. Most State employees work for the Executive Branch, but they are our employees as well. We should ask ourselves whether or not we are proud of how we are treating our employees. With this bill, we can say we are—we are doing right by them. We are giving back to them as we are emerging out of this recession. They suffered when we were going into it and while we were at its depths. As we grow out, they should grow out too and share in the success of this State. They have sacrificed along with all the rest of us. I am a strong supporter of this bill. The Governor had made some good commitments in his budget to give back to State employees. We, here at the Legislature, have upped the ante a little bit, putting some back in. We have changed how things are spread out. This is a positive step for us as a State. It will help with morale, retention and recruitment. I cannot say enough good things about this piece of legislation. I encourage you all to support it.

SENATOR SPEARMAN:

Thank you, Mr. President. I rise in strong support of Assembly Bill No. 511. I know there may be some who may question the wisdom of doing this, making budget restorations, but I would like to say the people who have helped get us through this Legislative Session are State employees. Every one of us in here had a bill draft request that, sooner or later, turned into a bill.

The people who did the work on those are State employees. It is easy to say in the abstract that State employees should not get a raise or should have to take furloughs. It is easy to say in the abstract. But, when you look into the faces of our State employees, you see the pain and the anguish.

I had a meeting with some State employees in my district. I talked to a single mother who worked. She was one of the employees entering data for people applying for Temporary Assistance for Needy Families welfare assistance. The cruel irony is she also was in the same position. Anytime our State employees serve us as they have, they have not flinched. They have served. We owe them a debt of gratitude. Assembly Bill No. 511 is a small down payment.

SENATOR FORD:

Thank you, Mr. President. I rise in support in Assembly Bill No. 511. Every second Saturday of each month, I have "Soup, Salad and Sandwiches with Your Senator" in my district. At the March event at Soul Food Café on Rainbow and Warm Springs in my district, I had about six State workers in attendance. They all told me their stories. They are comparable to what we have heard about living out of cars and on welfare. It is reminiscent to me of how we talk about them "sharing the pain." Everybody else is having to cut back so why should not government? It makes sense. But, it is interesting though, that when we have gain, we do not often talk about trying to help the State workers participate in the gain. When I get a bonus, when the economy is doing well, I do not talk about giving extra money to our State workers.

That said, I want to highlight the importance of this bill for our State workers. They need it. They will greatly appreciate it. I would appreciate your support on this bill.

Roll call on Assembly Bill No. 511:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 511 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. 288, 260, 509, be taken from the General File and placed on the Secretary's Desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 501.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 969.

"SUMMARY—~~[Makes various changes concerning substance abuse prevention and]~~ Revises provisions governing funding for certain facilities for the treatment of abuse of alcohol or drugs. (BDR 40-1141)"

"AN ACT relating to substance abuse; ~~[transferring certain powers and duties from the Division of Mental Health and Developmental Services of the Department of Health and Human Services to the Health Division of the Department of Health and Human Services; requiring]~~ revising provisions governing funding for certain facilities for the treatment of abuse of alcohol or drugs; ~~[to be licensed;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a facility for the treatment of abuse of alcohol or drugs, to be eligible to receive state and federal money for its alcohol and drug abuse programs, must be licensed by the State Board of Health and certified by the Division of Mental Health and Developmental Services of the Department of Health and Human Services. (NRS 449.0302, 458.025) ~~[Section]~~ Sections 1 and 2 of this bill ~~[provides]~~ provide that a facility is eligible to receive such money if ~~it~~ the facility is licensed by the Health Division.~~f~~

~~Under existing law, the Division of Mental Health and Developmental Services is required to certify detoxification technicians, facilities and programs for the education and treatment of alcohol and drug abusers. (NRS 458.025) Section 8 of this bill requires treatment facilities to be licensed by the Health Division. Section 9 of this bill also requires the Health Division to certify detoxification technicians and any facility that is not required to be licensed. Section 23.3 amends section 9 to remove the reference to detoxification technicians effective when the Board of Examiners for Alcohol, Drug and Gambling Counselors begin certifying such technicians.~~

~~Under existing law, certain first-time offenders who have been found guilty of driving under the influence of alcohol or a controlled substance must be evaluated at an evaluation center to determine whether the offender is an abuser of alcohol or other drugs. (NRS 484C.350) Under existing law, a juvenile court may also order such an evaluation of a child who commits certain crimes. Sections 16.5, 18.5 and 19 of this bill require such evaluations to be conducted at a licensed treatment facility.] of the Department.~~

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

A facility for the treatment of abuse of alcohol or drugs is not eligible to receive state and federal money for alcohol and drug abuse programs unless it is licensed by the Health Division pursuant to NRS 449.080.

Sec. 2. NRS 449.00455 is hereby amended to read as follows:

449.00455 "Facility for the treatment of abuse of alcohol or drugs" means any public or private establishment which provides residential treatment, including mental and physical restoration, of abusers of alcohol or drugs . ~~[and which is certified by the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to subsection 4 of NRS 458.025. It]~~ The term does not include a medical facility or services offered by volunteers or voluntary organizations.

Sec. 3. NRS 449.0301 is hereby amended to read as follows:

449.0301 The provisions of NRS 449.030 to 449.240, inclusive, *and section 1 of this act* do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 4. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.030 to 449.240, inclusive, *and section 1 of this act* upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.030 to 449.245, inclusive, *and section 1 of this act*, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the premises for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Health Division shall provide to a facility for the care of adults during the day:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➔ The facility shall make the information available to the public pursuant to NRS 449.2486.

4. On or before February 1 of each odd-numbered year, the Health Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 5. NRS 449.163 is hereby amended to read as follows:

449.163 1. In addition to the payment of the amount required by NRS 449.0308, if a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.030 to 449.240, inclusive, *and section 1 of this act*, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

(a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;

(b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;

(c) If the license of the facility limits the occupancy of the facility and the facility has exceeded the approved occupancy, require the facility, at its own expense, to move patients to another facility that is licensed;

(d) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and

(e) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (d) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (d) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.030 to 449.240, inclusive, *and section 1 of this act*, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to paragraph (d) of subsection 1 must be accounted for separately and used to administer and carry out the provisions of this chapter and to protect the health, safety, well-being and property of the patients and residents of facilities in accordance with applicable state and federal standards.

Sec. 6. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.030 to 449.240, inclusive ~~[-]~~, *and section 1 of this act*:

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 7. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.030 to 449.245, inclusive ~~[-]~~, *and section 1 of this act*.

Sec. 8. ~~NRS 453.580 is hereby amended to read as follows:~~

~~453.580 1. A court may establish an appropriate treatment program to which it may assign a person pursuant to subsection 4 of NRS 453.336, NRS 453.3363 or 458.300, or it may assign such a person to an appropriate facility for the treatment of abuse of alcohol or drugs which is [certified by the Division of Mental Health and Developmental Services of the Department.] licensed pursuant to NRS 449.080. The assignment must include the terms and conditions for successful completion of the program and provide for progress reports at intervals set by the court to ensure that the person is making satisfactory progress toward completion of the program.~~

~~2. A program to which a court assigns a person pursuant to subsection 1 must include:~~

~~(a) Information and encouragement for the participant to cease abusing alcohol or using controlled substances through educational, counseling and~~

~~support sessions developed with the cooperation of various community, health, substance abuse, religious, social service and youth organizations;~~

~~(b) The opportunity for the participant to understand the medical, psychological and social implications of substance abuse; and~~

~~(c) Alternate courses within the program based on the different substances abused and the addictions of participants.~~

~~3. If the offense with which the person was charged involved the use or possession of a controlled substance, in addition to the program or as a part of the program, the court must also require frequent urinalysis to determine that the person is not using a controlled substance. The court shall specify how frequent such examinations must be and how many must be successfully completed, independently of other requisites for successful completion of the program.~~

~~4. Before the court assigns a person to a program pursuant to this section, the person must agree to pay the cost of the program to which the person is assigned and the cost of any additional supervision required pursuant to subsection 3, to the extent of the financial resources of the person. If the person does not have the financial resources to pay all of the related costs, the court shall, to the extent practicable, arrange for the person to be assigned to a program at a facility that receives a sufficient amount of federal or state funding to offset the remainder of the costs.] (Deleted by amendment.)~~

Sec. 9. ~~[Chapter 458 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Health Division shall certify or deny certification of detoxification technicians and any facility that is not required to be licensed pursuant to chapter 449 of NRS on the basis of the standards established by the Health Division pursuant to this section, and publish a list of certified detoxification technicians, certified facilities and facilities licensed pursuant to chapter 449 of NRS. Any detoxification technician who is not certified and any facility that is not certified or licensed is ineligible to receive state and federal money for alcohol and drug abuse programs.~~

~~2. The Health Division shall adopt regulations which:~~

~~(a) Must prescribe the requirements for continuing education for persons certified as detoxification technicians; and~~

~~(b) May prescribe the fees for the certification of detoxification technicians and facilities. A fee prescribed pursuant to this paragraph must be calculated to produce the revenue estimated to cover the costs related to the certifications, but in no case may a fee for a certificate exceed the actual cost to the Health Division of issuing the certificate.~~

~~3. Except as otherwise provided in this subsection, upon request from a facility, the Health Division may certify the facility and its detoxification technicians and add them to the list described in subsection 1. The Health Division shall not add an unlicensed facility to the list if the facility is required to be licensed pursuant to the provisions of chapter 449 of NRS.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 458.010 is hereby amended to read as follows:~~

~~458.010 As used in NRS 458.010 to 458.350, inclusive, and section 9 of this act, unless the context requires otherwise:~~

~~1. "Administrator" means the Administrator of the Division.~~

~~2. "Alcohol and drug abuse program" means a project concerned with education, prevention and treatment directed toward achieving the mental and physical restoration of alcohol and drug abusers.~~

~~3. "Alcohol and drug abuser" means a person whose consumption of alcohol or other drugs, or any combination thereof, interferes with or adversely affects the ability of the person to function socially or economically.~~

~~4. "Alcoholic" means any person who habitually uses alcoholic beverages to the extent that the person endangers the health, safety or welfare of himself or herself or any other person or group of persons.~~

~~5. "Civil protective custody" means a custodial placement of a person to protect the health or safety of the person. Civil protective custody does not have any criminal implication.~~

~~6. "Detoxification technician" means a person who is certified by the Health Division to provide screening for the safe withdrawal from alcohol and other drugs.~~

~~7. "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.~~

~~8. "Facility" means a physical structure used for the education, prevention and treatment, including mental and physical restoration, of alcohol and drug abusers. The term includes, without limitation, a physical structure used by a facility for the treatment of abuse of alcohol or drugs licensed pursuant to NRS 449.080 and any physical structure used for the delivery of an alcohol and drug abuse program.~~

~~9. "Health Division" means the Health Division of the Department of Health and Human Services.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 458.010 is hereby amended to read as follows:~~

~~458.010 As used in NRS 458.010 to 458.350, inclusive, unless the context requires otherwise:~~

~~1. "Administrator" means the Administrator of the Division.~~

~~2. "Alcohol and drug abuse program" means a project concerned with education, prevention and treatment directed toward achieving the mental and physical restoration of alcohol and drug abusers.~~

~~3. "Alcohol and drug abuser" means a person whose consumption of alcohol or other drugs, or any combination thereof, interferes with or adversely affects the ability of the person to function socially or economically.~~

~~4. "Alcoholic" means any person who habitually uses alcoholic beverages to the extent that the person endangers the health, safety or welfare of himself or herself or any other person or group of persons.~~

~~5. "Civil protective custody" means a custodial placement of a person to protect the health or safety of the person. Civil protective custody does not have any criminal implication.~~

~~6. "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.~~

~~7. "Facility" means a physical structure used for the education, prevention and treatment, including mental and physical restoration, of alcohol and drug abusers. The term includes, without limitation, a physical structure used by a facility for the treatment of abuse of alcohol or drugs licensed pursuant to NRS 449.080 and any physical structure used for the delivery of an alcohol and drug abuse program.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 458.025 is hereby amended to read as follows:~~

~~458.025 The Division:~~

~~1. Shall formulate and operate a comprehensive state plan for alcohol and drug abuse programs which must include:~~

~~(a) A survey of the need for prevention and treatment of alcohol and drug abuse, including a survey of the facilities needed to provide services and a plan for the development and distribution of services and programs throughout this State.~~

~~(b) A plan for programs to educate the public in the problems of the abuse of alcohol and other drugs.~~

~~(c) A survey of the need for persons who have professional training in fields of health and other persons involved in the prevention of alcohol and drug abuse and in the treatment and recovery of alcohol and drug abusers, and a plan to provide the necessary treatment.~~

~~2. In developing and revising the state plan, the Division shall consider, without limitation, the amount of money available from the Federal Government for alcohol and drug abuse programs and the conditions attached to the acceptance of that money, and the limitations of legislative appropriations for alcohol and drug abuse programs.~~

~~2. Shall coordinate the efforts to carry out the state plan and coordinate all state and federal financial support of alcohol and drug abuse programs in this State.~~

~~3. Must be consulted in the planning of projects and advised of all applications for grants from within this State which are concerned with alcohol and drug abuse programs, and shall review the applications and advise the applicants concerning the applications.~~

~~[4. Shall certify or deny certification of detoxification technicians or any facilities or programs on the basis of the standards established by the Division pursuant to this section, and publish a list of certified detoxification technicians, facilities and programs. Any detoxification technicians, facilities or programs which are not certified are ineligible to receive state and federal money for alcohol and drug abuse programs. The Division shall adopt regulations. The regulations:~~

(a) Must prescribe the requirements for continuing education for persons certified as detoxification technicians; and

(b) May prescribe the fees for the certification of detoxification technicians, facilities or programs. A fee prescribed pursuant to this paragraph must be calculated to produce the revenue estimated to cover the costs related to the certifications, but in no case may a fee for a certificate exceed the actual cost to the Division of issuing the certificate.

5. ~~Upon request from a facility which is self-supported, may certify the facility, its programs and detoxification technicians and add them to the list described in subsection 4.}] (Deleted by amendment.)~~

Sec. 13. ~~[NRS 458.026 is hereby amended to read as follows:~~

~~458.026 1. An applicant for the issuance or renewal of his or her certification as a detoxification technician must submit to the Health Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.~~

~~2. The Health Division shall include the statement required pursuant to subsection 1 in:~~

~~(a) The application or any other forms that must be submitted for the issuance or renewal of the certification; or~~

~~(b) A separate form prescribed by the Health Division.~~

~~3. The certification of a person as a detoxification technician may not be issued or renewed by the Health Division if the applicant:~~

~~(a) Fails to complete or submit the statement required pursuant to subsection 1; or~~

~~(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.~~

~~4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Administrator of the Health Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.}] (Deleted by amendment.)~~

Sec. 14. ~~[NRS 458.027 is hereby amended to read as follows:~~

~~458.027 1. If the Health Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been certified as a detoxification technician, the Health Division shall deem the certification to be suspended at the end of the 30th day after the date on which the court order was issued unless the Health~~

~~Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person who has been certified stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.~~

~~2. The Health Division shall reinstate the certification of a person as a detoxification technician that has been suspended by a district court pursuant to NRS 425.540 if the Health Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certification was suspended stating that the person whose certification was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560. (Deleted by amendment.)~~

Sec. 15. ~~[NRS 458.031 is hereby amended to read as follows:
458.031 [The]~~

~~1. Except as otherwise provided in this section, the Division shall administer the provisions of NRS 458.010 to 458.350, inclusive, and section 9 of this act as the sole agency of the State of Nevada for that purpose.~~

~~2. The Health Division shall administer the provisions of NRS 458.026, 458.027 and 458.028 and section 9 of this act. (Deleted by amendment.)~~

Sec. 16. ~~[NRS 62A.340 is hereby amended to read as follows:~~

~~62A.340 "Treatment facility" means a facility for the treatment of abuse of alcohol or drugs [that is certified by the Health Division of the Department of Health and Human Services.], as defined in NRS 449.00455, which is licensed pursuant to NRS 449.080. (Deleted by amendment.)~~

Sec. 16.5. ~~[NRS 62E.620 is hereby amended to read as follows:~~

~~62E.620 1. The juvenile court shall order a delinquent child to undergo an evaluation to determine whether the child is an abuser of alcohol or other drugs if the child committed:~~

~~(a) An unlawful act in violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430;~~

~~(b) The unlawful act of using, possessing, selling or distributing a controlled substance; or~~

~~(c) The unlawful act of purchasing, consuming or possessing an alcoholic beverage in violation of NRS 202.020.~~

~~2. Except as otherwise provided in subsection 3, an evaluation of the child must be conducted by:~~

~~(a) A clinical alcohol and drug abuse counselor who is licensed, an alcohol and drug abuse counselor who is licensed or certified, or an alcohol and drug abuse counselor intern or a clinical alcohol and drug abuse counselor intern who is certified, pursuant to chapter 641C of NRS, to make that classification; or~~

~~(b) A physician who is certified to make that classification by the Board of Medical Examiners.~~

~~3. If the child resides in this State but the nearest location at which an evaluation may be conducted is in another state, the court may allow the~~

~~evaluation to be conducted in the other state if the person conducting the evaluation:~~

~~(a) Possesses qualifications that are substantially similar to the qualifications described in subsection 2;~~

~~(b) Holds an appropriate license, certificate or credential issued by a regulatory agency in the other state; and~~

~~(c) Is in good standing with the regulatory agency in the other state.~~

~~4. The evaluation of the child may be conducted at [an evaluation center.] a treatment facility.~~

~~5. The person who conducts the evaluation of the child shall report to the juvenile court the results of the evaluation and make a recommendation to the juvenile court concerning the length and type of treatment required for the child.~~

~~6. The juvenile court shall:~~

~~(a) Order the child to undergo a program of treatment as recommended by the person who conducts the evaluation of the child.~~

~~(b) Require the treatment facility to submit monthly reports on the treatment of the child pursuant to this section.~~

~~(c) Order the child or the parent or guardian of the child, or both, to the extent of their financial ability, to pay any charges relating to the evaluation and treatment of the child pursuant to this section. If the child or the parent or guardian of the child, or both, do not have the financial resources to pay all those charges:~~

~~(1) The juvenile court shall, to the extent possible, arrange for the child to receive treatment from a treatment facility which receives a sufficient amount of federal or state money to offset the remainder of the costs; and~~

~~(2) The juvenile court may order the child, in lieu of paying the charges relating to the child's evaluation and treatment, to perform community service.~~

~~7. After a treatment facility has certified a child's successful completion of a program of treatment ordered pursuant to this section, the treatment facility is not liable for any damages to person or property caused by a child who:~~

~~(a) Drives, operates or is in actual physical control of a vehicle or a vessel under power or sail while under the influence of intoxicating liquor or a controlled substance; or~~

~~(b) Engages in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420 or 488.425 or a law of any other jurisdiction that prohibits the same or similar conduct.~~

~~8. The provisions of this section do not prohibit the juvenile court from:~~

~~(a) Requiring an evaluation to be conducted by a person who is employed by a private company if the company meets the standards of the Health Division of the Department of Health and Human Services. The evaluation may be conducted at [an evaluation center.] a treatment facility.~~

~~(b) Ordering the child to attend a program of treatment which is administered by a private company.~~

~~9. Except as otherwise provided in section 6 of chapter 435, Statutes of Nevada 2007, all information relating to the evaluation or treatment of a child pursuant to this section is confidential and, except as otherwise authorized by the provisions of this title or the juvenile court, must not be disclosed to any person other than:~~

- ~~(a) The juvenile court;~~
- ~~(b) The child;~~
- ~~(c) The attorney for the child, if any;~~
- ~~(d) The parents or guardian of the child;~~
- ~~(e) The district attorney; and~~
- ~~(f) Any other person for whom the communication of that information is necessary to effectuate the evaluation or treatment of the child.~~

~~10. A record of any finding that a child has violated the provisions of NRS 484C.110, 484C.120, 484C.130 or 484C.430 must be included in the driver's record of that child for 7 years after the date of the offense.] (Deleted by amendment.)~~

Sec. 17. NRS 484C.100 is hereby amended to read as follows:

484C.100 "Treatment facility" means a facility for the treatment of abuse of alcohol or drugs ~~[which is certified by the Health Division of the Department of Health and Human Services.]~~, *as defined in NRS 449.00455, which is licensed pursuant to NRS 449.080.*

Sec. 18. (Deleted by amendment.)

Sec. 18.5. ~~[NRS 484C.350 is hereby amended to read as follows:~~

~~484C.350 1. If an offender is found guilty of a violation of NRS 484C.110 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if the concentration of alcohol in the offender's blood or breath at the time of the offense was 0.18 or more, or if an offender is found guilty of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (b) of subsection 1 of NRS 484C.400, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether the offender is an abuser of alcohol or other drugs.~~

~~2. If an offender is convicted of a violation of NRS 484C.110 or 484C.120 that is punishable pursuant to paragraph (a) of subsection 1 of NRS 484C.400 and if the offender is under 21 years of age at the time of the violation, the court shall, before sentencing the offender, require an evaluation of the offender pursuant to subsection 3, 4, 5 or 6 to determine whether the offender is an abuser of alcohol or other drugs.~~

~~3. Except as otherwise provided in subsection 4, 5 or 6, the evaluation of an offender pursuant to this section must be conducted at [an evaluation center] a treatment facility by:~~

~~(a) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that evaluation; or~~

~~(b) A physician who is certified to make that evaluation by the Board of Medical Examiners;~~

~~→ who shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.~~

~~4. The evaluation of an offender who resides more than 30 miles from [an evaluation center] a treatment facility may be conducted outside [an evaluation center] the treatment facility by a person who has the qualifications set forth in subsection 3. The person who conducts the evaluation shall report to the court the results of the evaluation and make a recommendation to the court concerning the length and type of treatment required for the offender.~~

~~5. The evaluation of an offender who resides in another state may, upon approval of the court, be conducted in the state where the offender resides by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.~~

~~6. The evaluation of an offender who resides in this State may, upon approval of the court, be conducted in another state by a physician or other person who is authorized by the appropriate governmental agency in that state to conduct such an evaluation if the location of the physician or other person in the other state is closer to the residence of the offender than the nearest location in this State at which an evaluation may be conducted. The offender shall ensure that the results of the evaluation and the recommendation concerning the length and type of treatment for the offender are reported to the court.~~

~~7. An offender who is evaluated pursuant to this section shall pay the cost of the evaluation. [An evaluation center] A treatment facility or a person who conducts an evaluation in this State outside [an evaluation center] a treatment facility shall not charge an offender more than \$100 for the evaluation. (Deleted by amendment.)~~

Sec. 19. [NRS 484C.370 is hereby amended to read as follows:

~~484C.370 The provisions of NRS 484C.340, 484C.350 or 484C.360 do not prohibit a court from:~~

~~1. Requiring an evaluation pursuant to NRS 484C.350 to be conducted [by an evaluation center that is administered by a private company if the company meets the standards of the State Board of Health pursuant to NRS 484C.310; or] at a treatment facility; or~~

~~2. Ordering the offender to attend a program of treatment that is administered by a private company. (Deleted by amendment.)~~

Sec. 20. ~~[NRS 608.156 is hereby amended to read as follows:~~

~~608.156 1. If an employer provides health benefits for his or her employees, the employer shall provide benefits for the expenses for the treatment of abuse of alcohol and drugs. The annual benefits provided by the employer must consist of:~~

~~(a) Treatment for withdrawal from the physiological effects of alcohol or drugs, with a maximum benefit of \$1,500 per calendar year.~~

~~(b) Treatment for a patient admitted to a facility, with a maximum benefit of \$9,000 per calendar year.~~

~~(c) Counseling for a person, group or family who is not admitted to a facility, with a maximum benefit of \$2,500 per calendar year.~~

~~2. The maximum amount which may be paid in the lifetime of the insured for any combination of the treatments listed in subsection 1 is \$39,000.~~

~~3. These benefits must be paid in the same manner as benefits for any other illness covered by the employer are paid.~~

~~4. The employee is entitled to these benefits if treatment is received in any:~~

~~(a) Facility for the treatment of abuse of alcohol or drugs which is [certified by the Health Division of the Department of Health and Human Services.] licensed pursuant to NRS 449.080.~~

~~(b) Hospital or other medical facility or facility for the dependent which is licensed by the Health Division of the Department of Health and Human Services, accredited by The Joint Commission and provides a program for the treatment of abuse of alcohol or drugs as part of its accredited activities.]~~
~~(Deleted by amendment.)~~

Sec. 21. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and an opportunity for a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.030 to 449.240, inclusive, *and section 1 of this act* as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. If a licensee requests a hearing pursuant to subsection 1, the Board shall give the licensee written notice of a hearing pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his or her right to attend the hearing.

3. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chair of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

5. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

Sec. 22. ~~[NRS 689A.046 is hereby amended to read as follows:~~

~~689A.046 1. The benefits provided by a policy for health insurance for treatment of the abuse of alcohol or drugs must consist of:~~

~~(a) Treatment for withdrawal from the physiological effect of alcohol or drugs, with a minimum benefit of \$1,500 per calendar year.~~

~~(b) Treatment for a patient admitted to a facility, with a minimum benefit of \$9,000 per calendar year.~~

~~(c) Counseling for a person, group or family who is not admitted to a facility, with a minimum benefit of \$2,500 per calendar year.~~

~~2. These benefits must be paid in the same manner as benefits for any other illness covered by a similar policy are paid.~~

~~3. The insured person is entitled to these benefits if treatment is received in any:~~

~~(a) Facility for the treatment of abuse of alcohol or drugs which is [certified by the Health Division of the Department of Health and Human Services.] licensed pursuant to NRS 449.080.~~

~~(b) Hospital or other medical facility or facility for the dependent which is licensed by the Health Division of the Department of Health and Human Services, accredited by the Joint Commission on Accreditation of Healthcare Organizations and provides a program for the treatment of abuse of alcohol or drugs as part of its accredited activities.] (Deleted by amendment.)~~

Sec. 23. ~~[NRS 689C.167 is hereby amended to read as follows:~~

~~689C.167 1. The benefits provided by a group policy for health insurance, as required by NRS 689C.166, for the treatment of abuse of alcohol or drugs must consist of:~~

~~(a) Treatment for withdrawal from the physiological effects of alcohol or drugs, with a minimum benefit of \$1,500 per calendar year.~~

~~(b) Treatment for a patient admitted to a facility, with a minimum benefit of \$9,000 per calendar year.~~

~~(c) Counseling for a person, group or family who is not admitted to a facility, with a minimum benefit of \$2,500 per calendar year.~~

~~2. These benefits must be paid in the same manner as benefits for any other illness covered by a similar policy are paid.~~

~~3. The insured person is entitled to these benefits if treatment is received in any:~~

~~(a) Facility for the treatment of abuse of alcohol or drugs which is [certified by the Health Division of the Department of Health and Human Services.] *licensed pursuant to NRS 449.080.*~~

~~(b) Hospital or other medical facility or facility for the dependent which is licensed by the Health Division of the Department of Health and Human Services, is accredited by the Joint Commission on Accreditation of Healthcare Organizations and provides a program for the treatment of abuse of alcohol or drugs as part of its accredited activities.] (Deleted by amendment.)~~

Sec. 23.3. ~~[Section 9 of this act is hereby amended to read as follows:~~

~~Sec. 9. Chapter 458 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Health Division shall certify or deny certification of [detoxification technicians or] any facility that is not required to be licensed pursuant to chapter 449 of NRS on the basis of the standards established by the Health Division pursuant to this section and publish a list of [certified detoxification technicians,] certified facilities and facilities licensed pursuant to chapter 449 of NRS. Any [detoxification technician who is not certified and any] facility that is not certified or licensed is ineligible to receive state and federal money for alcohol and drug abuse programs.~~

~~2. The Health Division shall adopt regulations which [:~~

~~(a) Must prescribe the requirements for continuing education for persons certified as detoxification technicians; and~~

~~(b) May] *may* prescribe the fees for the certification of [detoxification technicians and] facilities. A fee prescribed pursuant to this [paragraph] *subsection* must be calculated to produce the revenue estimated to cover the costs related to the certifications, but in no case may a fee for a certificate exceed the actual cost to the Health Division of issuing the certificate.~~

~~3. Except as otherwise provided in this subsection, upon request from a facility, the Health Division may certify the facility [and its detoxification technicians] and add [them] *the facility* to the list described in subsection 1.~~

~~The Health Division shall not add an unlicensed facility to the list if the facility is required to be licensed pursuant to the provisions of chapter 449 of NRS.] (Deleted by amendment.)~~

~~Sec. 23.7. [NRS 62A.110, 484C.050 and 484C.310 are hereby repealed.] (Deleted by amendment.)~~

~~Sec. 24. [A detoxification technician or facility certified by the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 458.025 before October 1, 2013, and which is otherwise qualified for such certification on that date shall be deemed to be certified by the Health Division of the Department of Health and Human Services pursuant to section 9 of this act.] (Deleted by amendment.)~~

~~Sec. 25. [1. Any administrative regulation adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of the regulation has been transferred.~~

~~2. Any contract or other agreement entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement has been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement has been transferred.~~

~~3. Any action taken by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remains in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of such actions has been transferred.] (Deleted by amendment.)~~

~~Sec. 26. [1. This section and sections 1 to 10, inclusive, 12 to 23, inclusive, 23.7, 24 and 25 of this act become effective:~~

~~(a) Upon passage and approval for the purpose of adopting regulations and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act; and~~

~~(b) On October 1, 2013, for all other purposes.~~

~~2. Sections 11 and 23.3 of this act become effective on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation.~~

~~3. Sections 9, 10, 12 and 13 of this act and the amendatory provisions of section 15 of this act expire by limitation on the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation.~~

~~4. Section 14 of this act expires by limitation:~~

~~(a) On the date the regulation adopted by the Board of Examiners for Alcohol, Drug and Gambling Counselors for the certification of a person as a detoxification technician pursuant to NRS 641C.500 becomes effective, unless a later date is otherwise specified in the regulation; or~~

~~(b) On the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:~~

~~(1) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or~~

~~(2) Are in arrears in the payment for the support of one or more children;~~

~~are repealed by the Congress of the United States.} (Deleted by amendment.)~~

TEXT OF REPEALED SECTIONS

~~62A.110 "Evaluation center" defined. "Evaluation center" means a facility which is approved by the Health Division of the Department of Health and Human Services to provide an evaluation of an offender to a court to determine if the offender is an abuser of alcohol or another drug. The term includes a facility operated by a court or other governmental agency.~~

~~484C.050 "Evaluation center" defined. "Evaluation center" means a facility which is approved by the Health Division of the Department of Health and Human Services to provide an evaluation of an offender to a court to determine if the offender is an abuser of alcohol or another drug. The term includes a facility operated by a court or other governmental agency.~~

~~484C.310 Standards for approval of evaluation center. The State Board of Health shall adopt by regulation the standards to be used for approving the operation of a facility as an evaluation center for the purposes of NRS 484C.310 to 484C.360, inclusive.}~~

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 969 to Senate Bill No. 501 deletes all but Sections 1 through 7 of the bill, and strikes all the provisions relating to certification of treatment centers and providers. Following the amendment, the "retain" language will leave the Health Division regulating all providers of drug and alcohol abuse facilities, not the providers of the facilities.

Amendment adopted.

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

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 467.

The following Assembly Amendment was read:

Amendment No. 900.

"SUMMARY—Revises provisions relating to education. (BDR 34-1130)"

"AN ACT relating to education; ~~requiring the Superintendent of Public Instruction to establish the Education Advisory Council and prescribing the membership and duties of the Advisory Council;~~ removing the requirement for certain approval of expenditures from the Education Gift Fund; revising provisions governing the qualifications for the Office of Superintendent of Public Instruction and other authorized business pursuits by the Superintendent; revising provisions relating to the payment of the expenses of holding certain conferences; revising provisions relating to deputies within the Department of Education; transferring certain duties from the Superintendent and his or her deputies to the Department of Education; revising provisions governing the Account for Programs for Innovation and the Prevention of Remediation; abolishing the Commission on Educational Excellence; revising the date by which school districts and charter schools are required to submit annual budgetary reports; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Sections 2-4 of this bill require the Superintendent of Public Instruction to establish the Education Advisory Council to advise the Superintendent of Public Instruction and prescribe the membership and duties of the Advisory Council.~~

Section 6 of this bill removes the requirement that any expenditure from the Education Gift Fund be approved by the Legislature or the Interim Finance Committee.

Section 8 of this bill revises the qualifications for the Office of the Superintendent of Public Instruction to remove the requirement that the Superintendent hold a master's degree in the field of education or school administration.

Section 9 of this bill transfers the authority to approve the pursuit by the Superintendent of Public Instruction of any other business or occupation or holding any other office of profit from the State Board of Education to the Governor, who appoints the Superintendent.

Section 10 of this bill removes the requirement under existing law that the expenses of holding teachers' and administrators' conferences be paid from the State Distributive School Account in the State General Fund, not to exceed \$8,400 in any biennium.

Existing law authorizes the Superintendent of Public Instruction to appoint a Deputy Superintendent of Instructional, Research and Evaluative Services and a Deputy Superintendent for Administrative and Fiscal Services and prescribes the qualifications and duties of each of those Deputies. (NRS 385.290-385.320) Sections 14 and 67 of this bill remove these designated deputies, and instead section 14 authorizes the Superintendent of Public Instruction to appoint such deputy superintendents as the execution of the Superintendent's duties may require. Sections 11-13, 15 and 16 of this bill transfer certain duties of the Superintendent of Public Instruction and his or her deputies to the Department of Education.

Existing law creates the Commission on Educational Excellence and authorizes the Commission to make allocations from the Account for Programs for Innovation and the Prevention of Remediation to public schools and consortiums of public schools whose applications are approved by the Commission for programs to improve pupil achievement or innovative programs, or both. (NRS 385.3781-385.379) Section 67 abolishes the Commission, and section 18.5 of this bill revises the purpose for which the money in the Account may be used to allow its use only for public schools and public education, as authorized by the Legislature.

Sections 21 and 22 of this bill impose an earlier deadline by which the board of trustees of each school district and the governing body of each charter school, respectively, are required to submit an annual report of their budgets to the Superintendent of Public Instruction and other specified recipients.

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

Section 1. ~~[Chapter 385 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.] (Deleted by amendment.)~~

Sec. 2. ~~[As used in sections 2, 3 and 4 of this act, unless the context otherwise requires, "Education Advisory Council" means the Education Advisory Council established pursuant to section 3 of this act.] (Deleted by amendment.)~~

Sec. 3. ~~[1. The Superintendent of Public Instruction shall establish an Education Advisory Council. The Education Advisory Council is composed of the following voting members:~~

~~(a) One member appointed by the Superintendent from among the members of the Advisory Council on Parental Involvement and Family Engagement established pursuant to NRS 385.610;~~

~~(b) The Chair of the Teachers and Leaders Council of Nevada created by NRS 391.455;~~

~~(c) The Chair of the State Public Charter School Authority;~~

~~(d) One member appointed by the Superintendent who is an administrator or teacher in a public school or a representative of public libraries or the~~

~~Nevada System of Higher Education and who possesses knowledge of and experience in the use of educational technology in public schools;~~

~~(e) One member appointed by the Superintendent who is an administrator or teacher in a public school who possesses knowledge of and experience in the education of pupils with disabilities; and~~

~~(f) One member appointed by the Superintendent who is an administrator or teacher in a Title I school, as that term is defined in NRS 385.3467.~~

~~2. In addition to the voting members described in subsection 1, the Superintendent of Public Instruction may appoint as nonvoting members of the Education Advisory Council any persons who the Superintendent determines have an interest in the success of pupils who are culturally, ethnically and linguistically diverse.~~

~~3. The Education Advisory Council shall elect a Chair and Vice Chair from among its members. The Chair and Vice Chair each serve a term of 1 year.~~

~~4. The Education Advisory Council shall meet at least once each calendar quarter and at the call of the Superintendent of Public Instruction.~~

~~5. A majority of the voting members of the Education Advisory Council constitutes a quorum for the transaction of all business of the Education Advisory Council.~~

~~6. The Department shall provide:~~

~~(a) Administrative support to the Education Advisory Council; and~~

~~(b) All information that is necessary for the Education Advisory Council to carry out its duties.~~

~~7. Each member of the Education Advisory Council is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally for each day or portion of a day during which the member attends a meeting of the Education Advisory Council or is otherwise engaged in the business of the Education Advisory Council. The per diem allowance and travel expenses for the members of the Education Advisory Council must be paid by the Department.] (Deleted by amendment.)~~

~~Sec. 4. [1. The Education Advisory Council shall advise the Superintendent of Public Instruction on such matters as the Superintendent may require. The Superintendent of Public Instruction is responsible for ensuring that the duties and responsibilities of the Education Advisory Council are carried out by the Education Advisory Council successfully.~~

~~2. On or before December 31 of each year, the Superintendent of Public Instruction shall submit a written report to the State Board describing the activities of the Education Advisory Council.] (Deleted by amendment.)~~

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

Sec. 6. NRS 385.095 is hereby amended to read as follows:

385.095 Except as otherwise provided in NRS 385.091:

1. All gifts of money which the State Board is authorized to accept must be deposited in a special revenue fund in the State Treasury designated as the Education Gift Fund.

2. The money available in the Education Gift Fund must be used only for the purpose specified by the donor, within the scope of the State Board's powers and duties. ~~[and no expenditure may be made until approved by the Legislature in an authorized expenditure act or by the Interim Finance Committee if the Legislature is not in session.]~~

3. If all or part of the money accepted by the State Board from a donor is not expended before the end of any fiscal year, the remaining balance of the amount donated must remain in the Education Gift Fund until needed for the purpose specified by the donor.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 385.160 is hereby amended to read as follows:

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

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

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

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

Sec. 9. NRS 385.170 is hereby amended to read as follows:

385.170 The Superintendent shall not pursue any other business or occupation or hold any other office of profit without the approval of the ~~[State Board of Education.]~~ *Governor.*

Sec. 10. NRS 385.190 is hereby amended to read as follows:

385.190 1. The Superintendent of Public Instruction or a staff member designated by the Superintendent shall:

(a) Convene teachers' conferences in the various sections of the State in such places and at such times as he or she deems advisable.

(b) Engage such conference lecturers and leaders as he or she deems advisable.

(c) Preside over and regulate the programs of all teachers' conferences.

2. No teachers' conference may continue more than 5 days.

3. The Superintendent of Public Instruction or the designated staff member shall convene, in such places and at such times as he or she may designate, conferences of school administrators.

~~[4. The expenses of holding teachers' and administrators' conferences must be paid from the State Distributive School Account in the State General Fund, but the amount must not exceed \$8,400 in any one biennium. The State Controller shall draw his or her warrants for such expenses upon the order of the Superintendent of Public Instruction.]~~

Sec. 11. NRS 385.210 is hereby amended to read as follows:

385.210 1. The ~~[Superintendent of Public Instruction]~~ *Department* shall prescribe a convenient form of school register for the purpose of securing accurate returns from the teachers of public schools.

2. The ~~{Superintendent}~~ *Department* shall prepare ~~{pamphlet}~~ copies of the codified statutes relating to schools and shall transmit a copy to each school, school trustee and other school officer in this State. If the State Board adopts regulations to carry out these codified statutes or if additions or amendments are made to these codified statutes, the ~~{Superintendent}~~ *Department* shall have the regulations, additions or amendments printed and transmitted immediately thereafter. Each ~~{pamphlet}~~ *copy* must be marked "State property—to be turned over to your successor in office." Each school shall maintain a copy ~~{of the pamphlet}~~ with any regulations, additions or amendments in the school library.

3. In addition to the requirements set forth in subsection 2, the ~~{Superintendent}~~ *Department* shall, to the extent practicable and not later than July 1 of each year, provide to the board of trustees of each school district and to the governing body of each charter school a memorandum that includes:

(a) A description of each statute newly enacted by the Legislature which affects the public schools in this State and the pupils who are enrolled in the public schools in this State. The memorandum may compile all the statutes into one document.

(b) A description of each bill, or portion of a bill, newly enacted by the Legislature that appropriates or authorizes money for public schools or for employees of a school district or charter school, or both, or otherwise affects the money that is available for public schools or for employees of school districts or charter schools, or both, including, without limitation, each line item in a budget for such an appropriation or authorization. The memorandum may compile all bills, or portions of bills, as applicable, into one document.

(c) If a statute or bill described in the memorandum requires the State Board or the Department to take action to carry out the statute or bill, a brief plan for carrying out that statute or bill.

(d) The date on which each statute and bill described in the memorandum becomes effective and the date by which it must be carried into effect by a school district or public school, including, without limitation, a charter school.

4. If a statute or bill described in subsection 3 is enacted during a special session of the Legislature that concludes after July 1, the ~~{Superintendent}~~ *Department* shall prepare an addendum to the memorandum that includes the information required by this section for each such statute or bill. The addendum must be provided to the board of trustees of each school district and the governing body of each charter school not later than 30 days after the special session concludes.

5. The ~~{Superintendent}~~ *Department* shall, if directed by the State Board, prepare and publish a bulletin as the official publication of the Department.

Sec. 12. NRS 385.230 is hereby amended to read as follows:

385.230 1. The ~~{Superintendent of Public Instruction}~~ *Department* shall, in conjunction with the State Board, prepare an annual report of the state of public education in this State. The report must include, without limitation:

(a) An analysis of each annual report of accountability prepared by the State Board pursuant to NRS 385.3469;

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

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

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

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

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

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

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

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

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

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board; and

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

2. In odd-numbered years, the Superintendent of Public Instruction shall present the report *prepared pursuant to subsection 1* in person to the Governor and each standing committee of the Legislature with primary jurisdiction over matters relating to K-12 public education at the beginning of each regular session of the Legislature.

3. In even-numbered years, the Superintendent of Public Instruction shall, on or before January 31, submit a written copy of the report *prepared pursuant to subsection 1* to the Governor and to the Legislative Committee on Education.

Sec. 13. NRS 385.240 is hereby amended to read as follows:

385.240 1. The ~~{Superintendent of Public Instruction}~~ *Department* shall approve or disapprove lists of books for use in public school libraries except for the libraries of charter schools. Such lists must not include books containing or including any story in prose or poetry the tendency of which would be to influence the minds of children in the formation of ideals not in harmony with truth and morality or the American way of life, or not in harmony with the Constitution and laws of the United States or of the State of Nevada.

2. Actions of the ~~{Superintendent}~~ *Department* with respect to lists of books are subject to review and approval or disapproval by the State Board.

Sec. 14. NRS 385.290 is hereby amended to read as follows:

385.290 ~~{1.}~~ The Superintendent of Public Instruction may appoint ~~{a Deputy Superintendent of Instructional, Research and Evaluative Services who:~~

~~(a) Holds a master's degree in school administration or a related subject from an accredited college or university;~~

~~(b) Has a minimum of 3 years of administrative experience which includes:~~

~~(1) Supervision and evaluation of staff;~~

~~(2) Development and administration of budgets; and~~

~~(3) Development of curriculum.~~

~~2. The Deputy Superintendent of Instructional, Research and Evaluative Services}~~ *such deputy superintendents as the execution of the Superintendent's duties may require. A deputy superintendent may perform any duty required of the Superintendent of Public Instruction during the absence of the Superintendent and shall do such work as the Superintendent may direct under the laws of the State.*

Sec. 15. NRS 385.310 is hereby amended to read as follows:

385.310 The ~~{Deputy Superintendent for Administrative and Fiscal Services, under the direction of the Superintendent of Public Instruction,}~~ *Department* shall:

1. Determine the apportionment of all state school money to schools of the State as prescribed by law.

2. Develop for public schools of the State a uniform system of budgeting and accounting. The system must provide for the separate reporting of expenditures for each:

- (a) School district; and
- (b) School within a school district.

➔ Upon approval of the State Board, the system is mandatory for all public schools in this State and must be enforced as provided in subsection 2 of NRS 385.315.

3. Carry on a continuing study of school finance in the State, particularly the method by which schools are financed on the state level, and make such recommendations to the Superintendent of Public Instruction for submission to the State Board as ~~he or she~~ *the Department* deems advisable.

4. Recommend to the Superintendent of Public Instruction for submission to the State Board such changes in budgetary and financial procedures as the studies may show to be advisable.

5. Perform such other statistical and financial duties pertaining to the administration and finances of the schools of the State as may be required by the Superintendent of Public Instruction.

6. Prepare for the Superintendent of Public Instruction the biennial budgets of the Department for consideration by the State Board and submission to the Governor.

Sec. 16. NRS 385.315 is hereby amended to read as follows:

385.315 ~~[In addition to any other duties, the Deputy Superintendent for Administrative and Fiscal Services, under the direction of the Superintendent of Public Instruction,]~~ *The Department* shall:

1. Investigate any claim against any school fund or an account established under NRS 354.603, 386.570 or 392A.083, as applicable, whenever a written protest against the drawing of a warrant, check or order in payment of the claim is filed with the county auditor, the sponsor of the charter school or the Department. If, upon investigation, the ~~Deputy Superintendent]~~ *Department* finds that any such claim is unearned, illegal or unreasonably excessive, the ~~Deputy Superintendent]~~ *Department* shall notify the county auditor and the clerk of the board of trustees, the governing body of the charter school or the governing body of the university school for profoundly gifted pupils who drew or authorized the order for the claim, stating the reasons in writing why the order is unearned, illegal or excessive. If so notified, the county auditor shall not draw his or her warrant in payment of the claim nor shall the board of trustees, governing body of the charter school or governing body of the university school for profoundly gifted pupils draw a check or order in payment of the claim from an account established under NRS 354.603, 386.570 or 392A.083, as applicable. If the ~~Deputy Superintendent]~~ *Department* finds that any protested claim is legal and actually due the claimant, the ~~Deputy Superintendent]~~ *Department* shall authorize the county auditor, the board of trustees, the governing body of the charter school or the governing body of the university school for profoundly

gifted pupils, as applicable, to draw his or her warrant or its check or order on an account established under NRS 354.603, 386.570 or 392A.083, as applicable, for the claim, and the county auditor, the board of trustees or the appropriate governing body shall immediately draw his or her warrant or its check or order in payment of the claim.

2. Inspect the record books and accounts of boards of trustees, governing bodies of charter schools and governing bodies of university schools for profoundly gifted pupils and enforce the uniform method of keeping the financial records and accounts of school districts, charter schools and university schools for profoundly gifted pupils.

3. Inspect the school fund accounts of the county auditors of the several counties and report the condition of the funds of any school district to the board of trustees thereof.

4. Inspect the accounts established by:

(a) The boards of trustees under NRS 354.603 and report the condition of the accounts to the respective boards of county commissioners and county treasurers.

(b) The governing bodies of charter schools under NRS 386.570 and report the condition of the accounts to the respective sponsors of the charter schools and governing bodies of the charter schools.

(c) The governing bodies of university schools for profoundly gifted pupils under NRS 392A.083 and report the condition of the accounts to the Board of Regents of the University of Nevada and the respective governing bodies of the university schools.

Sec. 17. NRS 385.320 is hereby amended to read as follows:

385.320 ~~[The Deputy Superintendent of Instructional, Research and Evaluative Services and the Deputy Superintendent for Administrative and Fiscal Services:~~

~~1. Are]~~ *Each deputy superintendent appointed by the Superintendent of Public Instruction pursuant to NRS 385.290:*

1. *Is in the unclassified service of the State.*

2. Except as otherwise provided in NRS 284.143, shall each devote his or her entire time and attention to the business of his or her office and shall not pursue any other business or occupation or hold any other office of profit.

Sec. 18. (Deleted by amendment.)

Sec. 18.5. NRS 385.379 is hereby amended to read as follows:

385.379 1. The Account for Programs for Innovation and the Prevention of Remediation is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent of Public Instruction may accept gifts and grants of money from any source for deposit in the Account. Any money from gifts and grants may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 2 . ~~[or 3.]~~ The interest and income earned on the sum of:

(a) The money in the Account; and

(b) Unexpended appropriations made to the Account from the State General Fund,

↪ must be credited to the Account. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

2. ~~[Except as otherwise provided in NRS 385.3784 and subsection 3, the]~~
The money in the Account may only be used for ~~[the allocation of money to]~~ public schools and ~~[consortiums of public schools whose applications are approved by the Commission pursuant to NRS 385.3785].~~

3. ~~Upon the request of the Commission:~~

(a) ~~Not more than \$50,000 in the Account may be used each biennium to pay:~~

(1) ~~The expenses incurred by members of the Commission to travel to the public schools and consortiums of public schools that received allocations of money from the Account; and~~

(2) ~~The costs incurred by the Commission to hold meetings or conferences for representatives of public schools and consortiums of schools that received allocations of money from the Account to discuss or display, or both, programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.~~

(b) ~~Not more than \$450,000 in the Account may be used each biennium to pay for an evaluation of the programs for which money was allocated from the Account. If the Commission uses money in the Account for such an evaluation, the Commission shall ensure that:~~

(1) ~~A request for proposals is issued and a qualified, independent consultant is selected to conduct the evaluation;~~

(2) ~~Upon selection of the consultant, the Commission receives approval of the consultant and the plan for the evaluation from the Committee;~~

(3) ~~The evaluation is designed to determine the effectiveness of the programs for which money was allocated from the Account in improving the achievement of pupils;~~

(4) ~~The evaluation includes an identification of the programs for which money was allocated from the Account that did not improve the achievement of pupils as described in the approved application for the grant;~~

(5) ~~The evaluation includes an identification of the public schools and consortiums of public schools that did not implement the programs for which money was allocated from the Account as described in the approved application for the grant; and~~

(6) ~~The evaluation includes a compilation and review of each evaluation required to be submitted by public schools and consortiums of public schools pursuant to NRS 385.3787.]~~ *public education, as authorized by the Legislature.*

Sec. 19. NRS 385.389 is hereby amended to read as follows:

385.389 1. The Department shall adopt programs of remedial study for each subject tested on the examinations administered pursuant to

NRS 389.015 and 389.550, including, without limitation, programs that are designed for pupils who are limited English proficient. The programs adopted for pupils who are limited English proficient must be designed to:

- (a) Improve the academic achievement of those pupils; or
- (b) Assist those pupils with attaining proficiency in the English language.

➡ In adopting these programs of remedial study, the Department shall consider the recommendations submitted by the Committee pursuant to NRS 218E.615 and programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

2. If a school fails to make adequate yearly progress based upon the results of the examinations administered pursuant to NRS 389.015 or 389.550, the school shall adopt a program of remedial study that has been adopted by the Department pursuant to subsection 1. ~~[for a program, practice or strategy recommended by the Commission on Educational Excellence pursuant to NRS 385.3785, or any combination thereof, as applicable.]~~

3. A school district that includes a school described in subsection 2 shall ensure that each of the pupils enrolled in the school who failed to demonstrate at least adequate achievement on the examinations administered pursuant to NRS 389.015 or 389.550, as applicable, completes remedial study that is determined to be appropriate for the pupil.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 386.600 is hereby amended to read as follows:

386.600 1. On or before November ~~{15}~~ 1 of each year, the governing body of each charter school shall submit to the sponsor of the charter school, the Superintendent of Public Instruction and the Director of the Legislative Counsel Bureau for transmission to the Majority Leader of the Senate and the Speaker of the Assembly a report that includes:

(a) A written description of the progress of the charter school in achieving the mission and goals of the charter school set forth in its application.

(b) For each fund maintained by the charter school, including, without limitation, the general fund of the charter school and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the governing body in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the final budget of the charter school, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(c) The actual expenditures of the charter school in the fiscal year immediately preceding the report.

(d) The proposed expenditures of the charter school for the current fiscal year.

(e) The salary schedule for licensed employees and nonlicensed teachers in the current school year and a statement of whether salary negotiations for

the current school year have been completed. If salary negotiations have not been completed at the time the salary schedule is submitted, the governing body shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations.

(f) The number of employees eligible for health insurance within the charter school for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

(g) The rates for fringe benefits, excluding health insurance, paid by the charter school for its licensed employees in the preceding and current fiscal years.

(h) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each governing body pursuant to subsection 1.

3. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues and expenditures of the charter schools with the apportionment received by those schools from the State Distributive School Account for the preceding year.

Sec. 22. NRS 387.303 is hereby amended to read as follows:

387.303 1. Not later than November ~~{40}~~ 1 of each year, the board of trustees of each school district shall submit to the Superintendent of Public Instruction and the Department of Taxation a report which includes the following information:

(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(b) The school district's actual expenditures in the fiscal year immediately preceding the report.

(c) The school district's proposed expenditures for the current fiscal year.

(d) The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the Superintendent of Public

Instruction upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.

(e) The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection 2 of NRS 391.160, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.

(f) The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

(g) The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.

(h) The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

(i) The expenditures from the account created pursuant to subsection 4 of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year and the specific amount spent on books and computer hardware and software for each grade level in the district.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.

3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the Superintendent of Public Instruction:

(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;

(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;

(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;

(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether

those enhancements or new programs are included in the per pupil basic support guarantee for inclusion in the biennial budget request to the Department of Administration; and

(e) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.

4. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.

5. The request prepared pursuant to subsection 3 must:

(a) Be presented by the Superintendent of Public Instruction to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and

(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 41. (Deleted by amendment.)

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. (Deleted by amendment.)

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 48. (Deleted by amendment.)

Sec. 49. (Deleted by amendment.)

Sec. 50. (Deleted by amendment.)

Sec. 51. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. (Deleted by amendment.)

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. (Deleted by amendment.)

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. (Deleted by amendment.)

Sec. 63. (Deleted by amendment.)

Sec. 64. (Deleted by amendment.)

Sec. 65. NRS 218E.615 is hereby amended to read as follows:

218E.615 1. The Committee may:

(a) Evaluate, review and comment upon issues related to education within this State, including, but not limited to:

(1) Programs to enhance accountability in education;

(2) Legislative measures regarding education;

(3) The progress made by this State, the school districts and the public schools in this State in satisfying the goals and objectives of the federal No Child Left Behind Act of 2001, 20 U.S.C. §§ 6301 et seq., and the annual measurable objectives established by the State Board of Education pursuant to NRS 385.361;

(4) Methods of financing public education;

(5) The condition of public education in the elementary and secondary schools;

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

(7) The development of any programs to automate the receipt, storage and retrieval of the educational records of pupils; and

(8) Any other matters that, in the determination of the Committee, affect the education of pupils within this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which public education may be improved.

2. The Committee shall:

(a) In addition to any standards prescribed by the Department of Education, prescribe standards for the review and evaluation of the reports of the State Board of Education, State Public Charter School Authority, school

districts and public schools pursuant to paragraph (a) of subsection 1 of NRS 385.359.

(b) For the purposes set forth in NRS 385.389, recommend to the Department of Education programs of remedial study for each subject tested on the examinations administered pursuant to NRS 389.015. In recommending these programs of remedial study, the Committee shall consider programs of remedial study that have proven to be successful in improving the academic achievement of pupils.

(c) Recommend to the Department of Education providers of supplemental educational services for inclusion on the list of approved providers prepared by the Department pursuant to NRS 385.384. In recommending providers, the Committee shall consider providers with a demonstrated record of effectiveness in improving the academic achievement of pupils.

~~[(d) For the purposes set forth in NRS 385.3785, recommend to the Commission on Educational Excellence created by NRS 385.3784 programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.]~~

Sec. 66. (Deleted by amendment.)

Sec. 67. NRS 385.300, 385.3781, 385.3782, 385.3783, 385.37835, 385.3784, 385.3785, 385.3787 and 385.3789 are hereby repealed.

Sec. 68. (Deleted by amendment.)

Sec. 69. (Deleted by amendment.)

Sec. 70. 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of regulations is transferred.

2. Any contracts or other agreements entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provisions of the contract or other agreement have been transferred. Such contracts and other agreements may be enforced by the officer, agency or other entity to which the responsibility for the enforcement of the provisions of the contract or other agreement have been transferred.

3. Any actions taken by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in effect as if taken by the officer, agency or other entity to which the responsibility for the enforcement of such actions was transferred.

Sec. 71. 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.

Sec. 72. (Deleted by amendment.)

Sec. 73. This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

385.300 Deputy Superintendent for Administrative and Fiscal Services: Qualifications and appointment.

385.3781 Definitions.

385.3782 "Account" defined.

385.3783 "Commission" defined.

385.37835 Superintendent of Public Instruction required to ensure Commission carries out duties successfully.

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

385.3785 Commission: Establishment of program of educational excellence; allocations of money to public schools and consortiums of public schools; Department required to provide list of priorities of schools; review of certain information by Commission.

385.3787 Use of money by public schools and consortiums of public schools that receive allocations from Account; submission of evaluation of effectiveness.

385.3789 Submission of annual reports by Commission; biennial audit of programs by Legislative Auditor.

Senator Smith moved that the Senate concur in the Assembly Amendment No. 900 to Senate Bill No. 467.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Joint Resolution No. 8.

The following Assembly Amendment was read:

Amendment No. 911.

"SUMMARY—Proposes to amend the Nevada Constitution to revise provisions relating to the State Legislature. (BDR C-626)"

"SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to provide for limited annual regular legislative sessions ~~[, to authorize the Legislature to hold regular or special sessions at places other than Carson City]~~ and ~~[to authorize a change in]~~ for legislative compensation and expenses to [Legislators] be paid in a manner fixed and determined by law."

Legislative Counsel's Digest:

The Nevada Constitution provides for biennial regular sessions of the Legislature of not more than 120 consecutive calendar days beginning on the

first Monday of February in each odd-numbered year. (Nev. Const. Art. 4, § 2) This resolution proposes to amend the Nevada Constitution to provide for limited annual regular sessions. ~~[It]~~ Beginning on the first Monday of February in each odd-numbered year, the Legislature would hold a regular session of not more than 90 legislative days during a maximum period of 120 consecutive calendar days. ~~[It]~~ Beginning on the first Tuesday of March in each even-numbered year, the Legislature would hold a regular session of not more than 30 legislative days during a maximum period of 45 consecutive calendar days. This resolution defines a "legislative day" as any calendar day on which either House of the Legislature is in session or any legislative committee holds a meeting during a session.

~~† The Nevada Constitution also requires the Legislature to hold its regular or special sessions at the seat of government in Carson City. (Nev. Const. Art. 4, § 1, Art. 15, § 1) In addition, the Nevada Constitution prohibits one House of the Legislature from adjourning to another location during a regular or special session without the consent of the other House. (Nev. Const. Art. 4, § 15) This resolution proposes to amend the Nevada Constitution to authorize the Legislature to hold all or any portion of a regular or special session at any place in this State if a majority of each House of the Legislature agrees to do so and follows certain required procedures.~~

~~This resolution also proposes to amend the Nevada Constitution to change the compensation for Legislators.]~~

~~__The Nevada Constitution authorizes Legislators to: (1) receive compensation for the first 60 days of each regular session and the first 20 days of each special session; and (2) appropriate funds for the payment of the actual expenses members of the Legislature may incur for postage, express charges, newspapers and stationery in an amount not to exceed \$60 per member for each general or special session. (Nev. Const. Art. 4, § 33) This resolution proposes to amend the Nevada Constitution to remove those provisions and to provide that Legislators must be paid at regular intervals as set by law and may appropriate funds for the payment of the actual expenses members of the Legislature may incur for each regular or special session.~~

If this resolution is passed by the 2013 Legislature, it must also be passed by the next Legislature and then approved and ratified by the voters in an election before the proposed amendments to the Nevada Constitution become effective.

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That ~~[Section 1 of Article 4 of the Nevada Constitution be amended to read as follows:~~

~~[Section.] Section 1. 1. The Legislative authority of this State shall be vested in a Senate and Assembly which shall be designated "The Legislature of the State of [Nevada] and the Nevada."~~

~~2. The regular and special sessions of such Legislature shall be held at the seat of government of the State []; unless a majority of the members elected to each House of the Legislature deems it necessary and appropriate to hold all or any portion of a regular or special session at another place in this State as provided in this section.~~

~~3. During a regular or special session, by a concurrent resolution, a majority of the members elected to each House of the Legislature may designate another place in this State to hold all or any portion of the session, including, without limitation, changing the place designated in a petition filed with the Secretary of State pursuant to subsection 4.~~

~~4. During the interim between regular sessions, upon a petition signed by a majority of the members elected to each House of the Legislature who will serve at a regular or special session, the Legislature may designate another place in this State to hold all or any portion of the regular or special session. A petition must specify the session and the alternate place where all or any portion of the session will be held, and it must be transmitted to the Secretary of State not later than 5 calendar days before the commencement of the session. Upon receipt of one or more substantially similar petitions signed, in the aggregate, by the required number of members, the Secretary of State shall notify all members of the Legislature and the Governor of the alternate place where all or any portion of the session will be held. By the same procedure and within the same time limit, a majority of the members elected to each House of the Legislature who will serve at the regular or special session may change any alternate place designated in the petition filed with the Secretary of State where all or any portion of the session will be held.~~

~~5. The Legislature may provide by law for supplemental procedures for designating or changing the alternate place where all or any portion of a regular or special session will be held pursuant to this section.~~

~~And be it further~~

~~Resolved, That~~ Section 2 of Article 4 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. The regular sessions of the Legislature shall be ~~{biennial,}~~ ~~{annual and shall commence on the 1st Monday of February}~~ ~~{following the election of members of the Assembly,}~~ ~~{of each year, unless}~~ annual as set forth in this section, but the Governor of the State or the members of the Legislature ~~{shall,}~~ may, on extraordinary occasions in the interim ~~{,}~~ between regular sessions, convene the Legislature by proclamation or petition ~~{,}~~ in special sessions only as authorized by this Constitution.

2. ~~{The}~~ In each odd-numbered year, the Legislature shall commence the regular session on the first Monday of February and shall adjourn sine die ~~{each regular session held in an odd-numbered year}~~ not later than midnight Pacific time at the end of the 90th legislative day or the 120th consecutive calendar day of that session, whichever occurs first, inclusive of the day on which that session commences. Any legislative action taken after midnight Pacific time at the end of the 90th legislative day or the 120th consecutive

calendar day of that session , *whichever occurs first*, is void, unless the legislative action is ~~conducted~~ taken during a special session.

3. ~~The~~ In each even-numbered year, the Legislature shall commence the regular session on the first Tuesday of March and shall adjourn sine die ~~each regular session held in an even-numbered year~~ not later than midnight Pacific time at the end of the 30th legislative day or the 45th consecutive calendar day of that session, whichever occurs first, inclusive of the day on which that session commences. Any legislative action taken after midnight Pacific time at the end of the 30th legislative day or the 45th consecutive calendar day of that session, whichever occurs first, is void, unless the legislative action is ~~conducted~~ taken during a special session.

4. The Governor shall submit to the Legislature:

(a) The proposed executive budget ~~to the Legislature~~ not later than 14 calendar days before the commencement of each regular session ~~4~~

~~4~~ held in an odd-numbered year.

(b) Any proposed appropriations or proposed revisions to the executive budget not later than 14 calendar days before the commencement of each regular session held in an even-numbered year.

5. For the purposes of this section ~~4~~, "midnight" :

(a) "Legislative day" means any calendar day on which either House of the Legislature is in session or any legislative committee holds a meeting during a session.

(b) "Midnight Pacific time" must be determined based on the actual measure of time that, on the final calendar or legislative day of the session, *whichever occurs first*, is being used and observed by the general population as the uniform time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the seat of government of this State as designated by ~~place where the Legislature is holding the session on the final calendar or legislative day, whichever occurs first, pursuant to~~ Section 1 of ~~this~~ Article ~~15~~ 15 of this Constitution. The Legislature and its members, officers and employees shall not employ any device, pretense or fiction that adjusts, evades or ignores this measure of time for the purpose of extending the duration of the session.

And be it further

~~Resolved, That Section 2A of Article 4 of the Nevada Constitution be amended to read as follows:~~

~~Sec. 2A. 1. The Legislature may be convened, on extraordinary occasions, upon a petition signed by two thirds of the members elected to each House of the Legislature. A petition must specify the business to be transacted during the special session, indicate a date on or before which the Legislature is to convene and be transmitted to the Secretary of State. Upon receipt of one or more substantially similar petitions signed, in the aggregate, by the required number of members, calling for a special session, the Secretary of State shall notify all members of the Legislature and the Governor that a special session will be convened pursuant to this section.~~

~~2. At a special session convened pursuant to this section, the Legislature shall not introduce, consider or pass any bills except those related to the business specified in the petition and those necessary to provide for the expenses of the session.~~

~~3. A special session convened pursuant to this section takes precedence over a special session convened by the Governor pursuant to Section 9 of Article 5 of this Constitution, unless otherwise provided in the petition convening the special session pursuant to this section.~~

~~4. The Legislature may provide by law for the procedure for convening a special session pursuant to this section.~~

~~5. Except as otherwise provided in this subsection, the Legislature shall adjourn *sine die* a special session convened pursuant to this section not later than midnight Pacific time at the end of the 20th consecutive calendar day of that session, inclusive of the day on which that session commences. Any legislative action taken after midnight Pacific time at the end of the 20th consecutive calendar day of that session is void. This subsection does not apply to a special session that is convened to conduct proceedings for:~~

~~(a) Impeachment or removal from office of the Governor and other state and judicial officers pursuant to Article 7 of this Constitution; or~~

~~(b) Expulsion from office of a member of the Legislature pursuant to Section 6 of this Article. [4 of this Constitution.]~~

~~6. For the purposes of this section, "midnight Pacific time" must be determined based on the actual measure of time that, on the final calendar day of the session, is being used and observed by the general population as the uniform time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the [seat of government of this State as designated by] place where the Legislature is holding the session on the final calendar day pursuant to Section 1 of this Article. [15 of this Constitution.] The Legislature and its members, officers and employees shall not employ any device, pretense or fiction that adjusts, evades or ignores this measure of time for the purpose of extending the duration of the session.~~

~~And be it further~~

~~Resolved, That Section 15 of Article 4 of the Nevada Constitution be amended to read as follows:~~

~~Sec. 15. 1. The doors of each House shall be kept open during its session, and neither shall, without the consent of the other, adjourn for more than three days nor to any other place than that in which they may be holding their sessions [.] pursuant to Section 1 of this Article.~~

~~2. The meetings of all legislative committees must be open to the public, except meetings held to consider the character, alleged misconduct, professional competence, or physical or mental health of a person.~~

~~And be it further]~~

~~RESOLVED, That Section 33 of Article 4 of the Nevada Constitution be amended to read as follows:~~

Sec. 33. The members of the Legislature shall receive for their services a compensation to be fixed by law and paid out of the public treasury ~~[, for not to exceed 60 days during any regular session of the Legislature and not to exceed 20 days during any special session;]~~ *at regular intervals determined by law*, but no increase of such compensation shall take effect during the term for which the members of either ~~[house]~~ *House* shall have been elected; Provided, that an appropriation may be made for the payment of such actual expenses as members of the Legislature may incur ~~[for postage, express charges, newspapers and stationery not exceeding the sum of Sixty dollars]~~ for any ~~[general]~~ *regular* or special session to each member; and Furthermore Provided, that the Speaker of the Assembly ~~[,]~~ and Lieutenant Governor, as President of the Senate, shall each, during the time of their actual attendance as such presiding officers, receive an additional allowance of two dollars per diem.

And be it further

~~[RESOLVED, That Section 9 of Article 5 of the Nevada Constitution be amended to read as follows:~~

~~Sec. 9. 1. Except as otherwise provided in Section 2A of Article 4 of this Constitution, the Governor may, on extraordinary occasions, convene the Legislature by Proclamation and shall state to both [houses,] Houses, when organized, the business for which they have been specially convened.~~

~~2. At a special session convened pursuant to this section, the Legislature shall not introduce, consider or pass any bills except those related to the business for which the Legislature has been specially convened and those necessary to provide for the expenses of the session.~~

~~3. Except as otherwise provided in this subsection, the Legislature shall adjourn sine die a special session convened pursuant to this section not later than midnight Pacific time at the end of the 20th consecutive calendar day of that session, inclusive of the day on which that session commences. Any legislative action taken after midnight Pacific time at the end of the 20th consecutive calendar day of that session is void. This subsection does not apply to a special session that is convened to conduct proceedings for:~~

~~(a) Impeachment or removal from office of the Governor and other state and judicial officers pursuant to Article 7 of this Constitution; or~~

~~(b) Expulsion from office of a member of the Legislature pursuant to Section 6 of Article 4 of this Constitution.~~

~~4. For the purposes of this section, "midnight Pacific time" must be determined based on the actual measure of time that, on the final calendar day of the session, is being used and observed by the general population as the uniform time for the portion of Nevada which lies within the Pacific time zone, or any legal successor to the Pacific time zone, and which includes the [seat of government of this State as designated by] place where the Legislature is holding the session on the final calendar day pursuant to Section 1 of Article [15] 4 of this Constitution. The Legislature and its members, officers and employees shall not employ any device, pretense or~~

~~fiction that adjusts, evades or ignores this measure of time for the purpose of extending the duration of the session.~~

~~And be it further]~~

RESOLVED, That Section 6 of Article 11 of the Nevada Constitution be amended to read as follows:

~~[Section]~~ Sec. 6. 1. In addition to other means provided for the support and maintenance of said university and common schools, the legislature shall provide for their support and maintenance by direct legislative appropriation from the general fund, upon the presentation of budgets in the manner required by law.

2. During a regular session of the Legislature ~~[.]~~ *in any odd-numbered year*, before any other appropriation is enacted to fund a portion of the state budget for the next ensuing biennium, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium.

3. During a special session of the Legislature that is held between the end of a regular session *in an odd-numbered year* in which the Legislature has not enacted the appropriation or appropriations required by subsection 2 to fund education for the next ensuing biennium and the first day of that next ensuing biennium, before any other appropriation is enacted other than appropriations required to pay the cost of that special session, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the next ensuing biennium for the population reasonably estimated for that biennium.

4. During a special session of the Legislature that is held in a biennium for which the Legislature has not enacted the appropriation or appropriations required by subsection 2 to fund education for the biennium in which the special session is being held, before any other appropriation is enacted other than appropriations required to pay the cost of that special session, the Legislature shall enact one or more appropriations to provide the money the Legislature deems to be sufficient, when combined with the local money reasonably available for this purpose, to fund the operation of the public schools in the State for kindergarten through grade 12 for the population reasonably estimated for the biennium in which the special session is held.

5. Any appropriation of money enacted in violation of subsection 2, 3 or 4 is void.

6. As used in this section, "biennium" means a period of two fiscal years beginning on July 1 of an odd-numbered year and ending on June 30 of the next ensuing odd-numbered year.

And be it further

RESOLVED, That Section 12 of Article 17 of the Nevada Constitution be amended to read as follows:

Sec. 12. The first regular session of the Legislature shall commence on the second Monday of December A.D. Eighteen hundred and Sixty Four, and the second regular session of the same shall commence on the first Monday of January A.D. Eighteen hundred and Sixty Six; and the third regular session of the Legislature shall be the first of the biennial sessions, and shall commence on the first Monday of January A.D. Eighteen hundred and Sixty Seven; and the regular sessions of the Legislature shall be held thereafter. ~~[biennially.]~~

And be it further

RESOLVED, That Section 2 of Article 19 of the Nevada Constitution be amended to read as follows:

Sec. 2. 1. Notwithstanding the provisions of Section 1 of Article 4 of this Constitution, but subject to the limitations of Section 6 of this Article, the people reserve to themselves the power to propose, by initiative petition, statutes and amendments to statutes and amendments to this Constitution, and to enact or reject them at the polls.

2. An initiative petition shall be in the form required by Section 3 of this Article and shall be proposed by a number of registered voters equal to 10 percent or more of the number of voters who voted at the last preceding general election in not less than 75 percent of the counties in the State, but the total number of registered voters signing the initiative petition shall be equal to 10 percent or more of the voters who voted in the entire State at the last preceding general election.

3. If the initiative petition proposes a statute or an amendment to a statute, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than ~~[January 1 of the year preceding the year in which a]~~ *1 year before the commencement of the regular session of the Legislature [is held.]* ~~[1 year before the date on which the Legislature]~~ *to which the petition will be transmitted. [commences its regular session.]* After its circulation, it shall be filed with the Secretary of State not less than 30 days ~~[prior to]~~ *[any]* ~~[before the commencement of the regular session of the Legislature]~~ *to which the petition will be transmitted.* The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall transmit such petition to the Legislature as soon as the Legislature convenes and organizes. The petition shall take precedence over all other measures except appropriation bills, and the statute or amendment to a statute proposed thereby shall be enacted or rejected by the Legislature without change or amendment within 40 days. If the proposed statute or amendment to a statute is enacted by the Legislature and approved by the Governor in the same manner as other statutes are enacted, such statute or amendment to a statute

shall become law, but shall be subject to referendum petition as provided in Section 1 of this Article. If the statute or amendment to a statute is rejected by the Legislature, or if no action is taken thereon within 40 days, the Secretary of State shall submit the question of approval or disapproval of such statute or amendment to a statute to a vote of the voters at the next succeeding general election. If a majority of the voters voting on such question at such election votes approval of such statute or amendment to a statute, it shall become law and take effect upon completion of the canvass of votes by the Supreme Court. An initiative measure so approved by the voters shall not be amended, annulled, repealed, set aside or suspended by the Legislature within 3 years from the date it takes effect. If a majority of such voters votes disapproval of such statute or amendment to a statute, no further action shall be taken on such petition. If the Legislature rejects such proposed statute or amendment, the Governor may recommend to the Legislature and the Legislature may propose a different measure on the same subject, in which event, after such different measure has been approved by the Governor, the question of approval or disapproval of each measure shall be submitted by the Secretary of State to a vote of the voters at the next succeeding general election. If the conflicting provisions submitted to the voters are both approved by a majority of the voters voting on such measures, the measure which receives the largest number of affirmative votes shall thereupon become law. If at the session of the Legislature to which an initiative petition proposing an amendment to a statute is presented which the Legislature rejects or upon which it takes no action, the Legislature amends the statute which the petition proposes to amend in a respect which does not conflict in substance with the proposed amendment, the Secretary of State in submitting the statute to the voters for approval or disapproval of the proposed amendment shall include the amendment made by the Legislature.

4. If the initiative petition proposes an amendment to the Constitution, the person who intends to circulate it shall file a copy with the Secretary of State before beginning circulation and not earlier than September 1 of the year before the year in which the election is to be held. After its circulation it shall be filed with the Secretary of State not less than 90 days before any regular general election at which the question of approval or disapproval of such amendment may be voted upon by the voters of the entire State. The circulation of the petition shall cease on the day the petition is filed with the Secretary of State or such other date as may be prescribed for the verification of the number of signatures affixed to the petition, whichever is earliest. The Secretary of State shall cause to be published in a newspaper of general circulation, on three separate occasions, in each county in the State, together with any explanatory matter which shall be placed upon the ballot, the entire text of the proposed amendment. If a majority of the voters voting on such question at such election votes disapproval of such amendment, no further action shall be taken on the petition. If a majority of such voters votes approval of such amendment, the Secretary of State shall publish and

resubmit the question of approval or disapproval to a vote of the voters at the next succeeding general election in the same manner as such question was originally submitted. If a majority of such voters votes disapproval of such amendment, no further action shall be taken on such petition. If a majority of such voters votes approval of such amendment, it shall, unless precluded by subsection 5 or 6, become a part of this Constitution upon completion of the canvass of votes by the Supreme Court.

5. If two or more measures which affect the same section of a statute or of the Constitution are finally approved pursuant to this Section, or an amendment to the Constitution is finally so approved and an amendment proposed by the Legislature is ratified which affect the same section, by the voters at the same election:

(a) If all can be given effect without contradiction in substance, each shall be given effect.

(b) If one or more contradict in substance the other or others, the measure which received the largest favorable vote, and any other approved measure compatible with it, shall be given effect. If the one or more measures that contradict in substance the other or others receive the same number of favorable votes, none of the measures that contradict another shall be given effect.

6. If, at the same election as the first approval of a constitutional amendment pursuant to this Section, another amendment is finally approved pursuant to this Section, or an amendment proposed by the Legislature is ratified, which affects the same section of the Constitution but is compatible with the amendment given first approval, the Secretary of State shall publish and resubmit at the next general election the amendment given first approval as a further amendment to the section as amended by the amendment given final approval or ratified. If the amendment finally approved or ratified contradicts in substance the amendment given first approval, the Secretary of State shall not submit the amendment given first approval to the voters again.

Senator Spearman moved that the Senate concur in the Assembly Amendment No. 911 to Senate Joint Resolution No. 8.

Motion carried by a constitutional majority.

Resolution ordered enrolled.

Senate Bill No. 508.

The following Assembly Amendment was read:

Amendment No. 697.

"SUMMARY—~~Repeals~~ Revises provisions relating to trains. (BDR 58-576)"

"AN ACT relating to trains; revising provisions relating to the California-Nevada Super Speed Ground Transportation System to provide for the Nevada High-Speed Rail System; repealing provisions relating to the employment of certain employees of railroad companies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a California-Nevada Super Speed Ground Transportation Commission, charged with pursuing the development of a Super Speed Ground Transportation System connecting southern California with southern Nevada. (NRS 705.4291, 705.4293) Sections ~~1-3,~~ 1-3.8, 5 and 6 of this bill ~~[eliminate obsolete provisions regarding the System by removing]~~ remove references to California's participation on the Commission and ~~[reorganizing]~~ reorganize the System under the State of Nevada. Section 3 creates the Nevada High-Speed Rail Authority, and requires that the members of the Authority be appointed by the Governor, the Majority Leader of the Senate and the Speaker of the Assembly. Section 3.1 charges the Authority with pursuing the development of the Nevada High-Speed Rail System connecting southern California with southern Nevada. Section 3.2 gives the Authority the authority to perform various tasks related to the planning and development of the System. Section 3.3 allows the Authority to incorporate, and section 3.4 authorizes the Authority to issue bonds, notes, obligations or other evidences of borrowing to finance construction of the System. Section 3.5 requires the Governor to issue a proclamation declaring the completion of the System. Sections 3.6-3.8 and 6 provide that the provisions of law relating to the System and the Authority expire by limitation upon the proclamation of the Governor that the System has been completed. Section 5 provides staggered initial terms for the members of the Authority, and provides for the transfer to the Authority of any rights, obligations and property of the California-Nevada Super Speed Ground Transportation Commission.

Existing law requires the Legislative Counsel and the Research Director of the Legislative Counsel Bureau to work collaboratively to develop recommendations for the elimination of obsolete or antiquated provisions of the Nevada Revised Statutes. (NRS 220.085) Section 4 of this bill repeals certain obsolete provisions of existing law which prohibit the employment of certain engineers or engine drivers to run a locomotive or train and the discharging from employment of certain flaggers and trainmen. (NRS 705.240, 705.390, 705.420)

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

Section 1. NRS 705.4291 is hereby amended to read as follows:

705.4291 The Legislature finds and declares that:

1. Passage of NRS 705.4291 to 705.4296, inclusive, is a declaration of legislative intent that the ~~[States of California and Nevada jointly]~~ *State of Nevada* ~~[consider and, if justified, pursue the development]~~ *pursue the implementation* of a ~~[Super Speed Ground Transportation]~~ *High-Speed Rail* System connecting southern California with southern Nevada.

2. The System will:

(a) Provide economic benefits to both southern California and southern Nevada.

(b) Reduce reliance on gasoline- and diesel-fueled engines and encourage the use of alternative energy sources.

(c) Reduce congestion on Interstate Highway No. 15 between southern California and Las Vegas.

(d) Provide a working example for a transportation system that could play an essential role in the development of future commuter *and high-speed rail* service in the Los Angeles Basin and the Las Vegas Valley.

(e) Provide quick and convenient transportation service for residents and visitors in southern California and southern Nevada.

Sec. 2. NRS 705.4292 is hereby amended to read as follows:

705.4292 As used in NRS 705.4291 to 705.4296, inclusive, unless the context otherwise requires:

1. ~~["Commission" means the]~~ ~~[California Nevada]~~ ~~[Nevada Super Speed Ground Transportation Commission.]~~ *"Authority" means the Nevada High-Speed Rail Authority created by NRS 705.4293.*

2. *"High-Speed Rail System" means a system that:*

(a) Is capable of sustained speeds of at least 150 miles per hour, or the speed established by the United States Department of Transportation and the Federal Railroad Administration's plans and policies for high-speed rail express service;

(b) Carries primarily passengers;

(c) Operates on dedicated and exclusive standard gauge tracks for the purpose of high-speed rail service;

(d) Allows for interoperability with existing and planned rail systems; and

(e) Is certified by the Surface Transportation Board of the United States Department of Transportation as an interstate passenger railroad to construct and operate.

3. "Southern California" means the counties of Los Angeles, Orange, Riverside and San Bernardino.

~~[3. "Super Speed Ground Transportation System" means a system that:~~

~~(a) Is capable of sustained speeds of at least 240 miles per hour;~~

~~(b) Uses magnetic levitation technology;~~

~~(c) Carries primarily passengers; and~~

~~(d) Operates on a grade separated, dedicated guideway.]~~

Sec. 3. NRS 705.4293 is hereby amended to read as follows:

705.4293 1. There is hereby created the ~~[California Nevada]~~ ~~[Nevada Super Speed Ground Transportation Commission]~~ *Nevada High-Speed Rail Authority* as a separate legal entity. The governing body of the ~~[Commission]~~ *Authority* consists of ~~[-~~

~~(a) The members from California appointed pursuant to the law of California and the bylaws of the Commission.~~

~~(b) The same number of members from Nevada as are from California,~~
~~eight] five members appointed [by the Governor.] [of Nevada.] as follows:~~

~~(a) The Governor shall appoint one member;~~

~~(b) The Majority Leader of the Senate shall appoint two members; and~~

(c) The Speaker of the Assembly shall appoint two members.

↪ The members must be residents of the State of Nevada and must be appointed based upon their knowledge, expertise or experience in the areas of rail transportation and high-speed rail service.

2. ~~{The}~~ After their initial terms, the members ~~{from Nevada}~~ serve for terms of 4 years and may be reappointed. ~~{at the pleasure of the Governor.}~~

3. The ~~{Commission}~~ Authority shall elect one of its members as Chair.

Sec. 3.1. NRS 705.42935 is hereby amended to read as follows:

705.42935 The ~~{Commission}~~ Authority is hereby designated as an agency of the State of Nevada for the purposes of carrying out the provisions of NRS 705.4291 to 705.4296, inclusive.

Sec. 3.2. NRS 705.4294 is hereby amended to read as follows:

705.4294 ~~{1. The Commission may:~~

~~(a) Subject to the provisions of subsection 2, secure}~~ The Authority may:

1. Secure a right-of-way and award a franchise for the construction and operation of a ~~{Super Speed Ground Transportation}~~ High-Speed Rail System principally following the route of Interstate Highway No. 15 between Las Vegas, Nevada, and a point in southern California.

~~{(b)}~~ 2. Acquire or gain control or use of land for rights-of-way, stations and ancillary uses through purchase, gift, lease, use permit or easement.

~~{(c)}~~ 3. Conduct engineering and other studies related to the selection and acquisition of rights-of-way and the selection of a franchisee, including, but not limited to, environmental impact studies, socioeconomic impact studies and financial feasibility studies. All local, state and federal environmental requirements must be met by the ~~{Commission}~~.

~~{(d) Evaluate alternative technologies, systems and operators for a Super Speed Ground Transportation System, and select}~~ Authority.

4. Select a franchisee to construct and operate the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System between southern California and Las Vegas.

~~{(e)}~~ 5. Establish criteria for the award of the franchise. ~~{}~~

~~{(f)}~~ , which must include, without limitation:

(a) The extent to which environmental studies have been completed;

(b) The level of private investment that has been made or committed;

(c) Construction readiness; and

(d) Pending or completed permit applications to implement a High-Speed Rail System.

6. Accept grants, gifts, fees and allocations from Nevada or its political subdivisions, the Federal Government, foreign governments and any private source.

~~{(g)}~~ 7. Issue debt, but this debt does not constitute an obligation of the ~~{State of California or the}~~ State of Nevada, or any of ~~{their}~~ its political subdivisions.

~~{(h)}~~ 8. Hire an Executive Officer, other staff and any consultants deemed appropriate.

~~[(i) Select the exact route and terminal sites.~~

~~[(j)]~~ 9. Obtain, or assist the selected franchisee in obtaining, all necessary permits and certificates from governmental entities in California and Nevada

~~for~~

~~2. Before the:~~

~~(a) Commission or a franchisee begins construction in Nevada; and~~

~~(b) Receipt of any final certificates and permits necessary for the construction or use of a public right of way;~~

~~the route and terminals selected by the Commission must be approved by the appropriate local, regional and state governmental entities in Nevada which have jurisdiction over the route and terminals located in this state. As a condition of awarding a franchise, the Commission shall require the franchisee to comply with this subsection.~~

~~3. Before the:~~

~~(a) Commission or a franchisee begins construction in California; and~~

~~(b) Receipt of any final certificates and permits necessary for the construction or use of a public right of way;~~

~~the route and terminals selected by the Commission must be approved by the appropriate local, regional and state governmental entities in California which have jurisdiction over the route and terminals located in that state. As a condition of awarding a franchise, the Commission shall require the franchisee to comply with this subsection.]~~ *, recognizing the preemptive federal authority of the Surface Transportation Board of the United States Department of Transportation over interstate passenger railroads.*

10. Negotiate, enter into and execute all necessary local, regional and state governmental agreements to allow for the construction and implementation of the High-Speed Rail System.

Sec. 3.3. NRS 705.4295 is hereby amended to read as follows:

705.4295 1. The ~~[Commission]~~ *Authority* may incorporate under the general incorporation laws of either this state or the State of California, whichever the ~~[Commission]~~ *Authority* determines to be in its best interests. Copies of its proceedings, records and acts, when authenticated, are admissible in evidence in all courts of either State and are prima facie evidence of the truth of all statements therein.

2. The members of the ~~[Commission]~~ *Authority* and its agents and employees are not liable for any damages that result from any act or omission in the performance of their duties or the exercise of their powers pursuant to NRS 705.4291 to 705.4296, inclusive.

Sec. 3.4. NRS 705.42955 is hereby amended to read as follows:

705.42955 1. The ~~[Commission]~~ *Authority*, or a corporation formed by the ~~[Commission]~~ *Authority* pursuant to the laws of this state or the State of California, as the ~~[Commission]~~ *Authority* deems appropriate, may issue bonds, notes, obligations or other evidences of borrowing to finance all or a part of the construction of all or a part of the ~~[Super Speed Ground Transportation]~~ *High-Speed Rail System*. For purposes of issuing bonds,

notes, obligations or other evidences of borrowing pursuant to this section, the ~~{Commission}~~ Authority and any corporation formed by the ~~{Commission}~~ Authority are constituted authorities for the purposes of regulations enacted by the Internal Revenue Service pursuant to 26 U.S.C. §§ 103 and 141 to 150, inclusive.

2. Bonds, notes, obligations or other evidences of borrowing issued by the ~~{Commission}~~ Authority or any corporation formed by the ~~{Commission}~~ Authority which are issued to finance all or any part of the construction of all or a part of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System may be payable from and secured by:

(a) A pledge of property of the ~~{Commission}~~ Authority or a corporation formed by the ~~{Commission}~~ Authority pursuant to this section;

(b) A pledge of any revenue of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System, including revenue from fares, revenue from advertising and all other revenue of the System; and

(c) A pledge of any other money made available to the ~~{Commission}~~ Authority or a corporation formed by the ~~{Commission}~~ Authority pursuant to this section by:

(1) Grants from the Federal Government or any other federal funds as may be available to pay costs of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System or debt service on any borrowing;

(2) Any company, public or private; or

(3) Any local government or governmental entity in this state or in the State of California pursuant to an intergovernmental agreement or otherwise.

3. The ~~{Commission}~~ Authority may enter into agreements with any person, local government or governmental entity for the provision of resources or assistance to the ~~{Commission}~~ Authority or a corporation formed by the ~~{Commission}~~ Authority concerning the financing of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System.

4. The ~~{Commission}~~ Authority or any corporation formed by the ~~{Commission}~~ Authority pursuant to this section may issue obligations to refund any obligations issued pursuant to the provisions of this section and NRS 705.4291 to 705.4296, inclusive, for any purpose the ~~{Commission}~~ Authority determines to be sufficient.

5. Nothing in this section authorizes the ~~{Commission}~~ Authority or any corporation formed by the ~~{Commission}~~ Authority to obligate this state or the State of California or any political subdivision thereof unless such State or political subdivision has obligated itself to the ~~{Commission}~~ Authority or a corporation created by the ~~{Commission}~~ Authority through an intergovernmental agreement.

6. ~~Unless a specific statute of this state or the State of California requires otherwise, upon dissolution of the Commission, all property of the Commission must be distributed between this state and the State of California in an equitable manner as agreed upon by the States.~~

~~7-1~~ The creation, perfection, priority and enforcement of any lien on pledged revenue or other money established to secure any bond, note, obligation or other evidence of borrowing issued pursuant to this section, must be as specified in this section and in the instruments approved by the ~~[Commission]~~ *Authority* pertaining to that bond, note, obligation or other evidence of borrowing. It is the purpose of this section to provide expressly for the creation, perfection, priority and enforcement of a security interest created by the ~~[Commission]~~ *Authority* in pledged revenues or other money in connection with bonds, notes, obligations or other evidences of borrowing issued pursuant to this section, as provided for in paragraph (n) of subsection 4 of NRS 104.9109. Any lien on pledged revenue or other money created to secure any bond, note, obligation or other evidence of borrowing issued pursuant to this section has priority over any lien thereon created pursuant to the provisions of chapter 104 of NRS unless otherwise provided in the instrument creating the lien to secure such bond, note, obligation or other evidence of borrowing issued pursuant to the provisions of this section.

Sec. 3.5. NRS 705.4296 is hereby amended to read as follows:

705.4296 The Governor shall declare, by public proclamation on the date of completion of the ~~[Super-Speed Ground Transportation]~~ *High-Speed Rail* System connecting southern California with Southern Nevada, that the System has been completed.

Sec. 3.53. NRS 709.050 is hereby amended to read as follows:

709.050 1. The board of county commissioners may grant to any person, company, corporation or association the franchise, right and privilege to construct, install, operate and maintain street railways, electric light, heat and power lines, gas and water mains, telephone and telegraph lines, and all necessary or proper appliances used in connection therewith or appurtenant thereto, in the streets, alleys, avenues and other places in any unincorporated town in the county, and along the public roads and highways of the county, when the applicant complies with the terms and provisions of NRS 709.050 to 709.170, inclusive.

2. The board of county commissioners shall not:

(a) Impose any terms or conditions on a franchise granted pursuant to subsection 1 for the provision of telecommunication service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides telecommunication service or interactive computer service to obtain a franchise if it provides telecommunication service over the telephone or telegraph lines owned by another company.

3. As used in NRS 709.050 to 709.170, inclusive:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.

(b) "Street railway" means:

(1) A system of public transportation operating over fixed rails on the surface of the ground; or

(2) An overhead or underground system, other than a monorail, used for public transportation.

→ The term does not include a ~~super speed ground transportation system~~ High-Speed Rail System as defined in NRS 705.4292.

(c) "Telecommunication service" has the meaning ascribed to it in NRS 704.028.

4. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

Sec. 3.57. NRS 709.290 is hereby amended to read as follows:

709.290 1. The county commissioners, town trustees, supervisors or other governing body directly entrusted with the management of affairs of any town or city in this State are authorized to sell to the highest responsible bidder any franchise for a street railway through and over any street or streets of such town, according to the provisions of NRS 709.310.

2. As used in NRS 709.290 to 709.360, inclusive, "street railway" means:

(a) A system of public transportation operating over fixed rails on the surface of the ground; or

(b) An overhead or underground system, other than a monorail, used for public transportation.

→ The term does not include a ~~Super Speed Ground Transportation~~ High-Speed Rail System as defined in NRS 705.4292.

3. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

Sec. 3.6. Section 3.5 of chapter 88, Statutes of Nevada 2001, as added by section 7 of chapter 2, Statutes of Nevada 2003, at page 6, is hereby amended to read as follows:

Sec. 3.5. NRS 705.4291, 705.4292, 705.4293, 705.4294, 705.4295 and 705.4296 expire by limitation:

1. One year after the date on which the governor declares by public proclamation that the ~~super speed ground transportation system~~ High-Speed Rail System connecting southern California with southern Nevada has been completed; or

2. On the date all borrowing made pursuant to section 1 of this act is retired, whichever is later.

Sec. 3.7. Section 4 of chapter 88, Statutes of Nevada 2001, at page 560, is hereby amended to read as follows:

Sec. 4. 1. This act becomes effective on July 1, 2001.

2. Sections 1 and 2 of this act expire by limitation:

(a) One year after the date on which the governor declares by public proclamation that the ~~super speed ground transportation system~~ High-Speed

Rail System connecting southern California with southern Nevada has been completed; or

(b) On the date all borrowing made pursuant to section 1 of this act is retired,
whichever is later.

Sec. 3.8. Section 5 of chapter 209, Statutes of Nevada 2003, at page 1173, is hereby amended to read as follows:

Sec. 5. 1. This act becomes effective on July 1, 2003.

2. Sections 1 to 4, inclusive, of this act expire by limitation:

(a) One year after the date on which the Governor declares by public proclamation that the ~~[Super Speed Ground Transportation]~~ High-Speed Rail System connecting southern California with southern Nevada has been completed; or

(b) On the date all borrowing made pursuant to NRS 705.42955 is retired,
whichever is later.

Sec. 4. NRS 705.240, 705.390 and 705.420 are hereby repealed.

Sec. 5. On the effective date of this act:

1. The rights, obligations and property of the State of Nevada in the California-Nevada Super Speed Ground Transportation Commission, if any, become the rights, obligations and property of the Nevada ~~[Super Speed Ground Transportation Commission]~~ High-Speed Rail Authority.

2. The terms of the Nevada members of the California-Nevada Super Speed Ground Transportation Commission ~~become the members of the Nevada Super Speed Ground Transportation Commission and shall be deemed to have been appointed to the Nevada Super Speed Ground Transportation Commission on the dates that they were appointed to the California-Nevada Super Speed Ground Transportation Commission.~~ expire. The initial appointments to the Nevada High-Speed Rail Authority must be made as follows:

(a) The Governor shall appoint one member to a term beginning on October 1, 2013, and ending on September 30, 2015; and

(b) The Majority Leader of the Senate and the Speaker of the Assembly shall each appoint:

(1) One member to a term beginning on October 1, 2013, and ending on September 30, 2016; and

(2) One member to a term beginning on October 1, 2013, and ending on September 30, 2017.

3. Any agreements entered into by the California-Nevada Super Speed Ground Transportation Commission terminate.

Sec. 6. 1. This act becomes effective upon passage and approval.

2. Sections 1 ~~[2 and 3]~~ to 3.5, inclusive, of this act expire by limitation:

(a) One year after the date on which the Governor declares by public proclamation that the ~~[Super Speed Ground Transportation]~~ High-Speed Rail System connecting southern California with southern Nevada has been completed; or

(b) On the date all borrowing made pursuant to NRS 705.42955 is retired,
 ➔ whichever is later.

TEXT OF REPEALED SECTIONS

705.240 Engineer required to be able to read timetables and ordinary handwriting; penalty.

1. It shall be unlawful for any person, as an officer of a corporation or otherwise, knowingly to employ an engineer or engine driver to run a locomotive or train on any railway if such engineer or engine driver cannot read timetables and ordinary handwriting.

2. It shall be unlawful for any person who cannot read timetables and ordinary handwriting to act as an engineer or run a locomotive or train on any railway.

3. Any person who violates any provision of this section shall be guilty of a gross misdemeanor.

705.390 Protection of flagger and trainman employed on certain dates from discharge or loss of employment. No person employed as a flagger on any railroad in this State on April 1, 1963, may be discharged or lose such employment by reason of the provisions of chapter 176, Statutes of Nevada 1963. No person holding seniority as a trainman on any railroad in this State on July 1, 1985, may be discharged or lose such employment by reason of the provisions of chapter 358, Statutes of Nevada 1985. But if a flagger or a trainman retires, terminates or voluntarily leaves such employment, the railroad company need not replace the position so vacated.

705.420 Penalty. Any railroad company or receiver of any railroad company, and any person engaged in the business of common carrier doing business in the State of Nevada, which violates any of the provisions of NRS 705.390 is liable to the Public Utilities Commission of Nevada for a penalty of \$500 for each violation.

Senator Manendo moved that the Senate not concur in the Assembly Amendment No. 697 to Senate Bill No. 508.

Motion carried.

Bill ordered transmitted to the Assembly.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 176, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 665 of the Assembly be concurred in.

JUSTIN JONES

ELLEN SPIEGEL

DEBBIE SMITH

TYRONE THOMPSON

BEN KIECKHEFER

JOHN HAMBRICK

Senate Conference Committee

Assembly Conference Committee

Senator Jones moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 176.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 280, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 777 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 15, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions relating to common-interest communities.(BDR 10-863)"

"AN ACT relating to common-interest communities; ~~revising provisions governing an association's lien on a unit;~~ authorizing the establishment of an impound account for the payment of assessments under certain circumstances; revising provisions governing the ~~(payment)~~ collection of past due financial obligations owed to an association; revising provisions governing the foreclosure of an association's lien by sale; requiring an association to provide a statement concerning certain amounts due to the association under certain circumstances; authorizing an association to charge a fee for such a statement; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a homeowners' association has a lien on a unit for certain amounts due to the association. ~~[Generally, the association's lien is not prior to a first security interest on the unit recorded before the date on which the amount sought to be enforced became delinquent. However, the association's lien is prior to the first security interest on the unit to the extent of certain maintenance and abatement charges and a certain amount of assessments for common expenses. The portion of the association's lien that is prior to the first security interest on the unit is commonly referred to as the "super-priority lien."]~~ (NRS 116.3116) Existing law authorizes the association to foreclose its lien by sale and prescribes the procedures for such a foreclosure. (NRS 116.31162-116.31168)

~~[This bill revises provisions governing the association's lien on a unit and the foreclosure of the association's lien. Section 10 of this bill provides that the association does not have a priority lien over the first security interest when the association forecloses its lien and, thus, the foreclosure of the association's lien does not extinguish the first security interest on the unit. However, under section 7 of this bill, if the holder of the first security interest forecloses on a unit, the association has a lien on the unit which is prior to the first security interest. This priority lien consists of the amounts included in the "super-priority lien" under existing law and the costs of collecting the assessments included in the "super-priority lien," unless the federal regulations adopted by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Department of Veterans Affairs require a shorter period of priority or prohibit the inclusion of collection costs in the "super-priority lien." Section 7 also limits the amount of the costs of collecting included in the lien upon the foreclosure of the first security interest.]~~

Section 7 of this bill authorizes the establishment of an impound account for advance contributions for the payment of assessments. Under section 8 of this bill, ~~[the association may not foreclose its lien by sale based on unpaid collection costs. Section 9 of this bill requires that certain notice of the foreclosure of the association's lien be provided by certified or registered mail, return receipt requested, rather than by first class mail.]~~

Section 2 of this bill: (1) sets forth the order in which an association must apply a payment made by a unit has owner who is delinquent in the payment of assessments, unless a contract between the association and the unit has owner provides otherwise; and (2) prohibits the association or its agent from refusing to accept a partial payment from a unit has owner or any holder of a first security interest encumbering the interest of the unit has owner ~~because the amount tendered is less than the amount owed.~~ not earlier than 60 days after a unit has owner becomes delinquent on a payment owed to the association and before the association mails a notice of delinquent assessment or takes any other action to collect a past due obligation, the association must mail a notice to the unit has owner setting forth the fees that may be charged if ~~the unit has owner fails to pay the past due obligation, a proposed repayment plan and certain information concerning the procedure for requesting a hearing before the executive board.~~

Section 11 of this bill authorizes a unit has owner, ~~for~~ the authorized agent of a unit has owner or the holder of a security interest on the unit to request from the association a statement

concerning certain amounts owed to the association. Under section 11, the association may charge certain fees for such a statement. Section 11 also revises provisions governing the resale package provided to a prospective purchaser of a unit and authorizes the association to charge a fee for providing in electronic format certain documents related to the resale package.

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

Section 1. ~~{Chapter 116 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.} (Deleted by amendment.)~~

Sec. 2. ~~{As used in this section and NRS 116.3116 to 116.3118, inclusive, and section 3 of this act, unless the context otherwise requires, "first security interest" means a first security interest described in paragraph (b) of subsection 2 of NRS 116.3116.} (Deleted by amendment.)~~

Sec. 3. ~~{1. Unless the parties agree otherwise, the association shall apply any sums paid by a unit has owner who is delinquent in paying assessments in the following order:~~

~~(a) Unpaid assessments;~~
~~(b) Charges for late payment of assessments;~~
~~(c) Costs of collecting past due assessments charged to the unit has owner pursuant to NRS 116.310313; and~~

~~(d) All other unpaid fees, charges, fines, penalties, costs of collecting charged to a unit has owner pursuant to NRS 116.310313, interest and late charges.~~

~~2. The association or its agent shall not refuse to accept a partial payment from a unit has owner or any holder of a first security interest encumbering the interest of the unit has owner because the amount tendered is less than the amount owed.} (Deleted by amendment.)~~

Sec. 4. ~~{NRS 116.1203 is hereby amended to read as follows:~~
~~116.1203 1. Except as otherwise provided in subsections 2 and 3, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.~~

~~2. The provisions of NRS 116.12065 and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that the definitions are necessary to construe any of those provisions, apply to a residential planned community containing more than 6 units.~~

~~3. Except for NRS 116.3104, 116.31042, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, and sections 2 and 3 of this act and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than 6 units.} (Deleted by amendment.)~~

Sec. 5. ~~{NRS 116.12075 is hereby amended to read as follows:~~
~~116.12075 1. The provisions of this chapter do not apply to a nonresidential condominium except to the extent that the declaration for the nonresidential condominium provides that:~~

~~(a) This entire chapter applies to the condominium;~~
~~(b) Only the provisions of NRS 116.001 to 116.2122, inclusive, and 116.3116 to 116.3118, inclusive, and sections 2 and 3 of this act apply to the condominium; or~~
~~(c) Only the provisions of NRS 116.3116 to 116.3118, inclusive, and sections 2 and 3 of this act apply to the condominium.~~

~~2. If this entire chapter applies to a nonresidential condominium, the declaration may also require, subject to NRS 116.1112, that:~~

~~(a) Notwithstanding NRS 116.2105, 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 2 of NRS 116.211, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.} (Deleted by amendment.)~~

Sec. 6. ~~{NRS 116.31068 is hereby amended to read as follows:~~
~~116.31068 1. Except as otherwise provided in subsection 3, an association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit has owner designates. Except as otherwise provided in subsection 3, if a unit~~

~~has 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 has 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 has owner has given the association an electronic mail address; or~~
- ~~(d) Any other method reasonably calculated to provide notice to the unit has 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.~~

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

- ~~(a) To a notice required to be given pursuant to NRS 116.3116 to 116.3118, inclusive [;], and sections 2 and 3 of this act; or~~
- ~~(b) If any other provision of this chapter specifies the manner in which a notice must be given by an association.] (Deleted by amendment.)~~

Sec. 7. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit has owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit has owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit has owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

~~¶~~

~~¶~~ The ~~association has a~~ lien ~~which~~ is also prior to all security interests described in paragraph (b) ~~the first security interest~~ to the extent of ~~any~~ ~~¶~~

~~(a) Any~~ charges incurred by the association on a unit pursuant to NRS 116.310312 ~~¶~~ and to the extent of ~~¶~~

~~(b) Except as otherwise provided in this paragraph,~~ the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, ~~for trustee's sale or foreclosure sale of the unit to enforce the first security interest and the costs of collecting those assessments which are charged to a unit has owner pursuant to NRS 116.310312.~~ If federal regulations adopted by the Federal Home Loan Mortgage Corporation ~~¶~~ or the Federal National Mortgage Association ~~for the Department of Veterans Affairs~~ require a shorter period of priority for the lien, ~~for prohibit the inclusion of costs of collecting in the lien,~~ the period during which ~~for amount of~~ the lien ~~which~~ is prior to all security interests described in paragraph (b) ~~the first security interest pursuant to this paragraph~~ must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does ~~for trustee's sale or foreclosure sale of the unit to enforce the first security interest. The amount of the costs of collecting included in the lien pursuant to this paragraph must not exceed the amounts set forth in the regulations adopted by the Commission pursuant to~~

~~NRS 116.310212, except that the amount included in the lien to recover the actual costs charged to the association or a person acting on behalf of the association to collect a past due obligation by a person who is not an officer, director, agent or affiliate of the community manager of the association or of an agent of the association, including, without limitation, the cost of a trustee's sale guarantee and other title costs, recording costs, posting and publishing costs, sale costs, mailing costs, express delivery costs and skip trace fees, must not exceed \$500.~~

~~4. The provisions of subsections 2 and 3 do~~ not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

~~3. ~~15.1~~ The holder of the ~~first~~ security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit has owner and the holder of ~~the first~~ that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit has owner.~~

~~16.1~~ ~~4.~~ Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~14.1~~ ~~17.1~~ ~~5.~~ Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~15.1~~ ~~18.1~~ ~~6.~~ A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

~~16.1~~ ~~19.1~~ ~~7.~~ This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

~~17.1~~ ~~110.1~~ ~~8.~~ A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~18.1~~ ~~111.1~~ ~~9.~~ The association, upon written request, shall furnish to a unit has owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit has owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit has owner.

~~19.1~~ ~~112.1~~ ~~10.~~ In a cooperative, upon nonpayment of an assessment on a unit, the unit has owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~110.1~~ ~~113.1~~ ~~11.~~ In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit has owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

Sec. 8. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection ~~14.1~~ ~~5.~~ in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under

NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit has owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.
 (2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit has owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or
 (b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit has owner or his or her successor in interest at his or her address, if known, and at the address of the unit,
 ↪ whichever date occurs later.

4. *An association may not mail to a unit has owner or his or her successor in interest a letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit has owner or his or her successor in interest unless, not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit has owner:*

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

(b) A proposed repayment plan; and

(c) A notice of the right to contest the past due obligation at a hearing before the executive board and the procedures for requesting such a hearing.

5. The association may not foreclose a lien by sale based on ~~a~~ ~~f~~

~~(a) The costs of collecting charged to a unit has owner pursuant to NRS 116.310313;~~

~~(b) A fine or penalty for a violation of the governing documents of the association unless:~~

~~(a) ~~(1)~~ The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or~~

~~(b) ~~(2)~~ The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.~~

Sec. 9. NRS 116.311635 is hereby amended to read as follows:

116.311635 1. The association or other person conducting the sale shall also, after the expiration of the 90 days and before selling the unit:

(a) Give notice of the time and place of the sale in the manner and for a time not less than that required by law for the sale of real property upon execution, except that in lieu of following

the procedure for service on a judgment debtor pursuant to NRS 21.130, service must be made on the unit has owner as follows:

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the unit has owner or his or her successor in interest at his or her address, if known, and to the address of the unit; and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

(b) Mail, on or before the date of first publication or posting, a copy of the notice by ~~first class mail~~ *certified or registered mail, return receipt requested*, to:

(1) Each person entitled to receive a copy of the notice of default and election to sell notice under NRS 116.31163;

(2) The holder of a recorded security interest or the purchaser of the unit, if either of them has notified the association, before the mailing of the notice of sale, of the existence of the security interest, lease or contract of sale, as applicable; and

(3) The Ombudsman.

2. In addition to the requirements set forth in subsection 1, a copy of the notice of sale must be served:

(a) By a person who is 18 years of age or older and who is not a party to or interested in the sale by personally delivering a copy of the notice of sale to an occupant of the unit who is of suitable age; or

(b) By posting a copy of the notice of sale in a conspicuous place on the unit.

3. Any copy of the notice of sale required to be served pursuant to this section must include:

(a) The amount necessary to satisfy the lien as of the date of the proposed sale; and

(b) The following warning in 14-point bold type:

WARNING! A SALE OF YOUR PROPERTY IS IMMINENT! UNLESS YOU PAY THE AMOUNT SPECIFIED IN THIS NOTICE BEFORE THE SALE DATE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE. YOU MUST ACT BEFORE THE SALE DATE. IF YOU HAVE ANY QUESTIONS, PLEASE CALL (name and telephone number of the contact person for the association). IF YOU NEED ASSISTANCE, PLEASE CALL THE FORECLOSURE SECTION OF THE OMBUDSMAN'S OFFICE, NEVADA REAL ESTATE DIVISION, AT (toll-free telephone number designated by the Division) IMMEDIATELY.

4. Proof of service of any copy of the notice of sale required to be served pursuant to this section must consist of:

(a) A certificate of mailing which evidences that the notice was mailed through the United States Postal Service; or

(b) An affidavit of service signed by the person who served the notice stating:

(1) The time of service, manner of service and location of service; and

(2) The name of the person served or, if the notice was not served on a person, a description of the location where the notice was posted on the unit.

Sec. 10. ~~NRS 116.31164 is hereby amended to read as follows:~~

~~116.31164 1. The sale must be conducted in the county in which the common interest community or part of it is situated, and may be conducted by the association, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State, except that the sale may be made at the office of the association if the notice of the sale so provided, whether the unit is located within the same county as the office of the association or not. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale.~~

~~2. On the day of sale originally advertised or to which the sale is postponed, at the time and place specified in the notice or postponement, the person conducting the sale may sell the unit at public auction to the highest cash bidder. Unless otherwise provided in the declaration or by agreement, the association may purchase the unit and hold, lease, mortgage or convey it. The association may purchase by a credit bid up to the amount of the unpaid assessments and any permitted costs, fees and expenses incident to the enforcement of its lien.~~

~~3. After the sale, the person conducting the sale shall:~~
~~(a) Make, execute and, after payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the grantee all title of the unit has owner to the unit;~~
~~(b) Deliver a copy of the deed to the Ombudsman within 20 days after the deed is delivered to the purchaser, or his or her successor or assign; and~~
~~(c) Apply the proceeds of the sale for the following purposes in the following order:~~
~~(1) The reasonable expenses of sale;~~
~~(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;~~
~~(3) Satisfaction of the association's lien;~~
~~(4) Satisfaction in the order of priority of any subordinate claim of record; and~~
~~(5) Remittance of any excess to the unit has owner.~~
~~4. The foreclosure by sale of the association's lien does not extinguish the rights of the holder of the first security interest. (Deleted by amendment.)~~

Sec. 11. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit has owner or his or her authorized agent shall, at the expense of the unit has owner, furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095.

(b) A statement from the association setting forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees, fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit has owner. ~~[The statement remains effective for the period specified in the statement, which must not be less than 15 working days from the date of delivery by the association to the unit has owner or his or her agent. If the association becomes aware of an error in the statement during the period in which the statement is effective but before the consummation of the resale, the association must deliver a replacement statement to the unit has owner or his or her agent and obtain an acknowledgment in writing by the unit has owner or his or her agent before that consummation. Unless the unit has owner or his or her agent receives a replacement statement, the unit has owner or his or her agent may rely upon the accuracy of the information set forth in a statement provided by the association for the resale.]~~

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152.

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit has owner has actual knowledge.

(e) A statement of any transfer fees, transaction fees or any other fees associated with the resale of a unit.

(f) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, the purchaser must hand deliver the notice of cancellation to the unit has owner or his or her authorized agent or mail the notice of cancellation by prepaid United States mail to the unit has owner or his or her authorized

agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

- (a) Cancel the contract pursuant to this subsection; or
- (b) Damages, rescission or other relief based solely on the ground that the unit has owner or his or her authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit has owner or his or her authorized agent, the association shall furnish all of the following to the unit has owner or his or her authorized agent for inclusion in the resale package:

- (a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and
- (b) A certificate containing the information necessary to enable the unit has owner to comply with paragraphs (b), (d), (e) and (f) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit has owner or his or her authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit has owner nor his or her authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit has owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The other documents furnished pursuant to subsection 3 must be provided in electronic format ~~at no charge~~ to the unit has owner. ~~for, if~~ *The association may charge the unit has owner a fee, not to exceed \$20, to provide such documents in electronic format. If the association is unable to provide such documents in electronic format, the association may charge the unit has owner a reasonable fee, not to exceed 25 cents per page for the first 10 pages, and 10 cents per page thereafter, to cover the cost of copying.*

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit has owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails to furnish the documents and certificate within the 10 days allowed by this section, the purchaser is not liable for the delinquent assessment.

6. Upon the request of a unit has owner or his or her authorized agent, or upon the request of a purchaser to whom the unit has owner has provided a resale package pursuant to this section or his or her authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit has owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

7. *A unit has owner ~~for~~ the authorized agent of the unit has owner or the holder of a security interest on the unit may request a statement of demand from the association. Not later than 10 days after receipt of a written request from ~~for~~ the unit has owner ~~for~~ the authorized agent of the unit has owner or the holder of a security interest on the unit for a statement of demand, the association shall furnish a statement of demand to the ~~unit has owner or the authorized agent~~ person who requested the statement. The association may charge a fee of not more than \$150 to prepare and furnish a statement of demand pursuant to this subsection and an additional fee of not more than \$100 to furnish a statement of demand within 3 days after receipt of a written request for a statement of demand. The statement of demand:*

(a) *Must set forth the amount of the monthly assessment for common expenses and any unpaid obligation of any kind, including, without limitation, management fees, transfer fees,*

fines, penalties, interest, collection costs, foreclosure fees and attorney's fees currently due from the selling unit has owner; and

(b) Remains effective for the period specified in the statement of demand, which must not be less than 15 business days after the date of delivery by the association to the unit has owner ~~for~~, the authorized agent of the unit has owner ~~for~~ or the holder of a security interest on the unit, whichever is applicable.

8. If the association becomes aware of an error in a statement of demand furnished pursuant to subsection 7 during the period in which the statement of demand is effective but before the consummation of a resale for which a resale package was furnished pursuant to subsection 1, the association must deliver a replacement statement of demand to the ~~unit has owner or the authorized agent of the unit has owner~~ person who requested the statement of demand. Unless the ~~unit has owner or the authorized agent of the unit has owner~~ person who requested the statement of demand receives a replacement statement of demand, the ~~unit has owner or authorized agent~~ person may rely upon the accuracy of the information set forth in the statement of demand provided by the association for the resale. Payment of the amount set forth in the statement of demand constitutes full payment of the amount due from the selling unit has owner.

RUBEN KIHUEN
SCOTT HAMMOND
JUSTIN JONES

Senate Conference Committee

JASON FRIERSON
MAGGIE CARLTON
WESLEY DUNCAN

Assembly Conference Committee

Senator Kihuen moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 280.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 389, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 749 of the Assembly be concurred in.

TICK SEGERBLOM
RUBEN KIHUEN
SCOTT HAMMOND

Senate Conference Committee

IRENE BUSTAMANTE ADAMS
SKIP DALY
IRA HANSEN

Assembly Conference Committee

Senator Segerblom moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 389.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 450, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 776 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 17, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises the qualifications for certain district health officers. (BDR 40-1081)"

"AN ACT relating to public health; revising the qualifications for certain district health officers; revising provisions relating to medical records; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the appointment of a State Health Officer by the Director of the Department of Health and Human Services and establishes the qualifications for that position. (NRS 439.090, 439.100) Existing law further creates a health district in a county whose population is 700,000 or more. Such a health district has a health department consisting of a district health officer and a district board of health. (NRS 439.362) Existing law requires the

district board of health in such a county to appoint a district health officer for the health district and establishes the qualifications for the district health officer. (NRS 439.368) ~~(This) Section 1~~ of this bill revises the qualifications of the district health officer. Section 2 of this bill allows a person who is serving as the district health officer of a county whose population is 700,000 or more (currently Clark County) on July 1, 2013, to continue to serve in that capacity until his or her successor is appointed.

Existing law requires a provider of health care, including a facility that maintains the health care records of patients, to make the health care records of a patient available for inspection in certain circumstances. (NRS 629.021, 629.061) Section 1.2 of this bill extends the period of time within which a provider of health care must make health care records available for inspection in certain circumstances. Section 1.8 of this bill repeals a provision making it a misdemeanor for a physician licensed pursuant to chapter 630 of NRS to willfully fail or refuse to comply with this requirement.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 439.368 is hereby amended to read as follows:

439.368 1. The district board of health shall appoint a district health officer for the health district who shall have full authority as a county health officer in the health district.

2. The district health officer must:

(a) Be licensed to practice medicine or osteopathic medicine in this State ~~[- and] or be eligible for such a license and obtain such a license within 12 months after being appointed as district health officer;~~

(b) Have at least ~~[the following additional education and experience:~~

~~(1) A master's degree in public health, health care administration, public administration, business administration or a related field; and~~

~~(2) Ten] 5 years of management experience [in an administrative position] in a local, state or national public health department, program, organization or agency ; and~~

(c) Have:

~~(1) At least a master's degree in public health, health care administration, public administration, business administration or a related field;~~

~~(2) Work experience which is deemed to be equivalent to a degree described in subparagraph (1), which may include, without limitation, relevant work experience with a national organization which conducts research on issues concerning public health; or~~

~~(3) Obtained certification from or be eligible to be certified by the American Board of Preventive Medicine, the American Osteopathic Board of Preventive Medicine, a successor organization or, if there is no successor organization, by a similar organization designated by the district board of health.~~

3. The district health officer is entitled to receive a salary fixed by the district board of health and serves at the pleasure of the board.

4. Any clinical program of a district board of health which requires medical assessment must be carried out under the direction of a physician.

Sec. 1.2. NRS 629.061 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

~~1-4~~ 2. The records *described in subsection 1* must be made available at a place within the depository convenient for physical inspection. ~~(1-4)~~ *Except as otherwise provided in subsection 3, if the records are located within:*

(a) Within this State, the provider shall make any records requested pursuant to this section available for inspection within ~~(5)~~ 10 working days after the request. ~~(If the records are located outside)~~

(b) Outside this State, the provider shall make any records requested pursuant to this section available in this State for inspection within ~~(10)~~ 20 working days after the request.

~~(2-1)~~ 3. *If the records described in subsection 1 are requested pursuant to paragraph (e), (f) or (g) of subsection 1 and the investigator, grand jury or authorized representative, as applicable, declares that exigent circumstances exist which require the immediate production of the records, the provider shall make any records which are located:*

(a) Within this State available for inspection within 5 working days after the request.

(b) Outside this State available for inspection within 10 working days after the request.

~~4~~ 4. Except as otherwise provided in subsection ~~(2-1)~~ 5, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

~~(3-1)~~ 5. The provider of health care shall also furnish a copy of any records that are necessary to support a claim or appeal under any provision of the Social Security Act, 42 U.S.C. §§ 301 et seq., or under any federal or state financial needs-based benefit program, without charge, to a patient, or a representative with written authorization from the patient, who requests it, if the request is accompanied by documentation of the claim or appeal. A copying fee, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes, may be charged by the provider of health care for furnishing a second copy of the records to support the same claim or appeal. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy. The provider of health care shall furnish the copy of the records requested pursuant to this subsection within 30 days after the date of receipt of the request, and the provider of health care shall not deny the furnishing of a copy of the records pursuant to this subsection solely because the patient is unable to pay the fees established in this subsection.

~~(4-1)~~ 6. Each person who owns or operates an ambulance in this State shall make the records regarding a sick or injured patient available for physical inspection by:

- (a) The patient or a representative with written authorization from the patient;
- (b) The personal representative of the estate of a deceased patient;
- (c) Any trustee of a living trust created by a deceased patient;
- (d) The parent or guardian of a deceased patient who died before reaching the age of majority; or

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

➤ The records must be made available at a place within the depository convenient for physical inspection, and inspection must be permitted at all reasonable office hours and for a reasonable length of time. The person who owns or operates an ambulance shall also furnish a copy of the records to each person described in this subsection who requests it and pays the actual cost of postage, if any, and the costs of making the copy, not to exceed 60 cents per page for photocopies. No administrative fee or additional service fee of any kind may be charged for furnishing a copy of the records.

~~(5-1)~~ 7. Records made available to a representative or investigator must not be used at any public hearing unless:

- (a) The patient named in the records has consented in writing to their use; or
- (b) Appropriate procedures are utilized to protect the identity of the patient from public disclosure.

~~661~~ 8. Subsection ~~55~~ 7 does not prohibit:

(a) A state licensing board from providing to a provider of health care or owner or operator of an ambulance against whom a complaint or written allegation has been filed, or to his or her attorney, information on the identity of a patient whose records may be used in a public hearing relating to the complaint or allegation, but the provider of health care or owner or operator of an ambulance and the attorney shall keep the information confidential.

(b) The Attorney General from using health care records in the course of a civil or criminal action against the patient or provider of health care.

~~771~~ 9. A provider of health care or owner or operator of an ambulance and his or her agents and employees are immune from any civil action for any disclosures made in accordance with the provisions of this section or any consequential damages.

~~881~~ 10. For the purposes of this section:

(a) "Guardian" means a person who has qualified as the guardian of a minor pursuant to testamentary or judicial appointment, but does not include a guardian ad litem.

(b) "Living trust" means an inter vivos trust created by a natural person:

(1) Which was revocable by the person during the lifetime of the person; and

(2) Who was one of the beneficiaries of the trust during the lifetime of the person.

(c) "Parent" means a natural or adoptive parent whose parental rights have not been terminated.

(d) "Personal representative" has the meaning ascribed to it in NRS 132.265.

Sec. 1.8. NRS 630.405 is hereby repealed.

Sec. 2. Notwithstanding the amendatory provisions of section 1 of this act, any person who, on July 1, 2013, is serving as the district health officer in a county whose population is 700,000 or more and who is otherwise qualified to serve as the district health officer on that date may continue to serve in that capacity until his or her successor is appointed by the district board of health.

Sec. 3. This act becomes effective on July 1, 2013.

TEXT OF REPEALED SECTION

630.405 Penalty for failure to make records concerning health care available for inspection or copying. A physician licensed pursuant to this chapter who willfully fails or refuses to make the health care records of a patient available for physical inspection or copying as provided in NRS 629.061 is guilty of a misdemeanor.

JUSTIN JONES

TICK SEGERBLOM

JOSEPH HARDY

Senate Conference Committee

ANDY EISEN

ANDREW MARTIN

JAMES OSCARSON

Assembly Conference Committee

Senator Jones moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 450.

Motion carried by a constitutional majority.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Senate Concurrent Resolution No. 9 be taken from the Secretary's Desk and placed at the bottom of the Resolution File on the fourth agenda.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 388, 404, 425, 428, 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 Finance, to which was re-referred Senate Bill No. 504, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which was referred Assembly Bill No. 287, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JUSTIN C. JONES, *Chair*

Mr. President:

Your Committee on Transportation, to which were referred Assembly Bills Nos. 167, 447, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK A. MANENDO, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 504.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 972.

"SUMMARY—Enacts provisions providing English Language Learning for Our Students. (BDR 34-1099)"

~~"AN ACT relating to education; [revising provisions governing the count of pupils for apportionment purposes; requiring a teacher who is employed at a school where a certain percentage of the pupils are limited English proficient to hold an endorsement to teach English as a second language; requiring the regional training programs for the professional development of teachers and administrators to provide training which is designed to improve instruction to pupils who are limited English proficient; requiring the Board of Trustees of the Clark County School District and the Board of Trustees of the Washoe County School District to adopt pilot programs for the establishment of reading skills development centers; requiring the Teachers and Leaders Council of Nevada to make recommendations for certain revisions to the statewide performance evaluation system; requiring the board of trustees of each school district to make adjustments to its professional development programs as necessary to place priority on professional development for teachers and administrators employed at public schools with a certain percentage of pupils who are limited English proficient;]~~ creating the English Mastery Council; prescribing the membership and duties of the Council; requiring the board of trustees of each school district to develop a policy for the instruction to teach English to pupils who are limited English proficient; requiring the Commission on Professional Standards in Education to adopt regulations prescribing an endorsement to teach English as a second language; authorizing the Board of Regents of the University of Nevada to consider the recommendations of the Council for a course of study to obtain

such an endorsement; making appropriations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Board of Education, the boards of trustees of school districts and the sponsors of charter schools are required to prepare annual reports of accountability that include various information on public schools and the pupils enrolled in public schools. (NRS 385.3469, 385.347) Sections 1.1 and 1.2 of this bill require those reports to include information on the progression of the achievement and proficiency of pupils who are limited English proficient.

Section 1.4 of this bill creates and sets forth the membership of the English Mastery Council. Section 1.5 of this bill sets forth the duties of the Council which include: (1) making recommendations to the State Board for the adoption of regulations concerning the criteria for the development of policies required of school districts for the instruction to teach English to pupils who are limited English proficient; (2) reviewing the policies annually and making recommendations to the State Board and the school districts for improvement; (3) making recommendations to the Superintendent of Public Instruction and the Commission on Professional Standards in Education for the adoption of regulations for an endorsement to teach English as a second language; (4) developing standards for curriculum for pupils who are limited English proficient for review by the State Board; and (5) reviewing any courses of study offered by the Nevada System of Higher Education to teach English as a second language and making recommendations to the Board of Regents of the University of Nevada for improvement. Section 17 of this bill terminates the Council on June 30, 2019.

Under existing law, the State Board of Education is required to establish a program to teach the English language to pupils who are limited English proficient. (NRS 388.405) Section 2 of this bill ~~sets forth the Legislature's declaration and intent with respect to providing high-quality instruction to pupils who are limited English proficient. Section 1 of this bill requires a school district to disaggregate from the count of pupils for apportionment purposes those pupils who are enrolled in a program to teach the English language to pupils who are limited English proficient. (NRS 387.123))~~ eliminates that requirement and instead requires the State Board to prescribe criteria for a policy for the instruction to teach English to pupils who are limited English proficient for development by the board of trustees of each school district. Section 2 of this bill requires the board of trustees of each school district to develop such policies and sets forth certain requirements for the policies.

Under existing law, the Commission on Professional Standards in Education is required to adopt regulations prescribing the qualifications for the licensure and endorsement of teachers. (NRS 391.019) ~~Section 3 of this bill encourages a teacher to hold an endorsement to teach English as a second language if the teacher is employed at a school where more than 25 percent~~

~~of the pupils are limited English proficient and requires a teacher to hold such an endorsement if the teacher is employed at a school where more than 50 percent of the pupils are limited English proficient. Section 4 of this bill requires the Commission to adopt regulations prescribing the endorsement. Section 13.5 of this bill makes the endorsement requirement in section 3 applicable to each teacher who begins employment at such a school on or after July 1, 2013 and to teachers employed at such a school on or after July 1, 2015. Section 13.5 exempts a teacher at such a school before that date if the teacher receives a designation of "highly effective" on his or her performance evaluation during the 2014-2015 school year.~~

~~Existing law creates three regional training programs for the professional development of teachers and administrators and prescribes the requirements of training by the regional training programs. (NRS 391.512, 391.544) Section 5 of this bill requires the regional training programs to provide training for teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient or who work at public schools where more than 25 percent of the pupils are limited English proficient, which is designed to improve the instruction to those pupils. Sections 6 and 6.5 of this bill make appropriations to the Account for Programs for Innovation and the Prevention of Remediation for distribution to the three school districts that serve as fiscal agents for the regional training programs for each regional training program to provide the training required by sections 3 and 5.~~

~~Section 7 of this bill makes an appropriation to the Account for Programs for Innovation and the Prevention of Remediation for distribution by the Department of Education to the school districts based upon the percentage of pupils enrolled in the school district who are limited English proficient. Each school district that receives an allocation of money shall use the money to: (1) hire educational personnel who are specialists at providing instruction to pupils who are limited English proficient; (2) provide summer school free of charge to certain pupils who are limited English proficient; (3) create or expand prekindergarten programs for children who are limited English proficient; and (4) acquire and implement tools and assessments designed to support the learning of children who are limited English proficient.~~

~~Section 8 of this bill makes an appropriation to the Account for Programs for Innovation and the Prevention of Remediation for school districts to provide full day kindergarten in Title I schools that are receiving money pursuant to 42 U.S.C. §§ 1751 et seq. and in other at risk schools that are currently providing full day kindergarten with money appropriated by the Legislature for that purpose. A school district that receives an allocation of money shall use the money to provide full day kindergarten in those schools at a ratio of 15 pupils per licensed teacher.~~

~~Section 9 of this bill requires the Board of Trustees of the Clark County School District, in cooperation with the University of Nevada, Las Vegas, and the Board of Trustees of the Washoe County School District, in~~

~~cooperation with the University of Nevada, Reno, to adopt pilot programs for the establishment of reading skills development centers at certain high-risk schools located within those School Districts. Section 9 also requires the Clark County School District to implement the pilot program beginning with the 2013-2014 school year and requires the Washoe County School District to implement the pilot program beginning with the 2014-2015 school year.~~

~~Sections 10-13 of this bill, respectively, make appropriations from the State Supplemental School Support Account to: (1) the Board of Trustees of the Clark County School District; (2) the University of Nevada, Las Vegas; (3) the Board of Trustees of the Washoe County School District; and (4) the University of Nevada, Reno. Such appropriations are for the establishment, operation and support of the reading skills development centers.~~

~~Section 14 of this bill requires representatives of the Clark County School District, the Washoe County School District, the University of Nevada, Las Vegas, and the University of Nevada, Reno, to report to each standing committee having primary jurisdiction over matters relating to K-12 public education at the beginning of the 78th Session of the Nevada Legislature on the results of the pilot programs.~~

~~Existing law creates the Teachers and Leaders Council of Nevada to make recommendations to the State Board of Education for the establishment of the statewide performance evaluation system for teachers and administrators. (NRS 391.455, 391.465) Section 15 of this bill requires the Council to make recommendations to the State Board and the Legislature on methods to evaluate teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient on the effectiveness of the instruction to those pupils.~~

~~Section 16 of this bill requires the board of trustees of each school district, during the 2013-2015 biennium, to review the provision of professional development offered by or through the school district and make such adjustments as are necessary to place priority on professional development for teachers and administrators at public schools where more than 25 percent of the pupils enrolled in the school are limited English proficient.] Sections 4 and 16.6 of this bill require the Commission, on or before July 1, 2014, and based upon the recommendations of the English Mastery Council, to prescribe by regulation the requirements for obtaining an endorsement to teach English as a second language. If the Commission does not adopt such regulations by that date, section 16.6 requires the State Board to adopt the regulations on or before January 1, 2015, and to provide written notice to the English Mastery Council that the State Board adopted the regulations.~~

Section 16.1 of this bill provides that if the Nevada System of Higher Education offers a course of study for obtaining an endorsement to teach English as a second language, the Board of Regents of the University of Nevada may consider the recommendations submitted by the English Mastery Council in establishing the curriculum and standards for the course of study.

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

Section 1. ~~NRS 387.123 is hereby amended to read as follows:~~

~~387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, and pupils who are enrolled in a university school for profoundly gifted pupils located in the county, for:~~

~~(a) Pupils in the kindergarten department.~~

~~(b) Pupils in grades 1 to 12, inclusive.~~

~~(c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive.~~

~~(d) Pupils who reside in the county and are enrolled part time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.~~

~~(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.~~

~~(f) Pupils who are enrolled in classes pursuant to subsection 4 of NRS 386.560 and pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.580.~~

~~(g) Pupils who are enrolled in classes pursuant to subsection 3 of NRS 392.070.~~

~~(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).~~

~~2. A school district shall disaggregate from the count of pupils pursuant to subsection 1 the count of pupils who participate in the program established pursuant to NRS 388.405 to teach the English language to pupils who are limited English proficient.~~

~~3. The State Board shall establish uniform regulations for counting enrollment, including, without limitation, disaggregating the count of pupils pursuant to subsection 2, and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:~~

~~(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.~~

~~(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.~~

~~(e) Shall prohibit the counting of any pupil specified in subsection 1 more than once.~~

~~[3.] 4. Except as otherwise provided in subsection [4] 5 and NRS 388.700, the State Board shall establish by regulation the maximum pupil teacher ratio in each grade, and for each subject matter wherever different subjects are taught in separate classes, for each school district of this State which is consistent with:~~

~~(a) The maintenance of an acceptable standard of instruction;~~

~~(b) The conditions prevailing in the school district with respect to the number and distribution of pupils in each grade; and~~

~~(c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.~~

~~*** If the Superintendent of Public Instruction finds that any school district is maintaining one or more classes whose pupil teacher ratio exceeds the applicable maximum, and unless the Superintendent finds that the board of trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, the Superintendent shall, with the approval of the State Board, reduce the count of pupils for apportionment purposes by the percentage which the number of pupils attending those classes is of the total number of pupils in the district, and the State Board may direct the Superintendent to withhold the quarterly apportionment entirely.~~

~~[4.] 5. The provisions of subsection [3] 4 do not apply to a charter school, a university school for profoundly gifted pupils or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.] (Deleted by amendment.)~~

Sec. 1.1. NRS 385.3469 is hereby amended to read as follows:

385.3469 1. The State Board shall prepare an annual report of accountability that includes, without limitation:

(a) Information on the achievement of all pupils based upon the results of the examinations administered pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(b) Except as otherwise provided in subsection 2, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(1) Pupils who are economically disadvantaged, as defined by the State Board;

(2) Pupils from major racial and ethnic groups, as defined by the State Board;

(3) Pupils with disabilities;

(4) Pupils who are limited English proficient; and

(5) Pupils who are migratory children, as defined by the State Board.

(c) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(d) The percentage of all pupils who were not tested, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(e) Except as otherwise provided in subsection 2, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in paragraph (b).

(f) The most recent 3-year trend in the achievement of pupils in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(g) Information on whether each school district has made adequate yearly progress, including, without limitation, the name of each school district, if any, designated as demonstrating need for improvement pursuant to NRS 385.377 and the number of consecutive years that the school district has carried that designation.

(h) Information on whether each public school, including, without limitation, each charter school, has made:

(1) Adequate yearly progress, including, without limitation, the name of each public school, if any, designated as demonstrating need for improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(2) Progress based upon the model adopted by the Department pursuant to NRS 385.3595, if applicable for the grade level of pupils enrolled at the school.

(i) Information on the results of pupils who participated in the examinations of the National Assessment of Educational Progress required pursuant to NRS 389.012.

(j) The ratio of pupils to teachers in kindergarten and at each grade level for all elementary schools, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school, reported for each school district and for this State as a whole.

(k) The total number of persons employed by each school district in this State, including without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by each school district in each category, the report must include the number of employees in each of the three

categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph:

(1) "Administrator" means a person who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, and who is not classified by the board of trustees of a school district as a professional-technical employee.

(2) "Other staff" means all persons who are not reported as administrators or teachers, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of a school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is classified by the board of trustees of a school district:

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(I) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information on the professional qualifications of teachers employed by the school districts and charter schools, including, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, in this State that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment,

designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(m) The total expenditure per pupil for each school district in this State, including, without limitation, each charter school in the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(n) The total statewide expenditure per pupil. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, the State Board shall use that statewide program in complying with this paragraph. If a statewide program is not available, the State Board shall use the Department's own financial analysis program in complying with this paragraph.

(o) For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(p) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(q) The attendance of teachers who provide instruction, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(r) Incidents involving weapons or violence, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(s) Incidents involving the use or possession of alcoholic beverages or controlled substances, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(t) The suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(u) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(v) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(w) The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this paragraph, a pupil is not a transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(x) Each source of funding for this State to be used for the system of public education.

(y) A compilation of the programs of remedial study purchased in whole or in part with money received from this State that are used in each school district, including, without limitation, each charter school in the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study.

(2) An identification of each program of remedial study, listed by subject area.

(z) The percentage of pupils who graduated from a high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(aa) The technological facilities and equipment available for educational purposes, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(bb) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adult diploma.

(3) An adjusted diploma.

(4) A certificate of attendance.

(cc) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of pupils who failed to pass the high school proficiency examination.

(dd) The number of habitual truants who are reported to a school police officer or local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

(ee) Information on the paraprofessionals employed at public schools in this State, including, without limitation, the charter schools in this State. The information must include:

(1) The number of paraprofessionals employed, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole; and

(2) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, the number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in programs supported with Title I money and to paraprofessionals who are not employed in programs supported with Title I money.

(ff) An identification of appropriations made by the Legislature to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(gg) A compilation of the special programs available for pupils at individual schools, listed by school and by school district, including, without limitation, each charter school in the district.

(hh) For each school district, including, without limitation, each charter school in the district and for this State as a whole, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(ii) The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, reported for each school district, including, without limitation, each charter school in the district, and for the State as a whole.

(jj) For each school district, including, without limitation, each charter school in the district, and for this State as a whole, information regarding the progression of pupils who are limited English proficient in attaining proficiency in the English language, including, without limitation:

(1) The number and percentage of pupils who were identified as limited English proficient at the beginning of the school year, were continually enrolled throughout the school year and were identified as proficient in English by the completion of the school year;

(2) The achievement and proficiency of pupils who are limited English proficient in comparison to the pupils who are proficient in English;

(3) A comparison of pupils who are limited English proficient and pupils who are proficient in the English language in the following areas:

(I) Retention rates;

(II) Graduation rates;

(III) Dropout rates;

(IV) Grade point averages; and

(V) Scores on the examinations administered pursuant to NRS 389.015 and 389.550; and

(4) Results of the assessments and reassessments of pupils who are limited English proficient, reported separately by the primary language of the pupils, pursuant to the policies developed by the boards of trustees of school districts pursuant to section 1.7 of this act.

2. A separate reporting for a group of pupils must not be made pursuant to this section if the number of pupils in that group is insufficient to yield

statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe a mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

3. The annual report of accountability must:

(a) Comply with 20 U.S.C. § 6311(h)(1) and the regulations adopted pursuant thereto;

(b) Be prepared in a concise manner; and

(c) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

4. On or before October 15 of each year, the State Board shall:

(a) Provide for public dissemination of the annual report of accountability by posting a copy of the report on the Internet website maintained by the Department; and

(b) Provide written notice that the report is available on the Internet website maintained by the Department. The written notice must be provided to the:

(1) Governor;

(2) Committee;

(3) Bureau;

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

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

(6) Governing body of each charter school.

5. Upon the request of the Governor, an entity described in paragraph (b) of subsection 4 or a member of the general public, the State Board shall provide a portion or portions of the annual report of accountability.

6. As used in this section:

(a) "Bullying" has the meaning ascribed to it in NRS 388.122.

(b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.

(c) "Harassment" has the meaning ascribed to it in NRS 388.125.

(d) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).

(e) "Intimidation" has the meaning ascribed to it in NRS 388.129.

(f) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 1.2. NRS 385.347 is hereby amended to read as follows:

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools sponsored by the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school sponsored by the school district. The information for charter schools must be reported separately.

2. The board of trustees of each school district shall, on or before September 30 of each year, prepare an annual report of accountability concerning:

(a) The educational goals and objectives of the school district.

(b) Pupil achievement for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The board of trustees of the district shall base its report on the results of the examinations administered pursuant to NRS 389.015 and 389.550 and shall compare the results of those examinations for the current school year with those of previous school years. The report must include, for each school in the district, including, without limitation, each charter school sponsored by the district, and each grade in which the examinations were administered:

(1) The number of pupils who took the examinations.

(2) A record of attendance for the period in which the examinations were administered, including an explanation of any difference in the number of pupils who took the examinations and the number of pupils who are enrolled in the school.

(3) Except as otherwise provided in this paragraph, pupil achievement, reported separately by gender and reported separately for the following groups of pupils:

(I) Pupils who are economically disadvantaged, as defined by the State Board;

(II) Pupils from major racial and ethnic groups, as defined by the State Board;

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

(V) Pupils who are migratory children, as defined by the State Board.

(4) A comparison of the achievement of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361 with the annual measurable objectives of the State Board.

(5) The percentage of pupils who were not tested.

(6) Except as otherwise provided in this paragraph, the percentage of pupils who were not tested, reported separately by gender and reported separately for the groups identified in subparagraph (3).

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

(8) Information that compares the results of pupils in the school district, including, without limitation, pupils enrolled in charter schools sponsored by the district, with the results of pupils throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(9) For each school in the district, including, without limitation, each charter school sponsored by the district, information that compares the results

of pupils in the school with the results of pupils throughout the school district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(10) Information on whether each school in the district, including, without limitation, each charter school sponsored by the district, has made progress based upon the model adopted by the Department pursuant to NRS 385.3595.

➡ A separate reporting for a group of pupils must not be made pursuant to this paragraph if the number of pupils in that group is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual pupil. The State Board shall prescribe the mechanism for determining the minimum number of pupils that must be in a group for that group to yield statistically reliable information.

(c) The ratio of pupils to teachers in kindergarten and at each grade level for each elementary school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, and the average class size for each core academic subject, as set forth in NRS 389.018, for each secondary school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(d) The total number of persons employed for each elementary school, middle school or junior high school, and high school in the district, including, without limitation, each charter school sponsored by the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by each school in each category, the report must include the number of employees in each of the three categories for each school expressed as a percentage of the total number of persons employed by the school. As used in this paragraph:

(1) "Administrator" means a person who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, and who is not classified by the board of trustees of the school district as a professional-technical employee.

(2) "Other staff" means all persons who are not reported as administrators or teachers, including, without limitation:

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of the school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is classified by the board of trustees of the school district:

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(e) The total number of persons employed by the school district, including without limitation, each charter school sponsored by the district. Each such person must be reported as either an administrator, a teacher or other staff and must not be reported in more than one category. In addition to the total number of persons employed by the school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph, "administrator," "other staff" and "teacher" have the meanings ascribed to them in paragraph (d).

(f) Information on the professional qualifications of teachers employed by each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The information must include, without limitation:

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

(II) Providing instruction pursuant to a waiver of the requirements for licensure for the grade level or subject area in which the teachers are employed; or

(III) Otherwise providing instruction without an endorsement for the subject area in which the teachers are employed;

(2) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers;

(3) The percentage of classes in the core academic subjects, as set forth in NRS 389.018, that are not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools, which for the purposes of this subparagraph means schools in the top quartile of poverty and the bottom quartile of poverty in this State;

(4) For each middle school, junior high school and high school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level and subject area; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level and subject area; and

(5) For each elementary school:

(I) The number of persons employed as substitute teachers for 20 consecutive days or more in the same classroom or assignment, designated as long-term substitute teachers, including the total number of days long-term substitute teachers were employed at each school, identified by grade level; and

(II) The number of persons employed as substitute teachers for less than 20 consecutive days, designated as short-term substitute teachers, including the total number of days short-term substitute teachers were employed at each school, identified by grade level.

(g) The total expenditure per pupil for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

(h) The curriculum used by the school district, including:

(1) Any special programs for pupils at an individual school; and

(2) The curriculum used by each charter school sponsored by the district.

(i) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school sponsored by the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(j) The annual rate of pupils who drop out of school in grade 8 and a separate reporting of the annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each such grade, for each school in the district and for the district as a whole. The reporting for pupils in grades 9 to 12, inclusive, excludes pupils who:

(1) Provide proof to the school district of successful completion of the examinations of general educational development.

(2) Are enrolled in courses that are approved by the Department as meeting the requirements for an adult standard diploma.

(3) Withdraw from school to attend another school.

(k) Records of attendance of teachers who provide instruction, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(l) Efforts made by the school district and by each school in the district, including, without limitation, each charter school sponsored by the district, to increase:

(1) Communication with the parents of pupils enrolled in the district;

(2) The participation of parents in the educational process and activities relating to the school district and each school, including, without limitation, the existence of parent organizations and school advisory committees; and

(3) The involvement of parents and the engagement of families of pupils enrolled in the district in the education of their children.

(m) Records of incidents involving weapons or violence for each school in the district, including, without limitation, each charter school sponsored by the district.

(n) Records of incidents involving the use or possession of alcoholic beverages or controlled substances for each school in the district, including, without limitation, each charter school sponsored by the district.

(o) Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

(p) The number of pupils who are deemed habitual disciplinary problems pursuant to NRS 392.4655, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(q) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 or 392.125, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(r) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. For the purposes of this paragraph, a pupil is not transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(s) Each source of funding for the school district.

(t) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. The compilation must include:

(1) The amount and sources of money received for programs of remedial study for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(2) An identification of each program of remedial study, listed by subject area.

(u) For each high school in the district, including, without limitation, each charter school sponsored by the district, the percentage of pupils who graduated from that high school or charter school in the immediately preceding year and enrolled in remedial courses in reading, writing or mathematics at a university, state college or community college within the Nevada System of Higher Education.

(v) The technological facilities and equipment available at each school, including, without limitation, each charter school sponsored by the district, and the district's plan to incorporate educational technology at each school.

(w) For each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, the number and percentage of pupils who received:

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adult diploma.

(3) An adjusted diploma.

(4) A certificate of attendance.

(x) For each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, the number and percentage of pupils who failed to pass the high school proficiency examination.

(y) The number of habitual truants who are reported to a school police officer or law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144 and the number of habitual truants who are referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144, for each school in the district and for the district as a whole.

(z) The amount and sources of money received for the training and professional development of teachers and other educational personnel for each school in the district and for the district as a whole, including, without limitation, each charter school sponsored by the district.

(aa) Whether the school district has made adequate yearly progress. If the school district has been designated as demonstrating need for improvement pursuant to NRS 385.377, the report must include a statement indicating the number of consecutive years the school district has carried that designation.

(bb) Information on whether each public school in the district, including, without limitation, each charter school sponsored by the district, has made adequate yearly progress, including, without limitation:

(1) The number and percentage of schools in the district, if any, that have been designated as needing improvement pursuant to NRS 385.3623; and

(2) The name of each school, if any, in the district that has been designated as needing improvement pursuant to NRS 385.3623 and the number of consecutive years that the school has carried that designation.

(cc) Information on the paraprofessionals employed by each public school in the district, including, without limitation, each charter school sponsored by the district. The information must include:

(1) The number of paraprofessionals employed at the school; and

(2) The number and percentage of all paraprofessionals who do not satisfy the qualifications set forth in 20 U.S.C. § 6319(c). The reporting requirements of this subparagraph apply to paraprofessionals who are employed in positions supported with Title I money and to paraprofessionals who are not employed in positions supported with Title I money.

(dd) For each high school in the district, including, without limitation, each charter school sponsored by the district that operates as a high school, information that provides a comparison of the rate of graduation of pupils enrolled in the high school with the rate of graduation of pupils throughout the district and throughout this State. The information required by this paragraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(ee) An identification of the appropriations made by the Legislature that are available to the school district or the schools within the district and programs approved by the Legislature to improve the academic achievement of pupils.

(ff) For each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

(gg) The number of incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment or intimidation, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(hh) For each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district, information regarding the progression of pupils who are limited English proficient in attaining proficiency in the English language, including, without limitation:

(1) The number and percentage of pupils who were identified as limited English proficient at the beginning of the school year, were continually enrolled throughout the school year and were identified as proficient in English by the completion of the school year;

(2) The achievement and proficiency of pupils who are limited English proficient in comparison to the pupils who are proficient in English;

(3) A comparison of pupils who are limited English proficient and pupils who are proficient in the English language in the following areas:

(I) Retention rates;

(II) Graduation rates;

(III) Dropout rates;

(IV) Grade point averages; and

(V) Scores on the examinations administered pursuant to NRS 389.015 and 389.550; and

(4) Results of the assessments and reassessments of pupils who are limited English proficient, reported separately by the primary language of the pupils, pursuant to the policy developed by the board of trustees of the school district pursuant to section 1.7 of this act.

(ii) Such other information as is directed by the Superintendent of Public Instruction.

3. The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall, on or before September 30 of each year, prepare an annual report of accountability of the charter schools sponsored by the State Public Charter School Authority or institution, as applicable, concerning the accountability information prescribed by the Department pursuant to this section. The Department, in consultation with the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school, shall prescribe by regulation the information that must be prepared by the State Public Charter School Authority and institution, as applicable, which must include, without limitation, the information contained in paragraphs (a) to ~~[(hh)]~~ (ii), inclusive, of subsection 2, as applicable to charter schools. The Department shall provide for public dissemination of the annual report of accountability prepared pursuant to this section in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the Department.

4. The records of attendance maintained by a school for purposes of paragraph (k) of subsection 2 or maintained by a charter school for purposes of the reporting required pursuant to subsection 3 must include the number of teachers who are in attendance at school and the number of teachers who are

absent from school. A teacher shall be deemed in attendance if the teacher is excused from being present in the classroom by the school in which the teacher is employed for one of the following reasons:

- (a) Acquisition of knowledge or skills relating to the professional development of the teacher; or
- (b) Assignment of the teacher to perform duties for cocurricular or extracurricular activities of pupils.

5. The annual report of accountability prepared pursuant to subsection 2 or 3, as applicable, must:

- (a) Comply with 20 U.S.C. § 6311(h)(2) and the regulations adopted pursuant thereto; and
- (b) Be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents can understand.

6. The Superintendent of Public Instruction shall:

- (a) Prescribe forms for the reports required pursuant to subsections 2 and 3 and provide the forms to the respective school districts, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school.

- (b) Provide statistical information and technical assistance to the school districts, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school to ensure that the reports provide comparable information with respect to each school in each district, each charter school and among the districts and charter schools throughout this State.

- (c) Consult with a representative of the:

- (1) Nevada State Education Association;
- (2) Nevada Association of School Boards;
- (3) Nevada Association of School Administrators;
- (4) Nevada Parent Teacher Association;
- (5) Budget Division of the Department of Administration;
- (6) Legislative Counsel Bureau; and
- (7) Charter School Association of Nevada,

➔ concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

7. The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

8. On or before September 30 of each year:

- (a) The board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (i) of subsection 2.

- (b) The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a

charter school shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in the charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3.

9. On or before September 30 of each year:

(a) The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide written notice that the report required pursuant to subsection 2 or 3, as applicable, is available on the Internet website maintained by the school district, State Public Charter School Authority or institution, if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

- (1) Governor;
- (2) State Board;
- (3) Department;
- (4) Committee; and
- (5) Bureau.

(b) The board of trustees of each school district, the State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 or 3, as applicable, in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet website maintained by the school district, the State Public Charter School Authority or the institution, if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, including, without limitation, each charter school sponsored by the district, the residents of the district, and the parents and guardians of pupils enrolled in schools in the district, including, without limitation, each charter school sponsored by the district. If the State Public Charter School Authority or the institution does not maintain a website, the State Public Charter School Authority or the institution, as applicable, shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school it sponsors and the parents and guardians of pupils enrolled in each charter school it sponsors.

10. Upon the request of the Governor, an entity described in paragraph (a) of subsection 9 or a member of the general public, the board of trustees of a school district, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that sponsors a charter school, as applicable, shall provide a portion or portions of the report required pursuant to subsection 2 or 3, as applicable.

11. As used in this section:

- (a) "Bullying" has the meaning ascribed to it in NRS 388.122.
- (b) "Cyber-bullying" has the meaning ascribed to it in NRS 388.123.
- (c) "Harassment" has the meaning ascribed to it in NRS 388.125.
- (d) "Highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801(23).
- (e) "Intimidation" has the meaning ascribed to it in NRS 388.129.
- (f) "Paraprofessional" has the meaning ascribed to it in NRS 391.008.

Sec. 1.3. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.4 to 1.7, inclusive, of this act.

Sec. 1.4. 1. The English Mastery Council is hereby created. The English Mastery Council consists of the following 16 members:

(a) The Superintendent of Public Instruction, or his or her designee, who serves as an ex officio member of the English Mastery Council.

(b) Two members who have knowledge and expertise in language acquisition and who represent the Nevada System of Higher Education, appointed by the Chancellor of the Nevada System of Higher Education.

(c) Two members who are teachers at public schools in this State, hold a master's degree to teach English as a second language and have knowledge and expertise in providing instruction to pupils who are limited English proficient, appointed by the Governor from a list of nominees submitted by the Nevada State Education Association, or its successor organization. The Governor shall ensure that the members appointed pursuant to this paragraph represent the geographic and ethnic diversity of this State.

(d) Two members who are parents or legal guardians of pupils who are limited English proficient, one of whom is appointed by the Governor from a list of nominees submitted by the Speaker of the Assembly and one of whom is appointed by the Governor from a list of nominees submitted by the Majority Leader of the Senate. The Governor shall ensure that the members appointed pursuant to this paragraph represent the geographic and ethnic diversity of this State. The Nevada Parent Teacher Association shall submit a list of names of persons that the Association would recommend for inclusion on the list of nominees submitted by the Speaker of the Assembly and the Majority Leader of the Senate.

(e) Two members who are school-level administrators, one of whom is employed by a school district in a county whose population is 100,000 or more and one of whom is employed by a school district in a county whose population is less than 100,000, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators.

(f) Two members who are school-district-level administrators, one of whom is employed by a school district in a county whose population is 100,000 or more and one of whom is employed by a school district in a county whose population is less than 100,000, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Administrators.

(g) One member who is a member of a board of trustees of a school district, appointed by the Governor from a list of nominees submitted by the Nevada Association of School Boards.

(h) Two members who are representatives of the general public, private business and industry in this State or nonprofit organizations and who have been leaders in education reform related to pupils who are limited English proficient, appointed by the Governor.

(i) Two members with expertise in the development of public policy relating to the education of pupils who are limited English proficient, appointed by the Superintendent of Public Instruction upon the advice and recommendation of persons who have knowledge and expertise in providing instruction to pupils who are limited English proficient.

2. Each appointed member of the English Mastery Council serves a term of 2 years and may be reappointed to additional terms.

3. A vacancy on the English Mastery Council must be filled in the same manner as the original appointment.

4. The English Mastery Council shall, at its first meeting and annually thereafter, elect a Chair from among its members.

5. The English Mastery Council shall meet at least quarterly and may meet at other times upon the call of the Chair.

6. Members of the English Mastery Council serve without compensation, except that for each day or portion of a day during which a member of the Council attends a meeting of the Council or is otherwise engaged in the business of the Council, the member is entitled to receive the per diem allowances and travel expenses provided for state officers and employees generally.

7. A member of the English Mastery Council who is a public employee must be granted administrative leave from the member's duties to engage in the business of the Council without loss of his or her regular compensation. Such leave does not reduce the amount of the member's other accrued leave.

8. The English Mastery Council may apply for and accept gifts, grants, donations and contributions from any source for the purpose of carrying out its duties pursuant to section 1.5 of this act.

9. The Department shall provide administrative support to the English Mastery Council.

Sec. 1.5. The English Mastery Council created by section 1.4 of this act shall:

1. Make recommendations to the State Board for the adoption of regulations concerning criteria for the policies to teach English to pupils who are limited English proficient that are developed by the board of trustees of each school district pursuant to section 1.7 of this act.

2. Review annually each policy to teach English to pupils who are limited English proficient that is developed by the board of trustees of each school district pursuant to section 1.7 of this act and make recommendations for improvement to the State Board and the applicable board of trustees.

3. Make recommendations to the Superintendent of Public Instruction, the Commission on Professional Standards in Education and the State Board for:

(a) The adoption of regulations pursuant to NRS 391.019 concerning the requirements for an endorsement to teach English as a second language, including, without limitation, the teachers who should be required to obtain the endorsement; and

(b) After the adoption of the regulations pursuant to paragraph (a), any revisions to those regulations as deemed necessary by the Council.

4. Develop standards and criteria for a curriculum for pupils who are limited English proficient and submit those standards and criteria to the State Board for consideration.

5. Review any course of study offered by the Nevada System of Higher Education for training to teach English as a second language to determine if the course of study, including, without limitation, student teaching, is sufficiently rigorous to provide teachers with the tools necessary to improve the English proficiency and academic achievement and proficiency of pupils who are limited English proficient.

6. Make recommendations to the Board of Regents of the University of Nevada for the improvement of any course of study described in subsection 5 and submit a copy of those recommendations to the Governor and the State Board.

Sec. 1.6. 1. On or before February 1 of each year, the English Mastery Council created by section 1.4 of this act shall prepare an annual report concerning the status of the Council in carrying out its duties prescribed by section 1.5 of this act, including, without limitation, a description of the recommendations made by the Council to the Superintendent of Public Instruction, the Commission on Professional Standards in Education, the State Board, the Board of Regents of the University of Nevada and the boards of trustees of school districts and the response of each of those entities to the recommendations.

2. The report prepared pursuant to subsection 1 must be submitted to the Governor, the State Board and:

(a) In odd-numbered years, to the Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Standing Committees on Education.

(b) In even-numbered years, to the Legislative Committee on Education.

3. The Department shall post a copy of each report prepared by the English Mastery Council pursuant to subsection 1 on the Internet website maintained by the Department.

Sec. 1.7. 1. The board of trustees of each school district shall develop a policy for the instruction to teach English to pupils who are limited English proficient. The policy must be designed to provide pupils enrolled in each public school located in the school district who are limited English proficient

with instruction that enables those pupils to attain proficiency in the English language and improve their overall academic achievement and proficiency.

2. The policy developed pursuant to subsection 1 must:

(a) Provide for the identification of pupils who are limited English proficient through the use of an appropriate assessment;

(b) Provide for the periodic reassessment of each pupil who is classified as limited English proficient;

(c) Be designed to eliminate any gaps in achievement, including, without limitation, in the core academic subjects and in high school graduation rates, between those pupils who are limited English proficient and pupils who are proficient in English;

(d) Provide opportunities for the parents or legal guardians of pupils who are limited English proficient to participate in the program; and

(e) Provide the parents and legal guardians of pupils who are limited English proficient with information regarding other programs that are designed to improve the language acquisition and academic achievement and proficiency of pupils who are limited English proficient and assist those parents and legal guardians in enrolling those pupils in such programs.

Sec. 2. NRS 388.405 is hereby amended to read as follows:

388.405 1. The Legislature finds and declares that:

(a) It is the public policy of this State to provide every child enrolled in a public school with high-quality instruction.

(b) Children who are limited English proficient benefit from instruction that is designed to address the academic and linguistic needs of those children.

(c) It is the intent of the Legislature that children who are limited English proficient be provided with services and instruction which is designed to address the academic needs of such children so that those children attain proficiency in the English language and improve their overall academic and linguistic achievement and proficiency.

2. The State Board shall:

~~{1.} {(a)} Establish a program to teach the English language to pupils who are limited English proficient.~~

~~{2.} {(b)} Adopt regulations [to carry out the program. The regulations must prescribe the procedure by which a school district may obtain a waiver from the requirements of the program.]~~ prescribing criteria for a policy for the instruction to teach English to pupils who are limited English proficient which is developed by the board of trustees of each school district pursuant to section 1.7 of this act. The Superintendent of Public Instruction shall monitor each school district's compliance with the criteria prescribed by the State Board pursuant to this subsection.

~~3. {(c)} Submit~~ all evaluations required pursuant to 20 U.S.C. §§ 6801 et seq. and the regulations adopted pursuant thereto regarding the programs for pupils who are limited English proficient carried out pursuant to that provision of federal law to the:

- (a) ~~/(1)/~~ Governor;
 - (b) ~~/(2)/~~ Legislative Committee ~~on Education~~;
 - (c) ~~/(3) Bureau~~ Director of the Legislative Counsel Bureau for transmittal to the Senate and Assembly Standing Committees on Education;
- and
- (d) ~~/(4)/~~ Board of trustees of each school district.

Sec. 3. ~~[Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. It is hereby declared to be the policy of this State that teachers employed at public schools where more than 25 percent of the pupils are limited English proficient are encouraged to hold an endorsement to teach English as a second language issued by the Superintendent of Public Instruction.~~

~~2. A teacher must hold an endorsement to teach English as a second language issued by the Superintendent of Public Instruction to be employed at a public school where more than 50 percent of the pupils are limited English proficient.~~ (Deleted by amendment.)

Sec. 4. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission shall adopt regulations:

(a) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations:

(1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider which has been approved by the Commission, including, without limitation, institutions of higher education and other providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:

(I) Establish the requirements for approval as a qualified provider;

(II) Require a qualified provider to be selective in its acceptance of students;

(III) Require a qualified provider to provide supervised, school-based experiences and ongoing support for its students, such as mentoring and coaching;

(IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;

(V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure;

(VI) Provide that a person who has completed the education and training required under the alternative route to licensure and who has satisfied all other requirements for licensure may apply for a regular license

pursuant to sub-subparagraph (VII) regardless of whether the person has received an offer of employment from a school district, charter school or private school; and

(VII) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.

(2) Must not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.

(b) Identifying fields of specialization in teaching which require the specialized training of teachers.

(c) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization ~~[-]~~, *including, without limitation, an endorsement to teach English as a second language ~~f- which must require at least 15 semester hours of credit in the applicable courses of study-]~~ based upon the recommendations of the English Mastery Council pursuant to section 1.5 of this act.*

(d) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(e) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(f) Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(1) Provide instruction or other educational services; and

(2) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(g) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(1) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(2) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

↪ An applicant for licensure pursuant to this paragraph who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.

(h) Requiring an applicant for a special qualifications license to:

(1) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(2) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.

(i) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.

(j) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(1) Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;

(2) Is not licensed to teach public school in another state;

(3) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(4) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of the applicant's employment as a teacher with a school district or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

↪ An applicant for licensure pursuant to this paragraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(k) Prescribing course work on parental involvement and family engagement. The Commission shall work in cooperation with the Office of Parental Involvement and Family Engagement created by NRS 385.630 in developing the regulations required by this paragraph.

2. Except as otherwise provided in NRS 391.027, the Commission may adopt such other regulations as it deems necessary for its own government or to carry out its duties.

3. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

4. A person who is licensed pursuant to paragraph (g) or (j) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 4.5. NRS 391.019 is hereby amended to read as follows:

391.019 1. Except as otherwise provided in NRS 391.027, the Commission shall adopt regulations:

(a) Prescribing the qualifications for licensing teachers and other educational personnel, including, without limitation, the qualifications for a license to teach middle school or junior high school education, and the procedures for the issuance and renewal of those licenses. The regulations:

(1) Must include, without limitation, the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure which provides that the required education and training may be provided by any qualified provider which has been approved by the Commission, including, without limitation, institutions of higher education and other providers that operate independently of an institution of higher education. The regulations adopted pursuant to this subparagraph must:

(I) Establish the requirements for approval as a qualified provider;

(II) Require a qualified provider to be selective in its acceptance of students;

(III) Require a qualified provider to provide supervised, school-based experiences and ongoing support for its students, such as mentoring and coaching;

(IV) Significantly limit the amount of course work required or provide for the waiver of required course work for students who achieve certain scores on tests;

(V) Allow for the completion in 2 years or less of the education and training required under the alternative route to licensure;

(VI) Provide that a person who has completed the education and training required under the alternative route to licensure and who has

satisfied all other requirements for licensure may apply for a regular license pursuant to sub-subparagraph (VII) regardless of whether the person has received an offer of employment from a school district, charter school or private school; and

(VII) Upon the completion by a person of the education and training required under the alternative route to licensure and the satisfaction of all other requirements for licensure, provide for the issuance of a regular license to the person pursuant to the provisions of this chapter and the regulations adopted pursuant to this chapter.

(2) Must not prescribe qualifications which are more stringent than the qualifications set forth in NRS 391.0315 for a licensed teacher who applies for an additional license in accordance with that section.

(b) Identifying fields of specialization in teaching which require the specialized training of teachers.

(c) Except as otherwise provided in NRS 391.125, requiring teachers to obtain from the Department an endorsement in a field of specialization to be eligible to teach in that field of specialization, including, without limitation, an endorsement to teach English as a second language ~~based upon the recommendations of the English Mastery Council pursuant to section 1.5 of this act.~~

(d) Setting forth the educational requirements a teacher must satisfy to qualify for an endorsement in each field of specialization.

(e) Setting forth the qualifications and requirements for obtaining a license or endorsement to teach American Sign Language, including, without limitation, being registered with the Aging and Disability Services Division of the Department of Health and Human Services pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting.

(f) Requiring teachers and other educational personnel to be registered with the Aging and Disability Services Division pursuant to NRS 656A.100 to engage in the practice of interpreting in an educational setting if they:

(1) Provide instruction or other educational services; and

(2) Concurrently engage in the practice of interpreting, as defined in NRS 656A.060.

(g) Providing for the issuance and renewal of a special qualifications license to an applicant who holds a bachelor's degree, a master's degree or a doctoral degree from an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and who has:

(1) At least 2 years of experience teaching at an accredited degree-granting postsecondary educational institution in a field for which the applicant will provide instruction in a classroom and at least 3 years of experience working in that field; or

(2) At least 5 years of experience working in a field for which the applicant will provide instruction in a classroom.

↪ An applicant for licensure pursuant to this paragraph who holds a bachelor's degree must submit proof of participation in a program of student teaching or mentoring or agree to participate in a program of mentoring or courses of pedagogy for the first 2 years of the applicant's employment as a teacher with a school district or charter school.

(h) Requiring an applicant for a special qualifications license to:

(1) Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

(2) Hold a valid license issued by a professional licensing board of any state that is directly related to the subject area of the bachelor's degree, master's degree or doctoral degree held by the applicant.

(i) Setting forth the subject areas that may be taught by a person who holds a special qualifications license, based upon the subject area of the bachelor's degree, master's degree or doctoral degree held by that person.

(j) Providing for the issuance and renewal of a special qualifications license to an applicant who:

(1) Holds a bachelor's degree or a graduate degree from an accredited college or university in the field for which the applicant will be providing instruction;

(2) Is not licensed to teach public school in another state;

(3) Has at least 5 years of experience teaching with satisfactory evaluations at a school that is accredited by a national or regional accrediting agency recognized by the United States Department of Education; and

(4) Submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring for the first year of the applicant's employment as a teacher with a school district or charter school if the applicant holds a graduate degree or, if the applicant holds a bachelor's degree, submits proof of participation in a program of student teaching or mentoring or agrees to participate in a program of mentoring or courses of pedagogy for the first 2 years of his or her employment as a teacher with a school district or charter school.

↪ An applicant for licensure pursuant to this paragraph is exempt from each examination required by NRS 391.021 if the applicant successfully passed the examination in another state.

(k) Prescribing course work on parental involvement and family engagement. The Commission shall work in cooperation with the Office of Parental Involvement and Family Engagement created by NRS 385.630 in developing the regulations required by this paragraph.

2. Except as otherwise provided in NRS 391.027, the Commission may adopt such other regulations as it deems necessary for its own government or to carry out its duties.

3. Any regulation which increases the amount of education, training or experience required for licensing:

(a) Must, in addition to the requirements for publication in chapter 233B of NRS, be publicized before its adoption in a manner reasonably calculated to inform those persons affected by the change.

(b) Must not become effective until at least 1 year after the date it is adopted by the Commission.

(c) Is not applicable to a license in effect on the date the regulation becomes effective.

4. A person who is licensed pursuant to paragraph (g) or (j) of subsection 1:

(a) Shall comply with all applicable statutes and regulations.

(b) Except as otherwise provided by specific statute, is entitled to all benefits, rights and privileges conferred by statutes and regulations on licensed teachers.

(c) Except as otherwise provided by specific statute, if the person is employed as a teacher by the board of trustees of a school district or the governing body of a charter school, is entitled to all benefits, rights and privileges conferred by statutes and regulations on the licensed employees of a school district or charter school, as applicable.

Sec. 5. ~~[NRS 391.544 is hereby amended to read as follows:~~

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

~~(a) Training for teachers and other licensed educational personnel in the:~~

~~(1) Standards established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;~~

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

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

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

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

~~(1) Phonemic awareness;~~

~~(2) Phonics;~~

~~(3) Vocabulary;~~

~~(4) Fluency;~~

~~(5) Comprehension; and~~

~~(6) Motivation.~~

~~(c) For those teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient or who work at a public school where more than 25 percent of the pupils are limited~~

~~English proficient, training which is designed to improve the instruction to those pupils.~~

~~(d) At least one of the following types of training:~~

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

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

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

~~[(d)] (c) In accordance with the program established by the Statewide Council pursuant to paragraph (b) of subsection 2 of NRS 391.520 training for:~~

~~(1) Teachers on how to engage parents and families, including, without limitation, disengaged families, in the education of their children and to build the capacity of parents and families to support the learning and academic achievement of their children.~~

~~(2) Training for teachers and paraprofessionals on working with parent liaisons in public schools to carry out strategies and practices for effective parental involvement and family engagement.~~

~~2. The training required pursuant to subsection 1 must:~~

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

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

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

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

~~(2) Pupils who are limited English proficient.~~

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

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

~~(b) Fundamental reading skills; and~~

~~(c) Other training listed in subsection 1.~~

~~4. The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.~~

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

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

~~6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals. (Deleted by amendment.)~~

~~Sec. 6. {1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 the following sums:~~

~~For the Fiscal Year 2013-2014.....~~	~~\$400,000~~
~~For the Fiscal Year 2014-2015.....~~	~~\$400,000~~

~~2. The Department of Education shall distribute the money appropriated by subsection 1 to the Board of Trustees of the Clark County School District, the Board of Trustees of the Elko County School District and the Board of Trustees of the Washoe County School District, which serve as fiscal agents for the regional training programs for the professional development of teachers and administrators as prescribed by NRS 391.512. The distribution to each fiscal agent must be based upon the number of teachers and other licensed educational personnel in the school districts within the primary jurisdiction of the regional training program who provide instruction to pupils who are limited English proficient or work at a public school where more than 25 percent of the pupils are limited English proficient.~~

~~3. The money distributed to each fiscal agent of a regional training program for the professional development of teachers and administrators must be used for the regional training program to provide professional development to teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient or who work at a public school where more than 25 percent of the pupils are limited English proficient, which is designed to improve the instruction to those pupils required by NRS 391.544, as amended by section 5 of this act. (Deleted by amendment.)~~

~~Sec. 6.5. {1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 the following sums:~~

~~For the Fiscal Year 2013-2014.....~~	~~\$1,743,750~~
~~For the Fiscal Year 2014-2015.....~~	~~\$1,743,750~~

~~2. The Department of Education shall distribute the money appropriated by subsection 1 to the Board of Trustees of the Clark County School District, the Board of Trustees of the Elko County School District and the Board of~~

~~Trustees of the Washoe County School District, which serve as fiscal agents for the regional training programs for the professional development of teachers and administrators as prescribed by NRS 391.512. The distribution to each fiscal agent must be based upon the number of teachers and other licensed educational personnel in the school districts within the primary jurisdiction of the regional training program who work at a public school where more than 50 percent of the pupils are limited English proficient.~~

~~3.—The money distributed to each fiscal agent of a regional training program for the professional development of teachers and administrators must be used for the regional training program to provide professional development to assist teachers and other licensed educational personnel who work at a public school where more than 50 percent of the pupils are limited English proficient to obtain an endorsement to teach English as a second language. A regional training program must give preference to teachers and other licensed educational personnel who teach in kindergarten through grade 3.} (Deleted by amendment.)~~

Sec. 7. ~~{1.—There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 the following sums:~~

~~For the Fiscal Year 2013-2014..... \$14,255,000~~

~~For the Fiscal Year 2014-2015..... \$14,255,000~~

~~2.—The Department of Education shall distribute the money appropriated by subsection 1 to the school districts based upon the number of pupils who are limited English proficient in each school district. A school district that receives an allocation of money shall use the money to:~~

~~(a) Hire educational personnel who are specialists at providing instruction to pupils who are limited English proficient in the public schools within the school district;~~

~~(b) Provide summer school free of charge to pupils who are enrolled in public schools where more than 50 percent of the pupils are limited English proficient;~~

~~(c) Create or expand high-quality, developmentally appropriate prekindergarten programs for children who reside within the school district and who are limited English proficient;~~

~~(d) Acquire and implement empirically proven assessment tools to determine the reading level of children who are limited English proficient in prekindergarten through grade 2; and~~

~~(e) Acquire and implement the use of empirically proven technology-based tools, such as software designed to support the learning of children who are limited English proficient.~~

~~3.—If the needs of a school district that receives an allocation of money pursuant to this section exceed available funding, the school district shall give priority to those public schools within the school district with the highest proportion of pupils who are limited English proficient.~~

~~4. Each school district that receives an allocation of money pursuant to this section shall evaluate the success of the use of the money on supporting the learning of children who are limited English proficient, including, without limitation:~~

~~(a) A description of how the money was used by the school district, as set forth in paragraphs (a) to (e), inclusive, of subsection 1; and~~

~~(b) The achievement results of the children and, if available, data based upon the academic growth of the children.~~

~~5. Each school district shall submit the results of the evaluation conducted pursuant to subsection 4 to the Department of Education. On or before January 1, 2015, the Department of Education shall compile the evaluations received and submit a written report, including, without limitation, recommendations for continuing or expanding programs for pupils who are limited English proficient, to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.] (Deleted by amendment.)~~

~~Sec. 8. {1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 the following sums:~~

~~For the Fiscal Year 2013-2014..... \$42,058,463~~

~~For the Fiscal Year 2014-2015..... \$42,903,135~~

~~2. The Department of Education shall distribute the appropriation made by subsection 1 to school districts to provide full day kindergarten in Title I schools that are receiving money pursuant to 42 U.S.C. §§ 1751 et seq. and in other at risk schools that are currently providing full day kindergarten with money appropriated by the Legislature for that purpose. A school district that receives an allocation of money pursuant to this section shall provide full day kindergarten in those schools at a ratio of 15 pupils per licensed teacher.] (Deleted by amendment.)~~

~~Sec. 9. {1. The Board of Trustees of the Clark County School District, in cooperation with the University of Nevada, Las Vegas, shall adopt a pilot program for the establishment of reading skills development centers at high risk schools located within the School District, as designated by the Board of Trustees. The pilot program must be implemented beginning with the 2013-2014 school year.~~

~~2. The Board of Trustees of the Washoe County School District, in cooperation with the University of Nevada, Reno, shall adopt a pilot program for the establishment of reading skills development centers at high risk schools located within the School District, as designated by the Board of Trustees. The pilot program must be implemented beginning with the 2014-2015 school year.~~

~~3. Each reading skills development center established pursuant to this section must:~~

~~(a) Provide support to each designated high risk school in the assessment of reading and literacy problems and language acquisition barriers for pupils in kindergarten and grades 1, 2 and 3.~~

~~(b) Provide instructional intervention to enable those pupils to overcome such problems and barriers by the completion of grade 3.~~

~~4. The Board of Trustees of the Clark County School District, in cooperation with the University of Nevada, Las Vegas, and the Board of Trustees of the Washoe County School District, in cooperation with the University of Nevada, Reno, shall provide, on site at each designated high risk school, professional development programs in reading, literacy and the acquisition of a second language for administrators, teachers and other educational personnel employed by the high risk school.] (Deleted by amendment.)~~

~~Sec. 10. [1. Notwithstanding any conflicting provisions of NRS 387.191, there is hereby appropriated from the State Supplemental School Support Account created by NRS 387.191 to the Board of Trustees of the Clark County School District:~~

~~(a) For the Fiscal Year 2013-2014, the sum of \$3,300,000 for the establishment and operation of reading skills development centers at 11 high risk schools located within the School District, as designated by the Board of Trustees in accordance with subsection 1 of section 9 of this act.~~

~~(b) For the Fiscal Year 2014-2015, the sum of \$4,800,000 for:~~

~~(1) The establishment and operation of reading skills development centers at 5 high risk schools located within the School District, as designated by the Board of Trustees in accordance with subsection 1 of section 9 of this act; and~~

~~(2) The operation of the reading skills development centers established pursuant to paragraph (a).~~

~~2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2014, and September 18, 2015, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State Supplemental School Support Account on or before September 19, 2014, and September 18, 2015, respectively.] (Deleted by amendment.)~~

~~Sec. 11. [1. Notwithstanding any conflicting provisions of NRS 387.191, there is hereby appropriated from the State Supplemental School Support Account created by NRS 387.191 to the University of Nevada, Las Vegas, to provide support to the Clark County School District in carrying out the provisions of section 9 of this act:~~

~~For the Fiscal Year 2013-2014..... \$1,100,000~~

~~For the Fiscal Year 2014 2015..... \$1,600,000~~

~~2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2014, and September 18, 2015, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State Supplemental School Support Account on or before September 19, 2014, and September 18, 2015, respectively.] (Deleted by amendment.)~~

~~Sec. 12. [1. Notwithstanding any conflicting provisions of NRS 387.191, there is hereby appropriated from the State Supplemental School Support Account created by NRS 387.191 to the Board of Trustees of the Washoe County School District the sum of \$1,500,000 for the Fiscal Year 2014 2015, for the establishment and operation of reading skills development centers at five high risk schools located within the School District, as designated by the Board of Trustees in accordance with subsection 2 of section 9 of this act.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2015, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State Supplemental School Support Account on or before September 18, 2015.] (Deleted by amendment.)~~

~~Sec. 13. [1. Notwithstanding any conflicting provisions of NRS 387.191, there is hereby appropriated from the State Supplemental School Support Account created by NRS 387.191 to the University of Nevada, Reno, the sum of \$550,000 for the Fiscal Year 2014 2015, which must be used to provide support to the Washoe County School District in carrying out the provisions of section 9 of this act, notwithstanding any conflicting provisions of NRS 387.191.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2015, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State Supplemental School~~

~~Support Account on or before September 18, 2015.] (Deleted by amendment.)~~

~~Sec. 13.5. [The provisions of section 3 of this act:~~

~~1. Apply to all teachers who begin employment on or after July 1, 2013, at a public school where more than 50 percent of the pupils are limited English proficient.~~

~~2. Except as otherwise provided in subsection 3, apply to all teachers employed on or after July 1, 2015, at a public school where more than 50 percent of the pupils are limited English proficient.~~

~~3. Do not apply to a teacher who is employed on or before June 30, 2015, at a public school where more than 50 percent of the pupils are limited English proficient if the teacher receives a designation of "highly effective" on his or her performance evaluation for the 2014 2015 school year.] (Deleted by amendment.)~~

~~Sec. 14. [Representatives of the Clark County School District, the Washoe County School District, the University of Nevada, Las Vegas, and the University of Nevada, Reno, shall report to each standing committee of the Legislature with primary jurisdiction over matters relating to K-12 public education at the beginning of the 78th Session of the Nevada Legislature the results of the pilot programs in improving:~~

~~1. Reading and literacy problems and language acquisition barriers for pupils in kindergarten and grades 1, 2 and 3.~~

~~2. Instructional intervention to enable those pupils to overcome such problems and barriers.~~

~~3. Professional development in reading, literacy and the acquisition of a second language.] (Deleted by amendment.)~~

~~Sec. 15. [During the 2013-2014 interim, the Teachers and Leaders Council of Nevada created by NRS 391.455 shall review methods to evaluate teachers and other licensed educational personnel who provide instruction to pupils who are limited English proficient on the effectiveness of the instruction to those pupils. On or before January 1, 2015, the Teachers and Leaders Council shall submit its recommendations for appropriate revisions to the statewide performance evaluation system established pursuant to NRS 391.465, to the State Board of Education and to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.] (Deleted by amendment.)~~

~~Sec. 16. [During the 2013-2015 biennium, the board of trustees of each school district shall review the provision of professional development offered by or through the school district, other than the professional development offered by the regional training programs for the professional development of teachers and administrators, and make such adjustments to the professional development as necessary to place priority on professional development for teachers and administrators at public schools where more than 25 percent of the pupils enrolled in the school are limited English proficient.] (Deleted by amendment.)~~

Sec. 16.1. Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:

If the System offers course of study for obtaining an endorsement to teach English as a second language, the Board of Regents may take into consideration the recommendations submitted by the English Mastery Council pursuant to section 1.5 of this act in developing the curriculum and standards for the course of study.

Sec. 16.2. 1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 the following sums:

(a) For the Fiscal Year 2013-2014	\$24,950,000
(b) For the Fiscal Year 2014-2015	\$24,950,000

2. The Department of Education shall transfer from the Account for Programs for Innovation and the Prevention of Remediation to the school districts specified in this subsection the following sums for Fiscal Year 2013-2014 and Fiscal Year 2014-2015:

<u>School District:</u>	<u>2013-2014</u>	<u>2014-2015</u>
<u>Clark County School District</u>	<u>\$19,710,500</u>	<u>\$19,710,500</u>
<u>Washoe County School District</u>	<u>\$3,742,500</u>	<u>\$3,742,500</u>

3. The Board of Trustees of the Clark County School District and the Board of Trustees of the Washoe County School District shall identify the schools within the school district which:

(a) Have the highest percentage of pupils who are limited English proficient or eligible for designation as limited English proficient; and

(b) Are the lowest performing academically.

4. The Clark County School District and the Washoe County School District shall designate the schools identified pursuant to subsection 3 as Zoom schools and shall allocate the money appropriated by subsection 1 for each Zoom school to:

(a) Provide prekindergarten programs free of charge;

(b) Expand full-day kindergarten classes;

(c) Operate reading skills centers; and

(d) Provide, free of charge, a summer academy or an intersession academy for those schools that do not operate on a traditional school calendar.

5. A Zoom school that receives an allocation of money pursuant to subsection 4 shall offer each of the programs and services prescribed in paragraphs (a) to (d), inclusive, of that subsection so that the Zoom school may offer a comprehensive package of programs and services for pupils who are limited English proficient. A Zoom school shall not use the money for any other purpose. A reading skills center must provide:

(a) Support at the Zoom school in the assessment of reading and literacy problems and language acquisition barriers for pupils; and

(b) Instructional intervention to enable pupils to overcome such problems and barriers by the completion of grade 3.

6. On or before August 15, 2013, the Clark County School District and the Washoe County School District shall provide a report to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee which includes the Zoom schools identified by the school district pursuant to subsection 3 and the plan of each such school for carrying out the programs and services prescribed by paragraphs (a) to (d), inclusive, of subsection 4.

7. From the appropriation made by subsection 1, the Department of Education shall use not more than \$1,497,000 in Fiscal Year 2013-2014 and \$1,497,000 in Fiscal Year 2014-2015 to provide grants of money to the State Public Charter School Authority and the school districts, other than the Clark County School District or the Washoe County School District. The board of trustees of a school district and the State Public Charter School Authority may submit an application to the Department on a form prescribed by the Department that includes, without limitation:

(a) The number of pupils in the school district or charter schools, as applicable, who are limited English proficient or eligible for designation as limited English proficient; and

(b) A description of the programs and services the school district or charter schools, as applicable, will provide with a grant of money, which may include, without limitation:

(1) The creation or expansion of high-quality, developmentally appropriate prekindergarten programs, free of charge, that will increase enrollment of children who are limited English proficient;

(2) The acquisition and implementation of empirically proven assessment tools to determine the reading level of pupils who are limited English proficient and technology-based tools, such as software, designed to support the learning of pupils who are limited English proficient;

(3) Professional development for teachers and other educational personnel regarding effective instructional practices and strategies for children who are limited English proficient; and

(4) The provision of programs and services for pupils who are limited English proficient, free of charge, before and after school, during the summer or intersession for those schools that do not operate on a traditional school calendar.

8. The Department of Education shall distribute the money appropriated by subsection 1 to school districts and the State Public Charter School Authority that submit applications pursuant to subsection 7 based upon the number of pupils enrolled in each such school district or charter school, as applicable, who are limited English proficient or eligible for designation as limited English proficient and not on a competitive basis. A school district and the State Charter School Authority that receives a grant of money pursuant to this subsection shall provide a report to the Department in the form prescribed by the Department with the information required for the Department's report pursuant to subsection 9.

9. The Clark County School District, the Washoe County School District and the Department of Education shall each prepare an annual report that includes, without limitation:

(a) An identification of the schools that received an allocation of money by the school district or a grant of money from the Department, as applicable;

(b) How much money each school received;

(c) A description of the programs or services for which the money was used by each school;

(d) The number of children who participated in a program or received services;

(e) The average per-child expenditure per program or service that was funded;

(f) An evaluation of the effectiveness of the programs or services, including, without limitation, data regarding the academic and linguistic achievement and proficiency of children who participated in a program or received services; and

(g) Any recommendations for legislation, including, without limitation, for the continuation or expansion of programs and services that are identified as effective in improving the academic and linguistic achievement and proficiency of children who are limited English proficient.

10. The annual report prepared pursuant to subsection 9 must be submitted:

(a) On or before June 15, 2014, to the Legislative Committee on Education.

(b) On or before February 1, 2015, to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

11. The sums appropriated by subsection 1:

(a) Must be accounted for separately from any other money received by school districts of this State and used only for the purposes specified in this section.

(b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.

(c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

12. Upon request of the Legislative Commission, the Clark County School District and the Washoe County School District shall make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money transferred pursuant to subsection 2.

13. Any remaining balance of the transfers made by subsection 2 for Fiscal 2013-2014 must be added to the money transferred for Fiscal Year 2014-2015 and may be expended as that money is expended. Any remaining

balance of the transfers made by subsection 2 for Fiscal Year 2014-2015, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2015, and must be reverted to the State General Fund on or before September 18, 2015.

14. Any remaining balance of the allocations made by subsection 7 for Fiscal 2013-2014 must be added to the allocations for Fiscal Year 2014-2015 and may be expended as that money is expended. Any remaining balance of the allocations made by subsection 7 for Fiscal Year 2014-2015, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2015, and must be reverted to the State General Fund on or before September 18, 2015.

Sec. 16.3. 1. There is hereby appropriated from the State General Fund to the Department of Education the following sums:

For the Fiscal Year 2013-2014..... \$50,000

For the Fiscal Year 2014-2015..... \$50,000

2. The Department of Education shall use the money appropriated by subsection 1 for the costs associated with the English Mastery Council created by section 1.4 of this act.

3. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2013-2014 must be added to the money appropriated for Fiscal Year 2014-2015 and may be expended as that money is expended. Any remaining balance of the appropriation made by subsection 1 for Fiscal Year 2014-2015, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2015, and must be reverted to the State General Fund on or before September 18, 2015.

Sec. 16.4. On or before July 1, 2013, the appointed members of the English Mastery Council created by section 1.4 of this act must be appointed to initial terms commencing on July 1, 2013, as follows:

1. The Chancellor of the Nevada System of Higher Education shall appoint to the Council the members described in paragraph (b) of subsection 1 of section 1.4 of this act to initial terms of 2 years.

2. The Governor shall appoint to the Council:

(a) The members described in paragraphs (c) and (d) of subsection 1 of section 1.4 of this act to initial terms of 2 years.

(b) The members described in paragraphs (e) and (h) of subsection 1 of section 1.4 of this act to initial terms of 1 year.

(c) The members described in paragraphs (f) and (g) of subsection 1 of section 1.4 of this act to initial terms of 2 years.

3. The Superintendent of Public Instruction shall appoint to the Council the members described in paragraph (i) of subsection 1 of section 1.4 of this act to initial terms of 1 year.

Sec. 16.5. 1. The English Mastery Council created by section 1.4 of this act shall perform its duties prescribed by section 1.5 of this act expeditiously to meet the following targeted dates to:

(a) Satisfy the requirements prescribed by subsection 5 of section 1.5 of this act on or before January 1, 2014.

(b) Satisfy the requirements prescribed by subsection 6 of section 1.5 of this act on or before March 1, 2014.

(c) Satisfy the requirements of subsection 2 of section 1.5 of this act on or before October 1, 2014.

(d) Satisfy the requirements of subsections 1 and 4 of section 1.5 of this act on or before January 1, 2015.

2. The English Mastery Council shall, on or before January 1, 2014, submit the recommendations of the Council concerning the adoption of regulations for an endorsement to teach English as a second language as required by subsection 3 of section 1.5 of this act to the Superintendent of Public Instruction, the Commission on Professional Standards in Education and the State Board of Education.

3. The report required of the English Mastery Council pursuant to section 1.6 of this act must, for the submissions in 2014 and 2015, include a description of whether the Council has met or anticipates meeting the targeted dates set forth in subsection 1. If the Council did not meet a targeted date, the report must also include the projected time by which the Council will carry out the duty corresponding to that targeted date.

Sec. 16.6. 1. On or before July 1, 2014, the Commission on Professional Standards in Education shall adopt regulations based upon the recommendations of the English Mastery Council required by paragraph (c) of subsection 1 of NRS 391.019, as amended by section 4 of this act.

2. Notwithstanding the provisions of paragraph (c) of subsection 1 of NRS 391.019, as amended by section 4 of this act, to the contrary, if the Commission on Professional Standards in Education does not adopt regulations based upon the recommendations of the English Mastery Council, as required by subsection 1, on or before July 1, 2014, the State Board of Education shall, on or before January 1, 2015, adopt regulations based upon the recommendations of the English Mastery Council concerning the requirements for an endorsement to teach English as a second language, including, without limitation, which teachers should be required to obtain the endorsement.

3. If the State Board of Education adopts regulations pursuant to subsection 2 concerning an endorsement to teach English as a second language, the State Board shall provide written notice of the adoption of the regulations to the English Mastery Council within 10 days after the adoption by the State Board, including an explanation of the reason for the adoption of the regulations by the State Board instead of the Commission on Professional Standards in Education. The written notice and explanation must be included in the report submitted by the English Mastery Council on or before February 1, 2015, pursuant to section 1.6 of this act.

Sec. 17. 1. This section and section 16.4 of this act become effective upon passage and approval.

2. Sections 1 to 4, inclusive, 5 to 16.3, inclusive, 16.5 and 16.6 of this act become effective on July 1, 2013.

3. Section 4.5 of this act becomes effective on July 1, ~~2013~~ 2019.

4. Sections 1.4, 1.5, 1.6 and 16.1 of this act expire by limitation on June 30, 2019.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 972 to Senate Bill No. 504 creates the framework for an English Language Learners Program that we will be funding for the first time this year. It creates the English Mastery Council. It lays out the guidelines for the allocation of the new English Language Learner funding, and it appropriates State General Funds to the tune of \$50 million for English Language Learners programs over the next Biennium.

Amendment adopted.

Senator Smith moved that all necessary rules be suspended, that the reprinting of Senate Bill No. 504 be dispensed with, that the Secretary be authorized to insert Amendment No. 972 adopted by the Senate, and that the bill be placed on the General File, and considered next.

Motion carried.

Bill read third time.

Remarks by Senators Denis, Kihuen, Roberson, Cegavske and Hutchison.

SENATOR DENIS:

Thank you, Mr. President. Senate Bill No. 504 provides for a comprehensive program targeting the needs of English Language Learners. The bill contains a declaration that establishes the Legislature's commitment to provide every child with a first-rate education, and its intent to provide high-quality instruction service to Nevada's English Language Learners.

The measure revises the school- and district-level accountability reports to include information concerning the progression of pupils, who are limited-English proficient, including the number and percentage of such students, academic achievement levels compared with pupils who are proficient in English and comparisons with other students concerning various outcome measures. It also creates an English Mastery Council which was discussed earlier when we amended this bill. In addition, the State Board of Education is required to prescribe criteria for teaching English Language Learners, and school districts must develop policies that comply with those criteria. The Commission on Professional Standards in Education will meet to adopt regulations on or before July 1, 2014. Finally, it appropriates \$24.95 million from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation.

For each year of the Biennium, the money is allocated among the Clark County School District, Washoe County School District and the Department of Education for grants to the other 15 school districts to support certain programs for English Language Learners. For Clark County and Washoe County schools designated as "Zoom Schools"—those with high English Language Learner populations and low achievement levels—they will receive comprehensive services as part of a wraparound package that provides free prekindergarten, expands full-day kindergarten classes, operates reading skills centers and provides free summer or intersession academies.

The majority of the funds for this program are directed at the two large urban districts, although \$1.497 million is set aside for each fiscal year for grants to the other school districts. Reporting requirements are established for schools and districts receiving these funds. This is the English Language Learners bill. We are doing something we have not done before, which is to provide the "wrap-around service" that will make a big difference for our kids. We are using things that we know work, but we packaged them together into one and we are calling them "Zoom Schools." I urge your support.

SENATOR KIHUEN:

Thank you, Mr. President. I rise in support of Senate Bill No. 504. Briefly, I want to commend my colleague from Senate District No. 2 for taking the leadership role on such an important issue in our State. As most of you know, we have approximately 80,000 English Language Learners across the State of Nevada. This bill, although not perfect—we need to invest a lot more money in English Language Learners—it is a step in the right direction. I also want to commend the Minority Leader for helping to make sure these programs received funds. Also, I thank the Chair of the Senate Committee on Education. She has spearheaded this issue for several Legislative Sessions. We are grateful that we finally have a good start to making sure that we invest adequately in English Language Learners.

SENATOR ROBERSON:

Thank you, Mr. President. I want to thank the Majority Leader. I also want to thank my colleague from Senate District No. 10 and many other people in this building for the bipartisan support of Senate Bill No. 504. We have never, in the history of this State, funded, at the State level, English Language Learner programs. My colleague from Senate District No. 10 discussed the serious problem we have in Clark County, where we have more than 55,000 students who are sitting in classrooms and they cannot understand their teacher. That is almost 20 percent of the students in Clark County. Certainly, that contributes to the high school graduation rate, which is not good in Nevada as we all know. This is an historic step in the right direction for our State. Again, I want to thank everyone. Most of all, I want to thank Governor Sandoval. He had this in his budget. He kept adding more money to the budget: \$50 million. Governor Sandoval, thank you. You are truly Nevada's education governor.

SENATOR CEGAUSKE:

Thank you, Mr. President. I want to say congratulations to the Majority Leader. Thank you for always including those of us who are truly interested in education. I know everyone is, but some of us more-so than others. I am holding my colleague from Senate District No. 11 responsible because I hold all of you responsible for making sure that every one of those kids has a highly-qualified, specialized teacher to lead them in that area. I am in support of Senate Bill No. 504.

SENATOR HUTCHISON:

Thank you, Mr. President. I rise in support of Senate Bill No. 504. I congratulate my colleagues from Senate District No. 2 and Senate District No. 10. I am a proponent of properly funding our English Language Learner programs. It is great to see this bipartisan effort, and I congratulate all parties involved.

Roll call on Senate Bill No. 504:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Senate Bill No. 504 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

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

Senate in recess at 7:30 P.M.

SENATE IN SESSION

At 7:37 P.M.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Assembly Bills Nos. 260, 288, 509, be taken from the Secretary's Desk and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 428.

Bill read third time.

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

Amendment No. 966.

"SUMMARY—Revises provisions relating to energy. (BDR 58-797)"

"AN ACT relating to energy; revising provisions relating to the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program; revising provisions governing the payment of incentives to participants in the Solar Program and the Wind Program; requiring the Public Utilities Commission of Nevada to adopt certain regulations; requiring each electric utility in this State to create a Lower Income Solar Energy Pilot Program; requiring the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to publish certain reports; requiring the Commission to open an investigatory docket relating to the costs and benefits attributable to net metering; extending the prospective expiration of the Solar Program, the Wind Program and the Waterpower Program; establishing the Legislative Committee on Energy; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.880) Section 3 of this bill establishes the statewide capacity floor for the Solar Program and the limits on incentives paid for each renewable energy program. Sections 5, 19 and 26 of this bill remove the concept of a "program year" with respect to the renewable energy programs.

Sections 5-7 of this bill require the Public Utilities Commission of Nevada to adopt regulations relating to the provision of market-based incentives under the Solar Program. Section 7 requires the Commission to review the incentives and authorizes the Commission to adjust the incentives not more frequently than annually. Section 7 also provides for an incentive to be paid to a qualified participant in the Solar Program in one installment upon proof that the participant has installed and energized the solar energy system and for an incentive to be paid to a qualified participant over time which must be based on the performance of the solar energy system and the amount of

electricity generated by the solar energy system. Section 7 also provides for the payment of performance-based incentives to a qualified participant in the Solar Program after December 31, 2021. Section 9 of this bill requires the Commission to establish the categories for participation in the Solar Program. Section 9 authorizes the Commission to establish the criteria and capacity limitations for each category. Section 11 of this bill requires a participant in the Solar Program to participate in net metering.

Section 13 of this bill requires the Commission to establish the categories for participation in the Wind Program. Section 14 of this bill requires the Commission to adopt regulations establishing a system of incentives for participation in the Wind Program. Section 14 further provides that the total amount of the incentive paid to a participant in the Wind Program with a nameplate capacity of not more than 500 kilowatts must be paid over time and be based on the performance and amount of electricity generated by the wind energy system. Section 14 also provides for the payment of performance-based incentives to a qualified participant in the Wind Program after December 31, 2021. Section 17 of this bill requires a participant in the Wind Program to participate in net metering.

Section 18 of this bill requires the Commission to adopt regulations to provide a system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts, and section 20 of this bill prescribes certain limitations on such incentives. Section 21 of this bill requires a participant in the Waterpower Program to participate in net metering.

Section 21.3 of this bill requires each electric utility in this State to create a Lower Income Solar Energy Pilot Program for the purpose of installing solar distributed generation systems within its service territory for the benefit of low-income customers.

Existing law authorizes certain qualified customers of a utility to participate in net metering. (NRS 704.766-704.775) Section 24 of this bill authorizes a utility to assess certain charges against certain participants in net metering.

Existing law authorizes the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to represent the public interest in any proceeding, including a proceeding to review a proposed rate of an electric utility. Section 25.5 of this bill requires the Consumer's Advocate to publish a report containing certain information if the Consumer's Advocate declines to represent the public interest in a proceeding to review a proposed rate of an electric utility.

Section 26.5 of this bill requires the Commission to open an investigatory docket to evaluate the costs and benefits attributable to net metering in this State.

Sections 25.6-25.9 of this bill extend the prospective expiration of the Wind Program, the Waterpower Program and the Solar Program from December 31, 2021, to December 31, 2025.

Sections 25.1-25.45 and 25.55 of this bill establish the Legislative Committee on Energy and set forth the membership, duties, powers and responsibilities of the Committee.

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

Section 1. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5 to 3.5, inclusive, of this act.

Sec. 1.5. 1. *As used in this chapter, unless the context otherwise requires, "installed cost" means the actual, documented cost of tangible materials and labor for the installation of a solar energy system, distributed generation system, wind energy system or waterpower energy system.*

2. *As used in this section:*

(a) *"Distributed generation system" has the meaning ascribed to it in NRS 701B.055.*

(b) *"Solar energy system" has the meaning ascribed to it in NRS 701B.150.*

(c) *"Waterpower energy system" has the meaning ascribed to it in NRS 701B.800.*

(d) *"Wind energy system" has the meaning ascribed to it in NRS 701B.560.*

Sec. 2. *The Legislature hereby finds and declares that it is the policy of this State to:*

1. *Expand and accelerate the development of solar distributed generation systems in this State; and*

2. *Establish a sustainable and self-sufficient solar renewable energy industry in this State in which solar energy systems are a viable mainstream alternative for homes, businesses and other public entities.*

Sec. 3. 1. *For the purposes of carrying out the Solar Energy Systems Incentive Program created by NRS 701B.240, and subject to the limitations prescribed by subsection 2, the Public Utilities Commission of Nevada shall set incentive levels and schedules, with a goal of approving solar energy systems totaling at least 250,000 kilowatts of capacity in this State for the period beginning on July 1, 2010, and ending on December 31, 2021.*

2. *The Commission shall not authorize the payment of an incentive pursuant to:*

(a) *The Solar Energy Systems Incentive Program if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of solar energy systems and solar distributed generation systems to exceed \$255,270,000 for the period beginning on July 1, 2010, and ending on December 31, 2025.*

(b) *The Wind Energy Systems Demonstration Program created by NRS 701B.580 and the Waterpower Energy Systems Demonstration Program created by NRS 701B.820 if the payment of the incentive would cause the total amount of incentives paid by all utilities in this State for the installation of wind energy systems and waterpower energy systems to exceed*

\$40,000,000 for the period beginning on July 1, 2009, and ending on December 31, 2025. The Commission shall by regulation determine the allocation of incentives for each Program.

3. The Commission may, subject to the limitations prescribed by subsection 2, authorize the payment of performance-based incentives for the period ending on December 31, 2025.

4. A utility may file with the Commission one combined annual plan which meets the requirements set forth in NRS 701B.230, 701B.610 and 701B.850. The Commission shall review and approve any plan submitted pursuant to this subsection in accordance with the requirements of NRS 701B.230, 701B.610 and 701B.850, as applicable.

5. As used in this section:

(a) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.

(b) "Utility" means a public utility that supplies electricity in this State.

Sec. 3.5. A person who submits an application to a utility pursuant to this chapter shall not make any false or misleading statement in the application or in any material which is required to be submitted with the application. As used in this section, "utility" means a public utility that supplies electricity or natural gas in this State.

Sec. 4. NRS 701B.040 is hereby amended to read as follows:

701B.040 "Category" means one of the categories of participation in the Solar Program as set forth in ~~[NRS 701B.240.]~~ regulations adopted by the Commission.

Sec. 5. NRS 701B.200 is hereby amended to read as follows:

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, and section 2 of this act, including, without limitation, regulations that:

1. Establish the type of incentives available to participants in the Solar Program and the level or amount of those incentives . ~~[except that the level or amount of an incentive available in a particular program year must not be based upon whether the incentive is for unused capacity reallocated from a past program year pursuant to paragraph (b) of subsection 2 of NRS 701B.260. The regulations must provide that the level or amount of the incentives must decline over time as the cost of solar energy systems and distributed generation systems decline.]~~ The incentives must be market-based incentives that:

(a) Do not exceed 50 percent of the installed cost of a solar energy system or distributed generation system, as determined by using the average installed cost of the solar energy systems or distributed generation systems, as applicable, installed in the immediately preceding year;

(b) Are designed to maximize the number of customer categories participating in the Solar Program based on demographics and location, including, without limitation, categories for public entities, customers of

lower socioeconomic status, nonprofit organizations and commercial, industrial and residential customers; and

(c) Provide for a sustainable Solar Program that maintains sufficient customer participation and that provides for the measured award of incentives to as many participants as possible on or before December 31, 2021.

2. Establish the requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:

- (a) A detailed plan for advertising the Solar Program;
- (b) A detailed budget and schedule for carrying out and administering the Solar Program;
- (c) A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;
- (d) A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;
- (e) A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; ~~and~~
- (f) *Any other information that the Commission requires from the utility as part of the administration of the Solar Program; and*
- (g) Any other information required by the Commission.

3. Authorize a utility to recover the reasonable costs incurred in carrying out and administering the installation of distributed generation systems. ~~[pursuant to paragraph (b) of subsection 1 of NRS 701B.260.]~~

Sec. 6. NRS 701B.210 is hereby amended to read as follows:

701B.210 The Commission shall adopt regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in ~~each applicable category of:~~

- ~~(a) School property;~~
- ~~(b) Public and other property; and~~
- ~~(c) Private residential property and small business property; and~~ *the Solar Program.*

2. The form and content of the master application.

3. *The process for accepting and approving applications, which must provide that applications are approved based on the order in which complete applications are submitted and not on a lottery process.*

4. *A requirement that an authorized representative of any public entity participating in the Solar Program, including participation through a third-party ownership structure, provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the solar energy system or distributed generation system that*

the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.

5. A process pursuant to which the utility must transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the Commission which includes any redacted personal identifying information of a customer.

Sec. 7. NRS 701B.220 is hereby amended to read as follows:

701B.220 1. In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing ~~an incentive~~ *the incentives* for participation in the Solar Program ~~[-]~~ *, shall consider whether such regulations ensure, to the extent practicable, the cost-effective use of such incentives and predictability for participants, rate payers and utilities and shall maximize to the extent practicable the number of customer categories participating in the Solar Program based on demographics and location, including, without limitation, categories for public entities, customers of lower socioeconomic status, nonprofit organizations and commercial, industrial and residential customers. The regulations must:*

(a) For a solar energy system that has a generating capacity of not more than 25 kilowatts, provide for an incentive that must be paid in one installment to a participant for a solar energy system upon proof that the participant has installed and energized the solar energy system;

(b) For a solar energy system that has a generating capacity of more than 25 kilowatts, provide for an incentive that must be paid to a participant over time and be based on the performance of the solar energy system and the amount of electricity generated by the solar energy system;

(c) For a solar energy system that has a generating capacity of more than 25 kilowatts, provide for a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:

(1) The amount of the incentive the participant will receive from the utility;

(2) The period in which the participant will receive an incentive from the utility, which must not exceed 5 years;

(3) That the payments of an incentive to the participant must be made not more frequently than quarterly; and

(4) That a utility must not be required to issue any new incentive on or after January 1, 2021, or make an incentive payment after December 31, 2025;

(d) Establish reporting requirements for each utility that participates in the Solar Program, which must include, without limitation, periodic reports of the average installed cost of the systems, the cost to the utility of carrying out the Solar Program, the effect of the Solar Program on the rates paid by customers of the utility and the annual statistical data related to the amount of incentives granted and the number of participants;

(e) Provide for a decline over time in the amount of the incentives for participation in the Solar Program as the installed costs of solar energy systems decrease and as variables, including, without limitation, system size, installation costs, market conditions and access to federal, state and other financial incentives, may require;

(f) Provide that the rate at which incentives decline over time will be published by the Commission, including publication on the Internet website maintained by the Commission, annually or on such other schedule as necessary to reflect changes in the market; and

(g) Provide that incentives must be made available only to solar energy systems with a nameplate capacity of not more than 500 kilowatts.

2. The Commission shall review the incentives for participation in the Solar Program and may adjust the amount of the incentives not more frequently than annually, as determined necessary by the Commission to reflect changes in the market for solar energy systems and demand for incentives.

3. A contract that is executed between a utility and a participant on or before December 31, 2021, providing for the payment to the participant of an incentive pursuant to paragraph (b) of subsection 1 may provide for the continued payment of such an incentive after December 31, 2021, in accordance with regulations adopted by the Commission.

Sec. 8. NRS 701B.230 is hereby amended to read as follows:

701B.230 1. Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for carrying out and administering the Solar Program within its service area .
[for a program year.]

2. The Commission shall:

(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and

(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.

3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the Commission.

4. A utility may recover its reasonable and prudent costs, including, without limitation, customer incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 9. NRS 701B.240 is hereby amended to read as follows:

701B.240 1. The Solar Energy Systems Incentive Program is hereby created.

2. The ~~[Solar Program must have three]~~ Commission:

(a) Shall establish categories ~~as follows:~~

~~(a) School property;~~
~~(b) Public and other property; and~~
~~(c) Private residential property and small business property.]~~ for participation in the Solar Program with the goal of maximizing to the extent practicable the number of customer categories participating in the Solar Program based on demographics and location.

(b) May establish the criteria and capacity for each category.

3. For the purpose of establishing categories pursuant to subsection 2, the Commission may additionally establish subcategories which may include, without limitation, schools, public property, low-income customers and nonprofit organizations, and may establish the criteria and capacity for each subcategory.

4. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~[Commission]~~ utility for inclusion in the Solar Program pursuant to NRS 701B.250 and 701B.255; and

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board. ~~]; and~~

~~(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands on experience of the solar energy system by the public.]~~

Sec. 10. NRS 701B.255 is hereby amended to read as follows:

701B.255 1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility ~~[may]~~ shall select the applicant for participation in the Solar Program ~~[,],~~ subject to the limitations prescribed by section 3 of this act.

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility ~~[may]~~ shall approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a

verification of the *installed* cost of the project and a calculation of the expected system output.

5. Upon receipt of the *completed* incentive claim form and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount *and type* of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of the solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the solar energy system.]~~

Sec. 11. NRS 701B.280 is hereby amended to read as follows:

701B.280 ~~[If]~~ *To be eligible for an incentive through the Solar Program, a solar energy system [used by a participant in the Solar Program meets] must meet the requirements [of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate] for participation in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.*

Sec. 12. NRS 701B.440 is hereby amended to read as follows:

701B.440 "Category" means one of the categories of participation in the Wind Demonstration Program ~~[as set forth in]~~ *established by the Commission pursuant to subsection 2 of NRS 701B.580.*

Sec. 13. NRS 701B.580 is hereby amended to read as follows:

701B.580 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The ~~[Program must have four]~~ *Commission shall establish categories [as follows:*

- ~~(a) School property;~~
- ~~(b) Other public property;~~
- ~~(c) Private residential property and small business property; and~~
- ~~(d) Agricultural property.] for participation in the Program.~~

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to NRS 701B.590; *and*

(b) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board. ~~[; and]~~

~~(e) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands on experience of the wind energy system by the public.~~

Sec. 14. NRS 701B.590 is hereby amended to read as follows:

701B.590 1. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

~~1. (a) The capacity goals for the Program . ~~which must be designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.~~~~

~~2. (b) A system of incentives that are based on rebates that decline as the ~~capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.~~~~

~~3. *installed cost of wind energy systems declines and as variables, including, without limitation, system size, installation costs, market conditions and access to federal, state and other financial incentives, may require. The system of incentives must provide:*~~

~~(1) *Incentives for wind energy systems with a nameplate capacity of not more than 500 kilowatts;*~~

~~(2) *That the amount of the incentive for a participant must be paid over time and be based on the performance of the wind energy system and the amount of electricity generated by the wind energy system; and*~~

~~(3) *For a contract to be entered into between a participant and a utility, which must include, without limitation, provisions specifying:*~~

~~(I) *The amount of the incentive the participant will receive from the utility;*~~

~~(II) *The period in which the participant will receive an incentive from the utility, which must not exceed 5 years;*~~

~~(III) *That the payments of an incentive to the participant must be made not more frequently than quarterly; and*~~

~~(IV) *That a utility is not required to issue any new incentive on or after January 1, 2021, or make an incentive payment after December 31, 2025.*~~

~~(c) *Reporting requirements for each utility that participates in the Program, which must include, without limitation, periodic reports of the average installed cost of the wind energy system, the cost to the utility of carrying out the Program and the effect of the Program on the rates paid by customers of the utility.*~~

~~(d) *The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.*~~

~~(e) *The period for accepting applications, which must include a period during which a utility must accept additional applications if a previously*~~

approved applicant fails to install and energize a wind energy system within the time allowed by NRS 701B.615.

(f) The total incentive paid to a participant in the Program, which must not exceed 50 percent of the total installed cost of the wind energy system of the participant.

(g) A requirement that an authorized representative of any public entity participating in the Program, including participation through a third-party ownership structure, must provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the wind energy system that the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.

(h) A process pursuant to which the utility shall transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the Commission which includes any redacted personal identifying information of a customer.

2. A contract that is executed between a utility and a participant on or before December 31, 2021, providing for the payment to the participant of an incentive pursuant to subparagraph (2) of paragraph (b) of subsection 1 may provide for the continued payment of such an incentive after December 31, 2021, subject to the limitations prescribed by section 3 of this act and in accordance with regulations adopted by the Commission.

Sec. 15. NRS 701B.610 is hereby amended to read as follows:

701B.610 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area . ~~[for the following program year.]~~

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

Sec. 16. NRS 701B.615 is hereby amended to read as follows:

701B.615 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

- (a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and
- (b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the *installed* cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Wind Demonstration Program, except that an applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of the wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of the wind energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of the wind energy system.]~~

Sec. 17. NRS 701B.650 is hereby amended to read as follows:

701B.650 ~~[H]~~ *To be eligible for an incentive through the Wind Demonstration Program, a wind energy system [used by a participant in the Wind Demonstration Program meets] must meet the requirements [of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate] for participation in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.*

Sec. 18. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must ~~[be designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of waterpower energy systems in this State by 2016 and the goals for each category of the Program. The regulations must]~~ provide that not less than 1 megawatt of capacity ~~[must]~~ be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.

2. *A system of incentives for waterpower energy systems with a nameplate capacity of not more than 500 kilowatts.*

3. A system of incentives that are based on rebates that decline as the capacity goals for the Program ~~[and the goals for each category of the Program]~~ are met. The rebates must be based on predicted energy savings.

~~[3.]~~ 4. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 19. NRS 701B.850 is hereby amended to read as follows:

701B.850 1. ~~[On] Each year on or before [February 21, 2008, and on or before February 1 of each subsequent year,]~~ a date established by the Commission, each utility shall file with the Commission ~~[for approval and]~~ the utility's annual plan for ~~[the administration and delivery of]~~ carrying out and administering the Waterpower Demonstration Program in its service area for the ~~[program year beginning July 1, 2008, and each subsequent year thereafter.]~~ immediately following 12-month period prescribed by the Commission.

2. ~~[On or before July 1, 2008, and on or before each July 1 of each subsequent year, the]~~ The Commission shall ~~[review]~~ :

(a) Review the annual plan for compliance with the requirements ~~[set forth]~~ established by regulation of the Commission ~~[.]~~ ; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

Sec. 20. NRS 701B.865 is hereby amended to read as follows:

701B.865 1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility may select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the *installed* cost of the project and a calculation of the expected system output.

6. Upon receipt of the incentive claim form and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Waterpower Demonstration Program, except that :

(a) An applicant forfeits eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of the waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program ~~[An applicant who forfeits eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of the waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of the waterpower energy system.] ; and~~

(b) No payment may be made by a utility after December 31, 2025, or made if such payment would otherwise cause the utility to exceed the limitations prescribed by section 3 of this act.

8. The total incentive paid to a participant in the Waterpower Demonstration Program must not exceed 50 percent of the total installed cost of the waterpower energy system of the participant.

9. An authorized representative of any public entity participating in the Waterpower Demonstration Program, including participation through a third-party ownership structure, shall provide the identifying number described in NRS 338.013 for such project and certify in the application and upon final completion of the waterpower energy system that the public entity has complied with all applicable requirements of this chapter and chapter 338 of NRS.

10. The Commission shall adopt regulations prescribing a process pursuant to which the utility must transmit to the Commission for inclusion in the public records of the Commission a copy of any application by a public entity or any related material requested by the Commission with any redacted personal identifying information of a customer.

Sec. 21. NRS 701B.880 is hereby amended to read as follows:

701B.880 ~~[[H]] To be eligible for an incentive through the Waterpower Demonstration Program, the waterpower energy system [used by a participant in the Waterpower Demonstration Program meets] must meet the requirements [of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate] for participation in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.~~

Sec. 21.3. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each electric utility in this State shall create a Lower Income Solar Energy Pilot Program for the purpose of installing, before January 1, 2017, distributed generation systems with a cumulative capacity of at least 1 megawatt at locations throughout its service territory which benefit low-income customers, including, without limitation, homeless shelters,

low-income housing developments and schools with significant populations of low-income pupils. Each electric utility shall submit the Program as part of its annual plan submitted pursuant to NRS 701B.230. The Commission shall approve the Program with such modifications and upon such terms and conditions as the Commission deems necessary or appropriate to enable the Program to meet the purposes set forth in this subsection.

2. The Office of Energy shall advise the Commission and each electric utility regarding grants and other sources of money available to defray the costs of the Program.

3. As used in this section, "distributed generation system" has the meaning ascribed to it in NRS 701B.055.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all net metering systems operating in this State is equal to ~~{2}~~ 3 percent of the total peak capacity of all utilities in this State.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than 25 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) ~~{Shall}~~ Except as otherwise provided in subsection 5, shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than 25 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c) ~~{-}~~ and subsection 5, may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

➡ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. If the net metering system of a customer-generator is a net metering system described in paragraph (b) or (c) of subsection 1 of NRS 704.771 and:

(a) The system is intended primarily to offset part or all of the customer-generator's requirements for electricity on property contiguous to the property on which the net metering system is located; and

(b) The customer-generator sells or transfers his or her interest in the contiguous property,

➡ the net metering system ceases to be eligible to participate in net metering.

5. *A utility shall assess against a customer-generator:*

(a) *If applicable, the universal energy charge imposed pursuant to NRS 702.160; and*

(b) *Any charges imposed pursuant to chapter 701B of NRS or NRS 704.7827 or 704.785 which are assessed against other customers in the same rate class as the customer-generator.*

➡ *For any such charges calculated on the basis of a kilowatt-hour rate, the customer-generator must only be charged with respect to kilowatt-hours of energy delivered by the utility to the customer-generator.*

6. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

- (1) Metering equipment;
- (2) Net energy metering and billing; and
- (3) Interconnection,

➡ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 25. (Deleted by amendment.)

Sec. 25.1. Chapter 218E of NRS is hereby amended by adding thereto the provisions set forth as sections 25.2 to 25.45, inclusive, of this act.

Sec. 25.2. *As used in sections 25.2 to 25.45, inclusive, of this act, unless the context otherwise requires, "Committee" means the Legislative Committee on Energy.*

Sec. 25.25. 1. *The Legislative Committee on Energy, consisting of ~~eight~~ six legislative members, is hereby created. The membership of the Committee consists of:*

(a) ~~Four~~ Three *members appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party.*

(b) ~~Four~~ Three *members appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.*

2. *The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.*

3. *The Legislative Commission shall select the Chair and Vice Chair of the Committee from among the members of the Committee. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year. The office of Chair of the Committee must alternate each biennium between the Houses. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.*

4. *A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session convenes.*

5. *A vacancy on the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term.*

Sec. 25.3. 1. *Except as otherwise ordered by the Legislative Commission, the members of the Committee shall meet not earlier than November 1 of each odd-numbered year and not later than August 31 of the following even-numbered year at the times and places specified by a call of the Chair or a majority of the Committee.*

2. *The Director or the Director's designee shall act as the nonvoting recording Secretary of the Committee.*

3. ~~Five~~ Four *members of the Committee constitute a quorum, and a quorum may exercise all the power and authority conferred on the Committee.*

4. *Except during a regular or special session, for each day or portion of a day during which a member of the Committee attends a meeting of the Committee or is otherwise engaged in the business of the Committee, the member is entitled to receive the:*

(a) *Compensation provided for a majority of the Legislators during the first 60 days of the preceding regular session;*

(b) *Per diem allowance provided for state officers and employees generally; and*

(c) *Travel expenses provided pursuant to NRS 218A.655.*

5. *All such compensation, per diem allowances and travel expenses must be paid from the Legislative Fund.*

Sec. 25.4. 1. *The Committee may:*

(a) Evaluate, review and comment upon matters related to energy policy within this State, including, without limitation:

(1) Policies, plans or programs relating to the production, consumption or use of energy in this State;

(2) Legislative measures regarding energy policy;

(3) The effect of any policy, plan, program or legislation on rates or rate payers;

(4) The effect of any policy, plan, program or legislation on economic development in this State;

(5) The effect of any policy, plan, program or legislation on the environment;

(6) Any contracts or requests for proposals relating to the purchase of capacity;

(7) The effect of any policy, plan, program or legislation which provides for the construction or acquisition of facilities for the generation of electricity;

(8) The effect of any policy, plan, program or legislation on the development of a market in this State for electricity generated from renewable energy;

(9) The infrastructure and transmission requirements of any policy, plan, program or legislation; and

(10) Any other matters or topics that, in the determination of the Committee, affect energy policy in this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which energy policy may be implemented or improved.

2. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 701.070.

Sec. 25.45. 1. If the Committee conducts investigations or holds hearings pursuant to paragraph (b) of subsection 1 of section 25.4 of this act:

(a) The Secretary of the Committee or, in the Secretary's absence, a member designated by the Committee may administer oaths.

(b) The Secretary or Chair of the Committee may cause the deposition of witnesses, residing either within or without the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chair of the Committee may issue subpoenas to compel the attendance and testimony of witnesses and the production of books, papers, accounts, department records and other documents.

2. If any witness fails or refuses to attend or testify or to produce the books, papers, accounts, department records or other documents required by

the subpoena, the Chair of the Committee may report the failure or refusal to the district court by a petition which:

(a) Sets forth that:

(1) Due notice has been given of the time and place of the attendance of the witness or the production of the required books, papers, accounts, department records or other documents;

(2) The witness has been subpoenaed by the Committee pursuant to this section; and

(3) The witness has failed or refused to attend or testify or to produce the books, papers, accounts, department records or other documents required by the subpoena before the Committee named in the subpoena; and

(b) Asks for an order of the court compelling the witness to attend and testify or to produce the required books, papers, accounts, department records or other documents before the Committee.

3. Upon such a petition, the court shall:

(a) Enter an order directing the witness:

(1) To appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order; and

(2) To show cause why the witness has not attended or testified or produced the required books, papers, accounts, department records or other documents before the Committee; and

(b) Serve a certified copy of the order upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Committee, the court shall enter an order that the witness:

(a) Must appear before the Committee at the time and place fixed in the order;

(b) Must testify or produce the required books, papers, accounts, department records or other documents; and

(c) Upon failure to obey the order, must be dealt with as for contempt of court.

Sec. 25.5. NRS 228.390 is hereby amended to read as follows:

228.390 1. Except as otherwise provided in NRS 704.110 and 704.7561 to 704.7595, inclusive:

~~{1-}~~ (a) The Consumer's Advocate has sole discretion to represent or refrain from representing the public interest and any class of customers in any proceeding.

~~{2-}~~ (b) In exercising such discretion, the Consumer's Advocate shall consider the importance and extent of the public interest or the customers' interests involved and whether those interests would be adequately represented without his or her participation.

~~{3-}~~ (c) If the Consumer's Advocate determines that there would be a conflict between the public interest and any particular class of customers or any inconsistent interests among the classes of customers involved in a particular matter, the Consumer's Advocate may choose to represent one of

the interests, to represent no interest, or to represent one interest through his or her office and another or others through outside counsel engaged on a case basis.

(d) If the Consumer's Advocate declines to represent the public interest in a proceeding to review a proposed rate of an electric utility, the Consumer's Advocate shall publish a report in support of the decision to decline such representation and make the report available to the public at the Bureau of Consumer Protection and on the Internet website maintained by the Bureau of Consumer Protection. The report must:

(1) Identify each element of the public interest, as may be applicable to the proceeding to review a proposed rate; and

(2) Specify the manner in which each element of the public interest, as identified pursuant to subparagraph (1), is sufficiently represented.

2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 25.55. Section 25.4 of this act is hereby amended to read as follows:

Sec. 25.4. 1. The Committee may:

(a) Evaluate, review and comment upon matters related to energy policy within this State, including, without limitation:

(1) Policies, plans or programs relating to the production, consumption or use of energy in this State;

(2) Legislative measures regarding energy policy;

(3) *The progress made by this State in satisfying the goals and objectives of Senate Bill No. 123 of the 77th Session of the Nevada Legislature;*

(4) The effect of any policy, plan, program or legislation on rates or rate payers;

~~[(4)]~~ (5) The effect of any policy, plan, program or legislation on economic development in this State;

~~[(5)]~~ (6) The effect of any policy, plan, program or legislation on the environment;

~~[(6)]~~ (7) Any contracts or requests for proposals relating to the purchase of capacity;

~~[(7)]~~ (8) The effect of any policy, plan, program or legislation which provides for the construction or acquisition of facilities for the generation of electricity;

~~[(8)]~~ (9) The effect of any policy, plan, program or legislation on the development of a market in this State for electricity generated from renewable energy;

~~[(9)]~~ (10) The infrastructure and transmission requirements of any policy, plan, program or legislation; and

~~[(10)]~~ (11) Any other matters or topics that, in the determination of the Committee, affect energy policy in this State.

(b) Conduct investigations and hold hearings in connection with its duties pursuant to this section.

(c) Request that the Legislative Counsel Bureau assist in the research, investigations, hearings and reviews of the Committee.

(d) Make recommendations to the Legislature concerning the manner in which energy policy may be implemented or improved.

2. As used in this section, "renewable energy" has the meaning ascribed to it in NRS 701.070.

Sec. 25.6. Section 113 of chapter 509, Statutes of Nevada 2007, as last amended by section 49 of chapter 412, Statutes of Nevada 2011, at page 2562, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections 62 to 75, inclusive, 77 to 82, inclusive, 85 to 94, inclusive, and 95 to 105, inclusive, of this act expire by limitation on December 31, ~~[2021,]~~ 2025.

Sec. 25.7. Section 13 of chapter 246, Statutes of Nevada 2009, as last amended by section 50 of chapter 412, Statutes of Nevada 2011, at page 2563, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on December 31, ~~[2021,]~~ 2025.

Sec. 25.8. Section 21 of chapter 321, Statutes of Nevada 2009, as last amended by section 51 of chapter 412, Statutes of Nevada 2011, at page 2563, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.85, 1.87, 1.92, 1.93, 1.95 and 4.3 to 9, inclusive, of this act expire by limitation on December 31, ~~[2021,]~~ 2025.

Sec. 25.9. Section 54 of chapter 412, Statutes of Nevada 2011, at page 2563, is hereby amended to read as follows:

Sec. 54. 1. This section and sections 1, 3 to 42, inclusive, 44, 45, 46, 48 to 51, inclusive, subsection 2 of section 52 and section 53 of this act become effective upon passage and approval.

2. Sections 2, 43, 47 and subsection 1 of section 52 of this act become effective on January 1, ~~{2022,}~~ 2026.

Sec. 26. NRS 701B.060, 701B.100, 701B.110, 701B.120, 701B.130, 701B.140, 701B.260, 701B.490 and 701B.760 are hereby repealed.

Sec. 26.5. 1. As soon as practicable after the effective date of this act, the Public Utilities Commission of Nevada shall open an investigatory docket to examine the comprehensive costs of and benefits from net metering in this State, including, without limitation, the costs and benefits to:

- (a) The State of Nevada;
- (b) Customer-generators who participate in net metering;
- (c) Customers of a utility who do not participate in net metering; and
- (d) Each utility which offers net metering.

2. The investigatory docket shall engage a knowledgeable and independent third party to analyze all factors that the Commission deems necessary to determine the costs and benefits described in subsection 1.

3. The following parties may participate in the investigatory docket:

- (a) Each utility in this State;
- (b) The Regulatory Operations Staff of the Commission;
- (c) The Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General;
- (d) Any business operating in the State whose primary business is the installation of distributed generation systems; and
- (e) Any other interested parties.

4. On or before October 1, 2014, the Commission shall:

(a) Prepare a written report of its findings and recommendations from the investigatory docket, including, without limitation, a calculation and determination of the total costs of and benefits from net metering.

(b) Submit the written report to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Nevada Legislature.

5. If the report of the Commission concludes that there is a material net benefit or cost attributable to net metering, the Commission shall recommend a methodology for properly allocating and apportioning all of the costs and benefits of net metering among all persons who participate in, benefit from and pay for net metering.

6. As used in this section:

(a) "Distributed generation system" has the meaning ascribed to it in NRS 701B.055.

(b) "Net metering" has the meaning ascribed to it in NRS 704.769.

(c) "Utility" has the meaning ascribed to it in NRS 704.772.

Sec. 27. The Public Utilities Commission of Nevada shall adopt regulations to carry out the amendatory provisions of this act on or before April 30, 2014. The regulations must provide for the transition to the

performance-based incentive required by NRS 701B.220, as amended by section 7 of this act, NRS 701B.590, as amended by section 14 of this act, and NRS 701B.840, as amended by section 18 of this act, for the applicable participants in the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program.

Sec. 28. 1. This section and sections 1 to 25, inclusive, 26 and 27 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations or performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On January 1, 2014, for all other purposes.

2. Sections 25.1 to 25.45, inclusive, of this act become effective on July 1, 2013.

3. Section 25.55 of this act becomes effective at 12:01 a.m. on July 1, 2013, if, and only if, Senate Bill No. 123 of this session is enacted by the Legislature and becomes effective.

4. Sections 1 to 23, inclusive, of this act expire by limitation on December 31, 2025.

LEADLINES OF REPEALED SECTIONS

701B.060 "Institution of higher education" defined.

701B.100 "Program year" defined.

701B.110 "Public and other property" defined.

701B.120 "Public entity" defined.

701B.130 "School property" defined.

701B.140 "Small business" defined.

701B.260 Capacity allocated to each category; reallocation of capacity; limitations on incentives.

701B.490 "Program year" defined.

701B.760 "Program year" defined.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 966 to Assembly Bill No. 428 reduces the number of members on the Legislative Committee on Energy from eight to six.

Amendment adopted.

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

Assembly Bill No. 260.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 971.

"SUMMARY—Revises provisions governing tuition charges assessed against certain students within the Nevada System of Higher Education.

(BDR 34-226)"

"AN ACT relating to the Nevada System of Higher Education; clarifying provisions governing tuition charges assessed against certain students; ~~providing that~~ revising provisions relating to exemptions from tuition charges ~~must not be assessed against~~ for veterans of the Armed Forces of the United States who were honorably discharged; ~~within a certain period;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to assess tuition charges against students who are not residents of Nevada at all campuses of the Nevada System of Higher Education. The tuition charges are in addition to registration fees and other fees assessed against students who are residents of Nevada. Existing law also provides that tuition must be free for certain students and veterans. (NRS 396.540) This bill clarifies the statutory provisions governing the assessment of tuition charges. Additionally, this bill revises the group of veterans against whom tuition charges must not be assessed by: (1) removing the requirement that such veterans were, at some point, on active duty while stationed at a military installation in the State of Nevada or a military installation in another state which has a specific nexus to this State; and (2) requiring that such veterans were honorably discharged within the 2 years immediately preceding the date of matriculation of the veteran at a university, state college or community college within the System. However, this bill authorizes the Board of Regents to grant more favorable exemptions from tuition charges for veterans who were honorably discharged if required for the receipt of federal money.

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

Section 1. NRS 396.540 is hereby amended to read as follows:

396.540 1. For the purposes of this section:

(a) "Bona fide resident" shall be construed in accordance with the provisions of NRS 10.155 and policies established by the Board of Regents, to the extent that those policies do not conflict with any statute. The qualification "bona fide" is intended to ensure that the residence is genuine and established for purposes other than the avoidance of tuition.

(b) "Matriculation" has the meaning ascribed to it in regulations adopted by the Board of Regents.

(c) "Tuition charge" means a charge assessed against students who are not residents of Nevada and which is in addition to registration fees or other fees assessed against students who are residents of Nevada.

2. The Board of Regents may fix a tuition charge for students at all campuses of the System, but tuition *charges* must *not* be ~~free to~~ *assessed against*:

(a) All students whose families have been bona fide residents of the State of Nevada for at least 12 months before the matriculation of the student at a university, state college or community college within the System;

(b) All students whose families reside outside of the State of Nevada, providing such students have themselves been bona fide residents of the State of Nevada for at least 12 months before their matriculation at a university, state college or community college within the System;

(c) All public school teachers who are employed full-time by school districts in the State of Nevada;

(d) All full-time teachers in private elementary, secondary and postsecondary educational institutions in the State of Nevada whose curricula meet the requirements of chapter 394 of NRS;

(e) Employees of the System who take classes other than during their regular working hours;

(f) Members of the Armed Forces of the United States who are on active duty and stationed at a military installation in the State of Nevada; and

(g) ~~[Veterans]~~ Except as otherwise provided in subsection 3, veterans of the Armed Forces of the United States who were honorably discharged ~~and who were on active duty while stationed at a military installation in the State of Nevada or a military installation in another state which has a specific nexus to this State, including, without limitation, the Marine Corps Mountain Warfare Training Center located at Pickel Meadow, California, on the date of discharge.]~~ within the 2 years immediately preceding the date of matriculation of the veteran at a university, state college or community college within the System.

3. The Board of Regents may grant more favorable exemptions from tuition charges for veterans of the Armed Forces of the United States who were honorably discharged than the exemption provided pursuant to paragraph (g) of subsection 2, if required for the receipt of federal money.

4. The Board of Regents may grant [tuitions free] exemptions from tuition charges each semester to other worthwhile and deserving students from other states and foreign countries, in a number not to exceed a number equal to 3 percent of the total matriculated enrollment of students for the last preceding fall semester.

Sec. 1.5. NRS 396.543 is hereby amended to read as follows:

396.543 1. The Board of Regents may enter into an agreement with another state for the granting of full or partial waivers of the nonresident tuition to residents of the other state who are students at or are eligible for admission to any branch of the System if the agreement provides that, under substantially the same circumstances, the other state will grant reciprocal waivers to residents of Nevada who are students at or are eligible for admission to universities or colleges in the other state.

2. Each agreement must specify:

(a) The criteria for granting the waivers; and

(b) The specific universities, state colleges and community colleges for which the waivers will be granted.

3. The Board of Regents shall provide by regulation for the administration of any waivers for which an agreement is entered into pursuant to subsection 1.

4. The waivers granted pursuant to this section must not be included in the number of waivers determined for the purpose of applying the limitation in subsection ~~4~~ 4 of NRS 396.540.

Sec. 2. This act becomes effective on July 1, 2013.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 971 to Assembly Bill No. 260 revises provisions of the bill while ultimately ensuring that individuals who are honorably discharged from the military are able to pay in-state tuition at our State colleges and universities.

Amendment adopted.

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

Assembly Bill No. 288.

Bill read third time.

Remarks by Senator Ford.

Thank you, Mr. President. Assembly Bill No. 288 eliminates the high school proficiency exam and requires the State Board of Education to select a college and career readiness assessment to determine the achievement and proficiency of high school students during 11th grade, beginning with the 2014–2015 school year. The bill requires a student to take the college and career readiness assessment to receive a standard high school diploma. Additionally, the bill requires all school districts and charter schools to administer the assessment at the same time.

This measure further requires the State Board of Education to prescribe new criteria for receipt of a standard high school diploma, which must not include a student's performance on the college and career assessment, and must include a requirement that students successfully pass at least four end-of-course exams after completion of certain courses of study beginning in the 2014-2015 school year. The bill also requires the State Board of Education to prescribe the courses of study for which end-of-course exams will be required, which must include the subject areas for which the State Board of Education has adopted the Common Core State Standards. The bill also contains a requirement that, commencing with the 2014-2015 school year, students enroll in courses of study designed to prepare them for graduation from high school and readiness for college and career.

Assembly Bill No. 288 also: (1) eliminates the certificate of attendance as a graduation outcome; (2) clarifies that students with disabilities may be exempt from the college and career readiness assessment; (3) specifies how the outcomes of the college and career readiness assessment may be utilized; and (4) requires accountability reporting related to the college and career readiness assessment and the end-of-course exams, as well as the development of a plan to transition from the current high school proficiency exam structure to the proposed new exam structure. Lastly, the bill appropriates \$1.5 million from the State General Fund for costs associated with implementing the end-of-course examinations. This bill is effective upon passage and approval for purposes of making the General Fund appropriation and performing transitional and administrative tasks, and on July 1, 2013, for all other purposes.

Roll call on Assembly Bill No. 288:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 288 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

REMARKS FROM THE FLOOR

President Krolicki requested that the following remarks be entered in to the Journal.

MR. PRESIDENT:

The mood is heavy, and Senator Woodhouse and her family are certainly on everyone's mind. Senator Spearman, would you please rise and address the situation? Everyone please rise for a prayer.

SENATOR SPEARMAN:

Thank you, Mr. President. Regardless of our faith belief system, this is a time that all of us will eventually travel. Let us pray.

Dear God, the One who gives life, and the One who ushers us in from our Earthly labor to a Heavenly reward, be with Joyce and her family now as your servant Al makes his transition. We pray, God, that even though absent in the body, that the love, wisdom, laughter, guidance and the encouragement that he has bestowed upon his family—we pray that will forever hold a special place in their hearts. Keep them on this day, and in the coming days. It is in Your Name we pray. Amen.

MR. PRESIDENT:

Senator Spearman, the Chamber needed that. Thank you so much.

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

Senate in recess at 7:49 p.m.

SENATE IN SESSION

At 8:08 p.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 509.

Bill read third time.

Remarks by Senator Spearman.

Thank you, Mr. President. Assembly Bill No. 509 adds references to the newly-granted power of the Nevada Legislature to call special sessions under the provisions of Article IV, Section 2A of the *Nevada Constitution*. The measure updates and consolidates provisions related to the investigative power of the Nevada Legislature, and its Interim and Session committees including the power to issue subpoenas. Finally, various redundant provisions are repealed. The bill is effective upon passage and approval.

Roll call on Assembly Bill No. 509:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 509 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 428.

Bill read third time.

Remarks by Senator Hutchison.

Thank you, Mr. President. Assembly Bill No. 428 makes changes to the renewable-energy incentive program concerning both solar and wind. It creates the Legislative Committee on Energy and sets out its membership, duties and powers. The bill unanimously passed out of the Senate Committee on Commerce, Labor and Energy. I urge your support.

Roll call on Assembly Bill No. 428:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 428 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

RECEDE FROM SENATE AMENDMENTS

Senator Parks moved that the Senate do not recede from its action on Assembly Bill No. 139, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Parks, Spearman and Goicoechea as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 139.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 228, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 780 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 7, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions relating to public servants. (BDR 23-445)"

"AN ACT relating to public servants; revising provisions relating to public officers and employees; revising provisions relating to ethics in government and the enforcement of such provisions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill makes various changes to provisions relating to public officers and employees and the administration of the Nevada Ethics in Government Law by the Commission on Ethics. (Chapter 281A of NRS)

Sections 18-24 ~~[20 and 21]~~ and 30-32.5 of this bill enact and revise various definitions in the Ethics Law. Section 19 revises and makes applicable throughout the Ethics Law the existing definition of "commitment in a private capacity to the interests of others" in NRS 281A.420.

Section 23 defines "pecuniary interest" for the Ethics Law, and sections 40.3, ~~and~~ 41 and 42.5 of this bill require proof of a significant personal or pecuniary interest in defining various types of ethical conflicts, so that a de minimis or insignificant personal or pecuniary interest does not create a conflict of interest, require disqualification or abstention, or provide just or sufficient cause for an ethics investigation or violation. (NRS 281A.400, 281A.420 ~~and~~ 281A.430)

Sections 24.5 and 32.3 of this bill establish that a president of a state university, college or community college, a superintendent of a county school district, and a county manager or city manager are designated as public officers for the purposes of the Ethics Law. (NRS 281A.160)

Section 25 of this bill enacts provisions for computing periods of time prescribed or allowed under the Ethics Law. Section 27 of this bill authorizes the Commission to apply for and accept grants, contributions, services and money for the purposes of carrying out the Ethics Law.

Section 27.3 of this bill requires the Commission, when disposing of a request for an opinion by stipulation, agreed settlement or consent order, to treat comparable situations in a comparable manner and ensure that the disposition of a request for an opinion bears a reasonable relationship to the severity of the violation or alleged violation of the Ethics Law. Section 27.5 of this bill requires the Commission to consider various aggravating and mitigating factors when determining whether a violation of the Ethics Law is a willful violation and, if so, the amount of any civil penalty to be imposed for such a willful violation of the Ethics Law. Section 27.5 also requires the Commission, when applying these factors, to treat comparable situations in a comparable manner and to ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation.

Sections 33-37 of this bill make various changes concerning the operation of the Commission and the duties of the Executive Director of the Commission and the Commission Counsel. Those changes include: (1) adjusting the eligibility requirements for certain members of the Commission; (2) requiring the Chair of the Commission to designate a qualified person to perform the duties of the Executive Director if the Executive Director is disqualified or unable to act on a particular matter; ~~and~~ (3) revising the administration of the assessments paid by cities and counties in semiannual installments to the Commission ~~and~~; and (4) authorizing the Commission to adopt procedural regulations that are necessary and proper to carry out the Ethics Law. (NRS 281A.200, 281A.240, 281A.260, 281A.270, 281A.290)

Section 38 of this bill directs public officers and employees who request the issuance of a subpoena on their behalf in ethics proceedings to serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure and to pay the costs of such service. (NRS 281A.300)

Sections 40.3-44 of this bill make various changes to provisions in the Ethics Law, including provisions relating to conflicts of interests for public officers and employees, disclosures and abstentions, the rendering of opinions and conduct of investigations by the Commission and the duties of specialized and local ethics committees. (NRS 281A.400, 281A.410, 281A.420, 281A.430, 281A.440, 281A.470)

Section 40.5 prohibits a member of a local legislative body from representing or counseling a private person for compensation before another local agency whose territorial jurisdiction includes any part of the same county in which the member serves. However, section 40.5 allows the Commission to provide the member with relief from strict application of the prohibition if certain conditions are met. (NRS 281A.410)

With certain exceptions, the Ethics Law prohibits a public officer or employee from bidding on or entering into a contract between a governmental agency and any business entity in which the public officer or employee has a significant pecuniary interest. Section 42.5 allows the Commission to provide a public officer or employee with relief from strict application of the prohibition if certain conditions are met. (NRS 281A.430)

Sections 42.5 and 62 of this bill move, revise and remove certain provisions of the Ethics Law that regulate when a member of a local legislative body may sell goods or services to his or her local agency as the sole source of supply within the area served by the local agency. (NRS 281A.430, 281A.530) Section 42.5 prohibits such a member from selling goods or services to his or her local agency unless certain conditions are met, but section 42.5 also allows

the Commission to provide the member with relief from strict application of the prohibition. Section 62 repeals an existing provision of the Ethics Law regulating such "sole source" transactions because under this bill, "sole source" transactions are regulated by section 42.5.

Sections 16.3, 16.5 and 57-61 of this bill make conforming changes to other provisions of existing law that restrict various public officers and employees from being personally interested in or benefiting from a contract with a governmental agency. (NRS 245.075, 268.384, 269.071, 269.072, 281.221, 281.230, 332.800)

Section 45 of this bill revises the "safe harbor" provision of the Ethics Law to provide that a public officer or employee does not commit a willful violation if : (1) the public officer or employee ~~is (1)~~ relied in good faith upon the advice of the legal counsel retained by his or her public body, agency or employer; and (2) his or her ~~(action)~~ act or failure to act was not contrary to a prior published opinion issued by the Commission. (NRS 281A.480)

Section 46 of this bill provides new requirements relating to informing, educating and instructing public officers and employees concerning the statutory ethical standards and the duties of public officers and employees under the Ethics Law. (NRS 281A.500)

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 16.3. NRS 281.221 is hereby amended to read as follows:

281.221 1. Except as otherwise provided in this section ~~(1)~~ and NRS 281A.430, it is unlawful for ~~any~~ a state officer who is not a member of the Legislature *subject to the restrictions set forth in NRS 218A.970*, to:

(a) Become a contractor under any contract or order for supplies or other kind of contract authorized by or for the State or any of its departments, or the Legislature or either of its houses, or to be interested, directly or indirectly, as principal, in any kind of contract so authorized.

(b) Be interested in any contract made by the officer or to be a purchaser or interested in any purchase under a sale made by the officer in the discharge of the officer's official duties.

2. ~~Any~~ A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by the board, commission or body may supply or contract to supply, in the ordinary course of ~~(the member's)~~ *his or her* business, goods, materials or services to any state or local agency, except the board, ~~for~~ commission *or body* of which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member in the Nevada System of Higher Education may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A state officer, other than an officer described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the officer has not taken part in developing the contract plans or specifications and the officer will not be personally involved in opening, considering or accepting offers.

5. Any contract made in violation of this section may be declared void at the instance of the State or of any other person interested in the contract except an officer prohibited from making or being interested in the contract.

6. ~~Any~~ ~~A person violating~~ who violates this section is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 16.5. NRS 281.230 is hereby amended to read as follows:

281.230 1. Except as otherwise provided in this section and NRS 218A.970, ~~281A.530~~ ~~281A.430~~ and 332.800, the following persons shall not, in any manner, directly or indirectly, receive any commission, personal profit or compensation of any kind resulting from any contract or other significant transaction in which the employing state, county, municipality, township, district or quasi-municipal corporation is in any way directly interested or affected:

- (a) State, county, municipal, district and township officers of the State of Nevada;
- (b) Deputies and employees of state, county, municipal, district and township officers; and
- (c) Officers and employees of quasi-municipal corporations.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by the board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with any governmental agency, except the board, ~~for~~ commission or body of which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A public officer or employee, other than an officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, the public officer or employee has not taken part in developing the contract plans or specifications and the public officer or employee will not be personally involved in opening, considering or accepting offers. If a public officer who is authorized to bid on or enter into a contract with a governmental agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose his or her interest in the contract and shall not vote on or advocate the approval of the contract.

5. A person who violates any of the provisions of this section shall be punished as provided in NRS 197.230 and:

(a) Where the commission, personal profit or compensation is \$650 or more, for a category D felony as provided in NRS 193.130.

(b) Where the commission, personal profit or compensation is less than \$650, for a misdemeanor.

6. A person who violates the provisions of this section shall pay any commission, personal profit or compensation resulting from the contract or transaction to the employing state, county, municipality, township, district or quasi-municipal corporation as restitution.

Sec. 17. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 27.5, inclusive, of this act.

Sec. 18. *"Agency" means any state agency or local agency.*

Sec. 19. *"Commitment in a private capacity," with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:*

- 1. *Who is the spouse or domestic partner of the public officer or employee;*
- 2. *Who is a member of the household of the public officer or employee;*

3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;

4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;

5. With whom the public officer or employee has a substantial and continuing business relationship; or

6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.

Sec. 20. "Domestic partner" means a person in a domestic partnership.

Sec. 21. "Domestic partnership" means:

1. A domestic partnership as defined in NRS 122A.040; or

2. A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

Sec. 22. "Local agency" means any local legislative body, agency, bureau, board, commission, department, division, office or other unit of any county, city or other political subdivision.

Sec. 23. "Pecuniary interest" means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including, without limitation:

1. Anything of economic value; and

2. Payments or other money which a person is owed or otherwise entitled to by virtue of any statute, regulation, code, ordinance or contract or other agreement.

Sec. 24. "State agency" means any agency, bureau, board, commission, department, division, office or other unit of the Executive Department of the State Government.

Sec. 24.5. 1. Any person who serves in one of the following positions is designated as a public officer for the purposes of this chapter:

(a) A president of a university, state college or community college within the Nevada System of Higher Education.

(b) A superintendent of a county school district.

(c) A county manager or a city manager.

2. This section applies to such a person regardless of whether the person serves in the position:

(a) By appointment, contract or employment;

(b) With or without compensation; or

(c) On a temporary, interim or acting basis.

Sec. 25. In computing any period prescribed or allowed by this chapter:

1. If the period begins to run on the occurrence of an act or event, the day on which the act or event begins is excluded from the computation.

2. The last day of the period is included in the computation, except that if the last day falls on a Saturday, Sunday, legal holiday or holiday proclaimed by the Governor or on a day on which the office of the Commission is not open for the conduct of business, the period is extended to the close of business on the next business day.

Sec. 26. (Deleted by amendment.)

Sec. 27. The Commission may apply for and accept grants, contributions, services or money for the purposes of carrying out the provisions of this chapter only if the action is approved by a majority vote in an open public meeting of the Commission and the Commission complies with the provisions of the State Budget Act.

Sec. 27.3. In any matter in which the Commission disposes of a request for an opinion by stipulation, agreed settlement or consent order, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the ~~request for an opinion~~ matter bears a reasonable relationship to the severity of the violation or alleged violation.

Sec. 27.5. 1. In determining whether a violation of this chapter is a willful violation and, if so, the amount of any civil penalty to be imposed on a public officer or employee or former public officer or employee pursuant to NRS 281A.480, the Commission shall consider:

~~1.1~~ (a) The seriousness of the violation, including, without limitation, the nature, circumstances, extent and gravity of the violation;

~~1.2~~ (b) The number and history of previous warnings issued to or violations of the provisions of this chapter by the public officer or employee;

~~1.3~~ (c) The cost to the Commission to conduct the investigation and any hearing relating to the violation;

~~1.4~~ (d) Any mitigating factors, including, without limitation, any self-reporting, prompt correction of the violation, any attempts to rectify the violation before any complaint is filed and any cooperation by the public officer or employee ~~for former public officer or employee~~ in resolving the complaint;

~~1.5~~ (e) Any restitution or reimbursement paid to parties affected by the violation;

~~1.6~~ (f) The extent of any financial gain resulting from the violation; and

~~1.7~~ (g) Any other matter justice may require.

2. In applying the factors set forth in this section, the Commission shall treat comparable situations in a comparable manner and shall ensure that the disposition of the matter bears a reasonable relationship to the severity of the violation.

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 281A.030 is hereby amended to read as follows:

281A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.040 to 281A.170, inclusive, *and sections 18 to 24, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 30. NRS 281A.100 is hereby amended to read as follows:

281A.100 "Household" means an association of persons who live in the same home or dwelling ~~[, sharing its expenses,]~~ and who are related by blood, adoption, ~~for~~ marriage *or domestic partnership*.

Sec. 31. NRS 281A.125 is hereby amended to read as follows:

281A.125 "Member of a local legislative body" means a member of a board of county commissioners, a governing body of a city or a governing body of any other political subdivision who performs any function that involves introducing, voting upon or otherwise acting upon any matter of a permanent or general character which may reflect public policy. ~~[and which is not typically restricted to identifiable persons or groups.]~~

Sec. 32. (Deleted by amendment.)

Sec. 32.3. NRS 281A.160 is hereby amended to read as follows:

281A.160 1. "Public officer" means a person ~~[elected]~~ *who is:*

(a) Elected or appointed to a position which:

~~1.1~~ (1) Is established by the Constitution of the State of Nevada, a statute of this State or a charter or ordinance of any county, city or other political subdivision; and

~~1.2~~ (2) Involves the exercise of a public power, trust or duty ~~for~~ *; or*

(b) Designated as a public officer for the purposes of this chapter pursuant to section 24.5 of this act.

2. As used in this section, "the exercise of a public power, trust or duty" means:

~~1.1~~ (a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;

~~1.2~~ (b) The expenditure of public money; and

~~1.3~~ (c) The administration of laws and rules of the State or any county, city or other political subdivision.

~~1.4~~ 3. "Public officer" does not include:

(a) Any justice, judge or other officer of the court system;

(b) Any member of a board, commission or other body whose function is advisory;

(c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or

(d) A county health officer appointed pursuant to NRS 439.290.

~~1.5~~ 4. "Public office" does not include an office held by:

- (a) Any justice, judge or other officer of the court system;
- (b) Any member of a board, commission or other body whose function is advisory;
- (c) Any member of a special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district's money; or
- (d) A county health officer appointed pursuant to NRS 439.290.

Sec. 32.5. NRS 281A.170 is hereby amended to read as follows:

281A.170 "Willful violation" means a violation where ~~(the)~~ :

1. The public officer or employee:

- ~~(1)~~ (a) Acted intentionally and knowingly; or
- ~~(2)~~ (b) Was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by this chapter ~~(1)~~ ;

and

2. The Commission determines, after applying the factors set forth in section 27.5 of this act, that the public officer's or employee's act or failure to act resulted in a sanctionable violation of this chapter.

Sec. 33. NRS 281A.200 is hereby amended to read as follows:

281A.200 1. The Commission on Ethics, consisting of eight members, is hereby created.

2. The Legislative Commission shall appoint to the Commission four residents of the State, at least two of whom ~~(are)~~ must be former public officers ~~(1)~~ or employees, and at least one of whom must be an attorney licensed to practice law in this State.

3. The Governor shall appoint to the Commission four residents of the State, at least two of whom must be former public officers or ~~(public)~~ employees, and at least one of whom must be an attorney licensed to practice law in this State.

4. Not more than four members of the Commission may be members of the same political party. Not more than four members *of the Commission* may be residents of the same county.

5. None of the members of the Commission may, while the member is serving on the Commission:

- (a) Hold another public office;
- (b) Be actively involved in the work of any political party or political campaign; or
- (c) Communicate directly with a State Legislator or a member of a local legislative body on behalf of someone other than himself or herself or the Commission, for compensation, to influence:

(1) The State Legislator with regard to introducing or voting upon any matter or taking other legislative action; or

(2) The member of the local legislative body with regard to introducing or voting upon any ordinance or resolution, taking other legislative action or voting upon:

- (I) The appropriation of public money;
- (II) The issuance of a license or permit; or
- (III) Any proposed subdivision of land or special exception or variance from zoning regulations.

6. After the initial terms, the terms of the members are 4 years. Any vacancy in the membership must be filled by the appropriate appointing authority for the unexpired term. Each member may serve no more than two consecutive full terms.

Sec. 34. NRS 281A.240 is hereby amended to read as follows:

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

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

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

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

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

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that the Executive Director is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

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

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

(a) The administration of the affairs of the Commission; and

(b) The investigation of matters under the jurisdiction of the Commission.

3. *If the Executive Director is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Chair of the Commission shall designate a qualified person to perform the duties of the Executive Director with regard to that particular matter.*

Sec. 35. NRS 281A.260 is hereby amended to read as follows:

281A.260 1. The Commission Counsel is the legal adviser to the Commission. For each opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission, the appropriate findings of fact and conclusions as to relevant standards and the propriety of particular conduct. ~~[within the time set forth in subsection 6 of NRS 281A.440.]~~ The Commission Counsel shall not issue written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission.

2. The Commission may rely upon the legal advice of the Commission Counsel in conducting its daily operations.

3. If the Commission Counsel is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Commission may:

(a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or

(b) Employ outside legal counsel.

Sec. 36. NRS 281A.270 is hereby amended to read as follows:

281A.270 1. Each county whose population is 10,000 or more and each city whose population is 15,000 or more and that is located within such a county shall pay an assessment for the costs incurred by the Commission each biennium in carrying out its functions pursuant to this chapter. The total amount of money to be derived from assessments paid pursuant to this subsection for a biennium must be determined by the Legislature in the legislatively approved budget of the Commission for that biennium. The assessments must be apportioned among each such city and county based on the proportion that the total population of the city or the total population of the unincorporated area of the county bears to the total population of all such cities and the unincorporated areas of all such counties in this State.

2. On or before July 1 of each odd-numbered year, the Executive Director shall, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, determine for the next ensuing biennium the amount of the assessments due for each city and county that is required to pay an assessment pursuant to subsection 1. The assessments must be paid to the Commission in semiannual installments that are due on or before August 1 and February 1 of each year of the biennium. The Executive Director shall send out a billing statement to each such city or county which states the amount of the semiannual installment payment due from the city or county.

3. Any money that the Commission receives pursuant to subsection 2:

(a) Must be deposited in the State Treasury, accounted for separately in the State General Fund and credited to the budget account for the Commission;

(b) May only be used to carry out the provisions of this chapter and only to the extent authorized for expenditure by the Legislature; ~~and~~

(c) Does not revert to the State General Fund at the end of any fiscal year ~~+~~; and

(d) Does not revert to a city or county if:

(1) *The actual expenditures by the Commission are less than the amount of the assessments approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period; or*

(2) *The budget of the Commission is modified after the amount of the assessments has been approved by the Legislature pursuant to subsection 1 and the city or county has already remitted its semiannual installment to the Commission for the billing period.*

4. If any installment payment is not paid on or before the date on which it is due, the Executive Director shall make reasonable efforts to collect the delinquent payment. If the Executive Director is not able to collect the arrearage, the Executive Director shall submit a claim for the amount of the unpaid installment payment to the Department of Taxation. If the Department of Taxation receives such a claim, the Department shall deduct the amount of the claim from money that would otherwise be allocated from the Local Government Tax Distribution Account to the city or county that owes the installment payment and shall transfer that amount to the Commission.

5. As used in this section, "population" means the current population estimate for that city or county as determined and published by the Department of Taxation and the demographer employed pursuant to NRS 360.283.

Sec. 37. NRS 281A.290 is hereby amended to read as follows:

281A.290 The Commission shall:

1. Adopt procedural regulations ~~that are necessary and proper to carry out the provisions of this chapter, including, without limitation:~~

- (a) To facilitate the receipt of inquiries by the Commission;
- (b) For the filing of a request for an opinion with the Commission;
- (c) For the withdrawal of a request for an opinion by the person who filed the request; and
- (d) To facilitate the prompt rendition of opinions by the Commission.

2. Prescribe, by regulation, forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. Inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

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

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

~~(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;~~

~~(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and~~

~~(c) An abstract of~~ explains the requirements of this chapter.

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

Sec. 38. NRS 281A.300 is hereby amended to read as follows:

281A.300 1. The Chair and Vice Chair of the Commission may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of books and papers. Upon the request of the Executive Director or the public officer or ~~public~~ employee who is the subject of a request for an opinion, the Chair or, in the Chair's absence, the Vice Chair, may issue a subpoena to compel the attendance of a witness and the production of books and papers. *A public officer or employee who requests the issuance of a subpoena pursuant to this subsection must serve the subpoena in the manner provided in the Nevada Rules of Civil Procedure for service of subpoenas in a civil action and must pay the costs of such service.*

3. Before issuing a subpoena to a public officer or ~~public~~ employee who is the subject of a request for an opinion ~~to compel his or her attendance as a witness or his or her production of books or papers,~~ the Executive Director shall submit a written request to the public officer or ~~public~~ employee requesting:

- (a) The appearance of the public officer or ~~public~~ employee as a witness; or
- (b) The production by the public officer or ~~public~~ employee of any books and papers relating to the request for an opinion.

4. Each written request submitted by the Executive Director pursuant to subsection 3 must specify the time and place for the attendance of the public officer or ~~public~~ employee or the production of any books and papers, and designate with certainty the books and papers requested, if any. If the public officer or ~~public~~ employee fails or refuses to attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the request, the Chair may issue the subpoena. Failure of the public officer or ~~public~~ employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or ~~public~~ employee of the time set forth in subsections 4, 5 and 6 of NRS 281A.440.

5. If any witness refuses to attend, testify or produce any books and papers as required by the subpoena, the Chair of the Commission may report to the district court by petition, setting forth that:

- (a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;
- (b) The witness has been subpoenaed by the Commission pursuant to this section; and
- (c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission, or has refused to answer questions propounded to the witness, and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

6. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why the witness has not attended, testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

7. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission, at the time and place fixed in the order, and testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 40.3. NRS 281A.400 is hereby amended to read as follows:

281A.400 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

1. A public officer or employee shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in the public officer's or employee's position to depart from the faithful and impartial discharge of the public officer's or employee's public duties.

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. As used in this subsection ~~the~~:

~~(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281A.420.~~

~~(b) "Unwarranted", "unwarranted" means without justification or adequate reason.~~

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any business entity in which the public officer or employee has a significant pecuniary interest.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of the public officer's or employee's duties as a public officer or employee.

5. If a public officer or employee acquires, through the public officer's or employee's public duties or relationships, any information which by law or practice is not at the time available to people generally, the public officer or employee shall not use the information to further ~~the~~ *a significant pecuniary interest* of the public officer or employee or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other official document because it might tend to affect unfavorably ~~the public officer's or employee's~~ *a significant pecuniary interest* of the public officer or employee.

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee shall not use governmental time, property, equipment or other facility to benefit ~~the public officer's or employee's~~ *a significant personal or financial pecuniary interest* of the public officer or employee. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer or employee who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

➤ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A State Legislator shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of the State Legislator or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of the State Legislator's public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the State Legislator or legislative employee to perform that person's official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit ~~the public officer's or employee's~~ *a significant personal or financial pecuniary interest* of the public officer or employee through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of the public officer's or employee's official position.

Sec. 40.5. NRS 281A.410 is hereby amended to read as follows:

281A.410 In addition to the requirements of the code of ethical standards ~~and the other provisions of this chapter:~~

1. If a public officer or employee serves in a state agency of the Executive Department or an agency of any county, city or other political subdivision, the public officer or employee:

(a) Shall not accept compensation from any private person to represent or counsel the private person on any issue pending before the agency in which that public officer or employee serves, if the agency makes decisions; and

(b) If the public officer or employee leaves the service of the agency, shall not, for 1 year after leaving the service of the agency, represent or counsel for compensation a private person upon any issue which was under consideration by the agency during the public officer's or employee's service. As used in this paragraph, "issue" includes a case, proceeding, application, contract or determination, but does not include the proposal or consideration of legislative measures or administrative regulations.

2. ~~Any~~ Except as otherwise provided in subsection 3, a State Legislator or a member of a local legislative body, or a public officer or employee whose public service requires less than half of his or her time, may represent or counsel a private person before an agency in which he or she does not serve. ~~Any other~~

3. *A member of a local legislative body shall not represent or counsel a private person for compensation before another local agency if the territorial jurisdiction of the other local agency includes any part of the county in which the member serves. The Commission may relieve the member from the strict application of the provisions of this subsection if:*

(a) The member requests an opinion from the Commission pursuant to subsection 1 of NRS 281A.440; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each local agency affected by the matter; and

(3) The provisions of this chapter.

4. *Unless permitted by this section, a* public officer or employee shall not represent or counsel a private person for compensation before any state agency of the Executive or Legislative Department.

~~2. 5.~~ Not later than January 15 of each year, *if* any State Legislator, *member of a local legislative body* or other public officer ~~who~~ *permitted by this section* has, within the preceding year, represented or counseled a private person for compensation before a state agency of the Executive Department, *he or she* shall disclose for each such representation or counseling during the previous calendar year:

(a) The name of the client;

(b) The nature of the representation; and

(c) The name of the state agency.

~~4. 6.~~ The disclosure required by subsection ~~2. 5~~ must be made in writing and filed with the Commission on a form prescribed by the Commission. For the purposes of this subsection, the disclosure is timely filed if, on or before the last day for filing, the disclosure is filed in one of the following ways:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the disclosure with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the disclosure with the third-party commercial carrier.

(d) *Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.*

~~5. 7.~~ The Commission shall retain a disclosure filed pursuant to ~~subsections 3 and 4~~ *this section* for 6 years after the date on which the disclosure was filed.

Sec. 41. NRS 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

(a) Regarding which the public officer or employee has accepted a gift or loan;
 (b) In which the public officer or employee has a *significant* pecuniary interest; or
 (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the ~~interest of others,~~ *interests of another person,*
 without disclosing ~~sufficient~~ information concerning the gift ~~or~~ loan, *significant pecuniary interest or commitment in a private capacity to the interests of the person that is sufficient* to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's *significant* pecuniary interest, or upon the ~~persons,~~ *person* to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

2. The provisions of subsection 1 do not require a public officer to disclose:

(a) Any campaign contributions that the public officer reported in a timely manner pursuant to NRS 294A.120 or 294A.125; or
 (b) Any contributions to a legal defense fund that the public officer reported in a timely manner pursuant to NRS 294A.286.

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

(a) The public officer's acceptance of a gift or loan;
 (b) The public officer's *significant* pecuniary interest; or
 (c) The public officer's commitment in a private capacity to the interests of ~~others,~~ *another person.*

4. In interpreting and applying the provisions of subsection 3:

(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's *acceptance of a gift or loan, significant* pecuniary interest or ~~the public officer's~~ commitment in a private capacity to the interests of ~~others,~~ *another person* where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of ~~others,~~ *another person*, accruing to the other ~~persons,~~ *person*, is not greater than that accruing to any other member of ~~the~~ any general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the *acceptance of a gift or loan, significant* pecuniary interest or commitment in a private capacity to the interests of ~~others,~~ *another person.*

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, ~~the public officer's~~ *significant* pecuniary interest or ~~the public officer's~~ commitment in a private capacity to the interests of ~~others,~~ *another person* in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, ~~the public officer's~~ *significant* pecuniary interest or ~~the public officer's~~ commitment in a private capacity to the interests of ~~others,~~ *another person.*

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that the public officer will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

6. The provisions of this section do not, under any circumstances:

(a) Prohibit a member of a local legislative body from requesting or introducing a legislative measure; or

(b) Require a member of a local legislative body to take any particular action before or while requesting or introducing a legislative measure.

7. The provisions of this section do not, under any circumstances, apply to State Legislators or allow the Commission to exercise jurisdiction or authority over State Legislators. The responsibility of a State Legislator to make disclosures concerning gifts, loans, interests or commitments and the responsibility of a State Legislator to abstain from voting upon or advocating the passage or failure of a matter are governed by the Standing Rules of the Legislative Department of State Government which are adopted, administered and enforced exclusively by the appropriate bodies of the Legislative Department of State Government pursuant to Section 6 of Article 4 of the Nevada Constitution.

8. As used in this section ~~the~~:

(a) ~~"Commitment in a private capacity to the interests of others" means a commitment to a person:~~

(1) ~~Who is a member of the public officer's or employee's household;~~

(2) ~~Who is related to the public officer or employee by blood, adoption or marriage within the third degree of consanguinity or affinity;~~

(3) ~~Who employs the public officer or employee or a member of the public officer's or employee's household;~~

(4) ~~With whom the public officer or employee has a substantial and continuing business relationship; or~~

(5) ~~Any other commitment or relationship that is substantially similar to a commitment or relationship described in subparagraphs (1) to (4), inclusive, of this paragraph.~~

(b) ~~"Public," "public officer" and "public employee" do not include a State Legislator.~~

Sec. 42. (Deleted by amendment.)

Sec. 42.5. NRS 281A.430 is hereby amended to read as follows:

281A.430 1. Except as otherwise provided in this section and NRS ~~(281A.530)~~ 218A.970 and 332.800, a public officer or employee shall not bid on or enter into a contract between ~~the governmental~~ an agency and any business entity in which the public officer or employee has a significant pecuniary interest.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with ~~(any governmental)~~ an agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with ~~(a governmental)~~ an agency, or may benefit financially or otherwise from a contract between ~~(a governmental)~~ an agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. ~~(A) Except as otherwise provided in subsection 2, 3 or 5, a public officer or employee, other than a public officer or employee described in subsection 2 or 3, may bid on or enter into a contract with (a governmental) an agency if:~~

(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;

(b) The sources of supply are limited;

(c) The public officer or employee has not taken part in developing the contract plans or specifications; and

(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.

➤ If a public officer who is authorized to bid on or enter into a contract with ~~a governmental~~ an agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.

5. A member of a local legislative body shall not, either individually or through any business entity in which the member has a significant pecuniary interest, sell goods or services to the local agency governed by his or her local legislative body unless:

(a) The member, or the business entity in which the member has a significant pecuniary interest, offers the sole source of supply of the goods or services within the territorial jurisdiction of the local agency governed by his or her local legislative body;

(b) The local legislative body includes in the public notice and agenda for the meeting at which it will consider the purchase of such goods or services a clear and conspicuous statement that it is considering purchasing such goods or services from one of its members, or from a business entity in which the member has a significant pecuniary interest;

(c) At the meeting, the member discloses his or her significant pecuniary interest in the purchase of such goods or services and does not vote upon or advocate the approval of the matter pursuant to the requirements of NRS 281A.420; and

(d) The local legislative body approves the purchase of such goods or services in accordance with all other applicable provisions of law.

6. The Commission may relieve a public officer or employee from the strict application of the provisions of this section if:

(a) The public officer or employee requests an opinion from the Commission pursuant to subsection 1 of NRS 281A.440; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each agency affected by the matter; and

(3) The provisions of this chapter.

Sec. 43. NRS 281A.440 is hereby amended to read as follows:

281A.440 1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances within 45 days after receiving a request, on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of the requester's own past, present or future conduct as ~~an~~ a public officer or employee, unless the public officer or employee waives the time limit. The public officer or employee may also request the Commission to hold a public hearing regarding the requested opinion. If a requested opinion relates to the propriety of the requester's own present or future conduct, the opinion of the Commission is:

(a) Binding upon the requester as to the requester's future conduct; and

(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.

2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

(a) Upon request from a specialized or local ethics committee.

(b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:

(1) The request on a form prescribed by the Commission; and

(2) All related evidence deemed necessary by the Executive Director and the investigatory panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.

(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.

➤ The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State.

3. Upon receipt of a request for an opinion by the Commission or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The Executive Director shall notify the public officer or employee who is the subject of the request and provide the public officer or employee an opportunity to submit to the Executive Director a response to the allegations against the public officer or employee within 30 days after the date on which the public officer or employee received the notice of the request. The purpose of the response is to provide the Executive Director with any information relevant to the request which the public officer or employee believes may assist the Executive Director and the investigatory panel in conducting the investigation. The public officer or employee is not required in the response or in any proceeding before the investigatory panel to assert, claim or raise any objection or defense, in law or fact, to the allegations against the public officer or employee and no objection or defense, in law or fact, is waived, abandoned or barred by the failure to assert, claim or raise it in the response or in any proceeding before the investigatory panel.

4. The Executive Director shall complete the investigation and present a *written* recommendation relating to just and sufficient cause, *including, without limitation, the specific evidence or reasons that support the recommendation*, to the investigatory panel within 70 days after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. ~~If, after the investigation, the Executive Director determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific evidence that supports the Executive Director's recommendation. If, after the investigation, the Executive Director determines that there is not just and sufficient cause for the Commission to render an opinion in the matter, the Executive Director shall state such a recommendation in writing, including, without limitation, the specific reasons for the Executive Director's recommendation.~~

5. Within 15 days after the Executive Director has provided the ~~[Executive Director's]~~ *written* recommendation in the matter to the investigatory panel ~~[pursuant to subsection 4,~~ the investigatory panel shall *conclude the investigation and* make a final determination regarding whether there is just and sufficient cause for the Commission to render an opinion in the matter, unless the public officer or employee waives this time limit. The investigatory panel shall not determine that there is just and sufficient cause for the Commission to render an opinion in the matter unless the Executive Director has provided the public officer or employee an opportunity to respond to the allegations against the public officer or employee as required by subsection 3. The investigatory panel shall cause a record of its proceedings in each matter to be kept. ~~[and such a record must remain confidential until the investigatory panel determines whether there is just and sufficient cause for the Commission to render an opinion in the matter.]~~

6. If the investigatory panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter, the Commission shall hold a hearing and render an opinion in the matter within 60 days after the determination of just and sufficient cause by the investigatory panel, unless the public officer or employee waives this time limit.

7. Each request for an opinion that a public officer or employee submits to the Commission pursuant to subsection 1, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the public officer or employee who requested the opinion:

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

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

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

8. Except as otherwise provided in ~~[this]~~ subsection ~~[, each document]~~ 9, all information, communications, records, documents or other material in the possession of the Commission or its staff that is related to a request for an opinion regarding a public officer or employee submitted to or initiated by the Commission pursuant to subsection 2, including, without limitation, ~~[the Commission's copy of the request and all materials and information gathered in an investigation of the request, is]~~ the record of the proceedings of the investigatory panel made pursuant to subsection 5, are confidential and not public records pursuant to chapter 239 of NRS until ~~[the]~~:

(a) The investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter ~~[The]~~ and serves written notice of such a determination on the public officer or employee who is the subject of the request for an opinion submitted or initiated pursuant to subsection 2; or

(b) The public officer or employee who is the subject of a request for an opinion submitted or initiated pursuant to subsection 2 ~~[may in writing authorize]~~ authorizes the Commission in writing to make its ~~[files, material and]~~ information, communications, records, documents or other material which are related to the request publicly available ~~[,]~~.

↪ whichever occurs first.

9. Except as otherwise provided in ~~[paragraphs (a) and (b), the proceedings of the investigatory panel are]~~ this section, the investigative file of the Commission is confidential. ~~[until]~~ At any time after being served with written notice of the determination of the investigatory panel ~~[determines whether there is]~~ regarding the existence of just and sufficient cause for the Commission to render an opinion in the matter ~~[A person who]~~:

~~(a) Requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 may:~~

~~(1) At any time, reveal to a third party the alleged conduct of a public officer or employee underlying the request that the person filed with the Commission or the substance of testimony, if any, that the person gave before the Commission.~~

~~(2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person requested an opinion from the Commission.~~

~~(b) Gives testimony before the Commission may:~~

~~(1) At any time, reveal to a third party the substance of testimony that the person gave before the Commission.~~

~~(2) After the investigatory panel determines whether there is just and sufficient cause to render an opinion in the matter, reveal to a third party the fact that the person gave testimony before the Commission.]~~, the public officer or employee who is the subject of the request for an opinion may submit a written discovery request to the Commission for a copy of any portion of the investigative file that the Commission intends to present for consideration as evidence in rendering an opinion in the matter and a list of proposed witnesses. Any portion of the investigative file which the Commission presents as evidence in rendering an opinion in the matter becomes a public record as provided in chapter 239 of NRS.

10. Whenever the Commission holds a hearing pursuant to this section, the Commission shall:

(a) Notify the person about whom the opinion was requested of the place and time of the Commission's hearing on the matter;

(b) Allow the person to be represented by counsel; and

(c) Allow the person to hear the evidence presented to the Commission and to respond and present evidence on the person's own behalf.

↪ The Commission's hearing may be held no sooner than 10 days after the notice is given unless the person agrees to a shorter time.

11. If a person who is not a party to a hearing before the Commission, including, without limitation, a person who has requested an opinion pursuant to paragraph (a) or (b) of subsection 2, wishes to ask a question of a witness at the hearing, the person must submit the

question to the Executive Director in writing. The Executive Director may submit the question to the Commission if the Executive Director deems the question relevant and appropriate. This subsection does not require the Commission to ask any question submitted by a person who is not a party to the proceeding.

12. If a person who requests an opinion pursuant to subsection 1 or 2 does not:

(a) Submit all necessary information to the Commission; and

(b) Declare by oath or affirmation that the person will testify truthfully,

→ the Commission may decline to render an opinion.

13. For good cause shown, the Commission may take testimony from a person by telephone or video conference.

14. For the purposes of NRS 41.032, the members of the Commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking an action related to the rendering of an opinion pursuant to this section.

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

16. *For the purposes of this section, the investigative file of the Commission which relates to a request for an opinion regarding a public officer or employee includes, without limitation, any information obtained by the Commission through any form of communication during the course of an investigation and any records, documents or other material created or maintained during the course of an investigation which relate to the public officer or employee who is the subject of the request for an opinion, regardless of whether such information, records, documents or other material are obtained by a subpoena.*

Sec. 44. NRS 281A.470 is hereby amended to read as follows:

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

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

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

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

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

(2) Upon review, approved by the Secretary of State. *The Secretary of State shall not approve the form unless the form contains all the information required to be included in a statement of financial disclosure pursuant to NRS 281.571.*

2. *The Secretary of State is not responsible for the costs of producing or distributing a form for filing a statement of financial disclosure pursuant to the provisions of subsection 1.*

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

~~{3-}~~ 4. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

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

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

Sec. 45. NRS 281A.480 is hereby amended to read as follows:

281A.480 1. In addition to any other penalties provided by law ~~and~~ *and in accordance with the provisions of section 27.5 of this act*, the Commission may impose on a public officer or employee or former public officer or employee civil penalties:

- (a) Not to exceed \$5,000 for a first willful violation of this chapter;
- (b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter; and
- (c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter.

2. In addition to any other penalties provided by law, the Commission may, *upon its own motion or upon the motion of the person about whom an opinion was requested pursuant to NRS 281A.440*, impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS 281A.440 against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

3. If the Commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization of a financial benefit by the current or former public officer or employee or another person, the Commission may, in addition to any other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. In addition to any other penalties provided by law, if a proceeding results in an opinion that:

(a) One or more willful violations of this chapter have been committed by a State Legislator removable from office only through expulsion by the State Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, the Commission shall:

(1) If the State Legislator is a member of the Senate, submit the opinion to the Majority Leader of the Senate or, if the Majority Leader of the Senate is the subject of the opinion or the person who requested the opinion, to the President pro Tempore of the Senate; or

(2) If the State Legislator is a member of the Assembly, submit the opinion to the Speaker of the Assembly or, if the Speaker of the Assembly is the subject of the opinion or the person who requested the opinion, to the Speaker pro Tempore of the Assembly.

(b) One or more willful violations of this chapter have been committed by a state officer removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution, the Commission shall submit the opinion to the Speaker of the Assembly and the Majority Leader of the Senate or, if the Speaker of the Assembly or the Majority Leader of the Senate is the person who requested the opinion, to the Speaker pro Tempore of the Assembly or the President pro Tempore of the Senate, as appropriate.

(c) One or more willful violations of this chapter have been committed by a public officer other than a public officer described in paragraphs (a) and (b), the willful violations shall be deemed to be malfeasance in office for the purposes of NRS 283.440 and the Commission:

(1) May file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed fewer than three willful violations of this chapter.

(2) Shall file a complaint in the appropriate court for removal of the public officer pursuant to NRS 283.440 when the public officer is found in the opinion to have committed three or more willful violations of this chapter.

➤ This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation found in the opinion.

5. ~~[An action taken]~~ *Notwithstanding any other provision of this chapter, any act or failure to act* by a public officer or employee or former public officer or employee relating to this chapter is not a willful violation of ~~[a provision of]~~ *[these sections]* this chapter if the public officer or employee establishes by sufficient evidence that ~~the public officer or employee satisfied all of the following requirements:~~

(a) The public officer or employee relied in good faith upon the advice of the legal counsel retained by ~~the~~ *his or her* public body ~~[which the public officer represents or by the]~~ , agency

or employer ; ~~for the public employee or upon the manual published by the Commission pursuant to NRS 281A.290;~~

~~(b) The public officer or employee was unable, through no fault of the public officer or employee, to obtain an opinion from the Commission before the action was taken;~~ and

~~((c)) (b) The act or failure to act by the public officer or employee took action that~~ was not contrary to a prior published opinion issued by the Commission.

6. In addition to any other penalties provided by law, a public employee who commits a willful violation of this chapter is subject to disciplinary proceedings by the employer of the public employee and must be referred for action in accordance to the applicable provisions governing the employment of the public employee.

7. The provisions of this chapter do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review pursuant to NRS 233B.130.

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

Sec. 46. NRS 281A.500 is hereby amended to read as follows:

281A.500 1. *On or before the date on which a public officer swears or affirms the oath of office, the public officer must be informed of the statutory ethical standards and the duty to file an acknowledgment of the statutory ethical standards in accordance with this section by:*

(a) For an appointed public officer, the appointing authority of the public officer; and

(b) For an elected public officer of:

(1) The county and other political subdivisions within the county except cities, the county clerk;

(2) The city, the city clerk;

(3) The Legislative Department of the State Government, the Director of the Legislative Counsel Bureau; and

(4) The Executive Department of the State Government, the Director of the Department of Administration, or his or her designee.

2. Within 30 days after a public employee begins employment:

(a) The Director of the Department of Administration, or his or her designee, shall provide each new public employee of a state agency with the information prepared by the Commission concerning the statutory ethical standards; and

(b) The manager of each local agency, or his or her designee, shall provide each new public employee of the local agency with the information prepared by the Commission concerning the statutory ethical standards.

3. Each public officer shall acknowledge that the public officer:

(a) Has received, read and understands the statutory ethical standards; and

(b) Has a responsibility to inform himself or herself of any amendments to the statutory ethical standards as soon as reasonably practicable after each session of the Legislature.

~~{2-}~~ 4. The acknowledgment must be executed on a form prescribed by the Commission and must be filed with the Commission:

(a) If the public officer is elected to office at the general election, on or before January 15 of the year following the public officer's election.

(b) If the public officer is elected to office at an election other than the general election or is appointed to office, on or before the 30th day following the date on which the public officer takes office.

~~{3-}~~ 5. Except as otherwise provided in this subsection, a public officer shall execute and file the acknowledgment once for each term of office. If the public officer serves at the pleasure of the appointing authority and does not have a definite term of office, the public officer, in

addition to executing and filing the acknowledgment after the public officer ~~{takes}~~ *swears or affirms the oath of office* in accordance with subsection ~~{2,}~~ 4, shall execute and file the acknowledgment on or before January 15 of each even-numbered year while the public officer holds that office.

~~{4,}~~ 6. For the purposes of this section, the acknowledgment is timely filed if, on or before the last day for filing, the acknowledgment is filed in one of the following ways:

(a) Delivered in person to the principal office of the Commission in Carson City.

(b) Mailed to the Commission by first-class mail, or other class of mail that is at least as expeditious, postage prepaid. Filing by mail is complete upon timely depositing the acknowledgment with the United States Postal Service.

(c) Dispatched to a third-party commercial carrier for delivery to the Commission within 3 calendar days. Filing by third-party commercial carrier is complete upon timely depositing the acknowledgment with the third-party commercial carrier.

~~{5,}~~ (d) *Transmitted to the Commission by facsimile machine or other electronic means authorized by the Commission. Filing by facsimile machine or other electronic means is complete upon receipt of the transmission by the Commission.*

7. The form for making the acknowledgment must contain:

(a) The address of the Internet website of the Commission where a public officer may view the statutory ethical standards and print a ~~{hard}~~ copy ~~{,}~~ *of the standards*; and

(b) The telephone number and mailing address of the Commission where a public officer may make a request to obtain a ~~{hard}~~ *printed* copy of the statutory ethical standards from the Commission.

~~{6,}~~ 8. Whenever the Commission, or any public officer or employee as part of the public officer's or employee's official duties, provides a public officer with a ~~{hard}~~ *printed* copy of the form for making the acknowledgment, a ~~{hard}~~ *printed* copy of the statutory ethical standards must be included with the form.

~~{7,}~~ 9. The Commission shall retain each acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

~~{8,}~~ 10. Willful refusal to execute and file the acknowledgment required by this section shall be deemed to be:

(a) A willful violation of this chapter for the purposes of NRS 281A.480; and

(b) Nonfeasance in office for the purposes of NRS 283.440 and, if the public officer is removable from office pursuant to NRS 283.440, the Commission may file a complaint in the appropriate court for removal of the public officer pursuant to that section. This paragraph grants an exclusive right to the Commission, and no other person may file a complaint against the public officer pursuant to NRS 283.440 based on any violation of this section.

~~{9,}~~ 11. As used in this section, "general election" has the meaning ascribed to it in NRS 293.060.

Sec. 47. (Deleted by amendment.)

Sec. 48. (Deleted by amendment.)

Sec. 49. (Deleted by amendment.)

Sec. 50. (Deleted by amendment.)

Sec. 51. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. (Deleted by amendment.)

Sec. 56. (Deleted by amendment.)

Sec. 56.5. (Deleted by amendment.)

Sec. 57. NRS 245.075 is hereby amended to read as follows:

245.075 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~{, 281A.530}~~ and 332.800, it is unlawful for any county officer, *directly or indirectly*, to be interested in any contract made by the county officer or *to* be a purchaser or ~~{be}~~ interested in any purchase of a sale made by the county officer in the discharge of his or her official duties.

2. Any contract made in violation of ~~[subsection 1]~~ *this section* may be declared void at the instance of the county interested or of any other person interested in the contract except the officer prohibited from making or being interested in the contract.

3. Any person ~~[violating]~~ *who violates* this section ~~[, directly or indirectly,]~~ is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 58. NRS 268.384 is hereby amended to read as follows:

268.384 1. Except as otherwise provided in NRS 281.230, 281A.430 ~~[, 281A.530]~~ and 332.800, it is unlawful for any city officer ~~[,]~~ *directly or indirectly*, to be interested in any contract made by the city officer ~~[,]~~ or to be a purchaser or interested ~~[, directly or indirectly,]~~ in any purchase of a sale made by the city officer in the discharge of *his or her* official duties.

2. Any person ~~[violating]~~ *who violates* this section is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 59. NRS 269.071 is hereby amended to read as follows:

269.071 1. ~~[H]~~ *Except as otherwise provided in NRS 281.230, 281A.430 and 332.800, it is* unlawful for any member of a town board or board of county commissioners acting for any town to become a contractor under any contract or order for supplies or any other kind of contract authorized by or for the board of which he or she is a member, or to be interested, directly or indirectly, as principal ~~[,]~~ in any kind of contract so authorized.

2. Any person ~~[violating subsection 1]~~ *who violates this section* is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 60. NRS 269.072 is hereby amended to read as follows:

269.072 1. ~~[H]~~ *Except as otherwise provided in NRS 281.230, 281A.430 and 332.800, it is* unlawful for any town officer, directly or indirectly, to be interested in any contract made by the town officer ~~[,]~~ or *to* be a purchaser or ~~[be]~~ interested in any purchase under a sale made by the town officer in the discharge of *his or her* official duties.

2. Any person ~~[violating subsection 1]~~ *who violates this section* is guilty of a gross misdemeanor and shall forfeit his or her office.

Sec. 61. NRS 332.800 is hereby amended to read as follows:

332.800 1. Except as otherwise provided in NRS 281.230 ~~[,]~~ *and* 281A.430 ~~[, and 281A.530,]~~ a member of the governing body may not be interested, directly or indirectly, in any contract entered into by the governing body, but the governing body may purchase supplies, not to exceed \$1,500 in the aggregate in any 1 calendar month ~~[,]~~ *from* a member of such governing body ~~[,]~~ when not to do so would be of great inconvenience due to a lack of any other local source.

2. An evaluator may not be interested, directly or indirectly, in any contract awarded by such governing body or its authorized representative.

3. A member of a governing body who furnishes supplies in the manner permitted by subsection 1 may not vote on the allowance of the claim for such supplies.

4. A ~~[violation of]~~ *person who violates* this section is *guilty of* a misdemeanor and, in the case of a member of a governing body, *a violation is* cause for removal from office.

Sec. 62. NRS 281A.530 is hereby repealed.

~~[Sec. 57.]~~ *Sec. 63. [This]*

1. Except as otherwise provided in subsection 2, this act becomes effective upon passage and approval.

2. Sections 16.3, 16.5, 24.5, 32.3, 40.5, 42.5 and 57 to 62, inclusive, of this act become effective on January 1, 2014.

TEXT OF REPEALED SECTION

281A.530 Purchase of goods or services by local government from member of governing body not unlawful or unethical; conditions. The purchase of goods or services by a local government upon a two-thirds vote of its governing body from a member of the governing body who is the sole source of supply within the area served by the governing body is not unlawful or unethical if the public notice of the meeting specifically mentioned that such a purchase would be discussed.

DAVID PARKS
PAT SPEARMAN
JOSEPH HARDY

Senate Conference Committee

JAMES OHRENSCHALL
SKIP DALY
JAMES OSCARSON
Assembly Conference Committee

Senator Spearman moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 228.

Motion carried by a constitutional majority.

Senator Denis moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 8:18 p.m.

SENATE IN SESSION

At 9:15 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Senate Bill No. 200; Assembly Bills Nos. 335, 461, 462, 463, 466, 467, 468, 469, 470, 474, 475, 477, 501, 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 Assembly Bill No. 7, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 325, 360, 367, 512, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

TICK SEGERBLOM, *Chair*

Mr. President:

Your Committee on Revenue and Economic Development, to which was referred Assembly Bill No. 506, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RUBEN J. KIHUEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 3, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 33, 503.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 406, Amendment No. 963, and respectfully requests your honorable body to concur in said amendment.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that for the remainder of the 77th Legislative Session, all necessary rules be suspended, that the reprinting of all bills be dispensed with, that the Secretary be authorized to insert the amendments adopted by the Senate, and that the bills be placed on the General File, and considered next.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 33.

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

Motion carried.

Assembly Bill No. 503.

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

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 425.

Bill read third time.

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

Amendment No. 967.

"SUMMARY—Revises the Nevada Insurance Code. (BDR 57-1156)"

"AN ACT relating to insurance; establishing certification provisions for certain enrollment facilitators by the Commissioner of Insurance; revising provisions relating to federal law and to conform with federal law; revising provisions relating to the general tax on insurance premiums; revising provisions relating to public inspection of information filed with the Commissioner; revising provisions relating to dental insurance; revising provisions relating to certain policies of health insurance and health care plans that provide coverage for the treatment of cancer through the use of chemotherapy; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-26 of this bill establish certification provisions for exchange enrollment facilitators, who will be certified by the Commissioner of Insurance and appointed as navigators or assisters by the Silver State Health Insurance Exchange as part of the requirement that the Exchange implement a state-based health insurance exchange pursuant to the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152. (NRS 695I.210) Section 119 of this bill repeals numerous sections of the Nevada Insurance Code (Title 57 of NRS) to conform to the federal acts, and sections 27-118 of this bill generally make

conforming changes based on the federal acts and on the repeal of those sections of NRS.

Section 31.5 of this bill revises a credit which may be used against an insurer's liability for the general tax on insurance premiums imposed pursuant to NRS 680B.027. Sections 32.1 and 32.8 of this bill revise provisions relating to contracts for coverage for dental care which are sold to small employers. Section 32.5 of this bill limits, for specified periods, public inspection of certain information filed with the Commissioner of Insurance.

Senate Bill No. 266 of this session establishes various provisions governing certain health care plans that provide coverage for the treatment of cancer through the use of chemotherapy. Sections 1, 3-5, 8 and 9 of Senate Bill No. 266 of this session prohibit those health care plans from requiring a copayment, deductible or coinsurance amount for orally administered chemotherapy in a combined amount that is more than \$100 per prescription. Sections 118.1 to 118.6 of this bill amend the corresponding provisions of Senate Bill No. 266 of this session to provide that the limit on the amount of the deductible that may be required does not apply if the plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the plan's annual deductible has not been satisfied.

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 26, inclusive, of this act.

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

Sec. 2.5. *"Appointment" means a contract, agreement or other arrangement under which a person may act on behalf of the Exchange as an assister, navigator or any other designation authorized or required by the Federal Act.*

Sec. 3. *"Assister" has the meaning ascribed to it by regulations adopted by the Board of Directors of the Exchange pursuant to NRS 695I.370.*

Sec. 4. *"Exchange" means the Silver State Health Insurance Exchange established by NRS 695I.200.*

Sec. 5. *"Exchange enrollment facilitator" means a person certified pursuant to this chapter who is engaged in the business of facilitating enrollment in qualified health plans offered by the Exchange.*

Sec. 6. *"Navigator" means a person or entity that meets the requirements of 45 C.F.R. § 155.210 and any other requirements of the Exchange.*

Sec. 7. *"Qualified health plan" has the meaning ascribed to it in NRS 695I.080.*

Sec. 8. 1. *The provisions of NRS 683A.341 and 683A.351 apply to exchange enrollment facilitators.*

2. For the purposes of subsection 1, unless the context requires that NRS 683A.341 or 683A.351 apply only to producers of insurance or insurers, any reference in those sections to "producer of insurance" or "insurer" must be replaced by a reference to "exchange enrollment facilitator."

Sec. 9. 1. An applicant for an initial certificate as an exchange enrollment facilitator must:

- (a) Be a natural person of not less than 18 years of age;
- (b) Apply on a form prescribed by the Commissioner;
- (c) Pass a written examination established by the Commissioner by regulation;
- (d) Successfully complete a course of instruction established by the Commissioner by regulation;
- (e) Submit fingerprints as required pursuant to section 10 of this act; and
- (f) Pay the nonrefundable:
 - (1) Application and certificate fee set forth in NRS 680B.010;
 - (2) Initial fee set forth in NRS 680C.110; and
 - (3) Additional fee of not more than \$15 for the processing of the application established pursuant to section 25 of this act.

2. The additional fee for the processing of applications pursuant to subparagraph (3) of paragraph (f) of subsection 1 must be deposited in the Insurance Recovery Account created pursuant to NRS 679B.305.

Sec. 10. 1. The Commissioner shall prescribe the form for application for a certificate as an exchange enrollment facilitator. The form must require the applicant to declare, under penalty of refusal to issue, or suspension or revocation of, the certificate of the applicant, that the statements made in the application are true, correct and complete to the best of his or her knowledge and belief.

2. Before approving an application, the Commissioner must find that the applicant:

- (a) Meets the requirements of section 9 of this act.
- (b) Has not committed any act that is a ground for refusal to issue, or suspension or revocation of a certificate pursuant to NRS 683A.451.
- (c) Paid all applicable fees prescribed pursuant to section 9 of this act.
- (d) Meets the requirements of subsections 3 and 5.

3. An applicant must, as part of his or her application and at the applicant's own expense:

- (a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Commissioner; and

(b) Submit to the Commissioner:

- (1) A completed fingerprint card and written permission authorizing the Commissioner to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background

and to such other law enforcement agencies as the Commissioner deems necessary; or

(2) Written verification, on a form prescribed by the Commissioner, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Commissioner deems necessary.

4. The Commissioner may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 3, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Commissioner deems necessary;

(b) Request from each such agency any information regarding the applicant's background as the Commissioner deems necessary; and

(c) Adopt regulations concerning the procedures for obtaining the information described in paragraph (b).

5. The Commissioner may require from the applicant any document reasonably necessary to verify information contained in an application.

6. Except as otherwise provided in section 23 of this act, a certificate issued pursuant to this chapter is valid for 3 years after the date of issuance unless it is suspended, revoked or otherwise terminated.

Sec. 11. 1. A person taking the examination required pursuant to section 9 of this act must apply to the Commissioner to take the examination and pay a nonrefundable fee in an amount prescribed in the regulations adopted pursuant to section 25 of this act.

2. A person who fails to appear for the examination as scheduled or fails to pass the examination must reapply for examination and pay the required fees in order to be scheduled for another examination.

Sec. 12. 1. A certificate may be renewed for an additional 3-year period by submitting to the Commissioner an application for renewal and:

(a) If the application is made:

(1) On or before the expiration date of the certificate, all applicable renewal fees and an additional fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account created pursuant to NRS 679B.305; or

(2) Except as otherwise provided in subsection 3:

(1) Not more than 30 days after the expiration date of the certificate, all applicable renewal fees plus any late fee required and an additional fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account created pursuant to NRS 679B.305; or

(II) More than 30 days but not more than 1 year after the expiration date of the certificate, all applicable renewal fees plus a penalty of twice all applicable renewal fees, except for any fee required pursuant to NRS 680C.110.

(b) Proof of the successful completion of appropriate courses of study required for renewal, as established by the Commissioner by regulation.

2. The fees specified in this section are not refundable.

3. An exchange enrollment facilitator who is unable to renew his or her certificate because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

Sec. 13. 1. An applicant for the issuance or renewal of a certificate to act as an exchange enrollment facilitator shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate; or

(b) A separate form prescribed by the Commissioner.

3. A certificate to act as an exchange enrollment facilitator may not be issued or renewed by the Commissioner if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 14. 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a certificate to act as an exchange enrollment facilitator, the Commissioner shall deem the certificate issued to that person to be suspended at the end of the 30th day after the date on which the court

order was issued unless the Commissioner receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a certificate to act as an exchange enrollment facilitator that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 15. The application of a natural person who applies for the issuance or renewal of a certificate as an exchange enrollment facilitator must include the social security number of the applicant.

Sec. 16. 1. A certificate issued pursuant to this chapter must state the certificate holder's name, address, personal identification number, the date of issuance and the date of expiration, and must contain any other information the Commissioner considers necessary. The certificate must be made available by the certificate holder for public inspection upon request.

2. A certificate holder shall inform the Commissioner of all locations from which he or she conducts business and of each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the date on which the change takes place. If a certificate holder changes his or her business or residence address without giving written notice and the Commissioner is unable to locate the certificate holder after diligent effort, the Commissioner may revoke the certificate without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the certificate holder at his or her last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 17. 1. If the Commissioner believes that a temporary certificate is necessary to carry on the business of facilitating selection of a qualified health plan, the Commissioner may issue a temporary certificate as an exchange enrollment facilitator for 180 days or less without requiring an examination to:

(a) The surviving spouse, personal representative or guardian of an exchange enrollment facilitator who dies or becomes incompetent, to allow adequate time for the sale of the business, the recovery or return of the exchange enrollment facilitator, or the training and certification of new personnel to operate the business;

(b) A member or employee of a business organization appointed by the Exchange, upon the death or disability of the natural person designated in its application or certificate;

(c) *The designee of an exchange enrollment facilitator entering active service in the Armed Forces of the United States; or*

(d) *A person in any other circumstance in which the Commissioner believes that the public interest will be best served by issuing the certificate.*

2. *The Commissioner may by order limit the authority of a person who holds a temporary certificate as the Commissioner believes necessary to protect persons insured and the public. The Commissioner may require the person who holds a temporary certificate to have a suitable sponsor who is an exchange enrollment facilitator and who assumes responsibility for all acts of the person who holds the temporary certificate, and may impose similar requirements to protect persons insured and the public. The Commissioner may order revocation of a temporary certificate if the interests of persons insured or the public are endangered. A temporary certificate expires when the owner or the personal representative or guardian of the owner disposes of the business.*

Sec. 18. *An entity other than a natural person that is appointed by the Exchange must require that each natural person who is authorized to act for the entity be an exchange enrollment facilitator. Each exchange enrollment facilitator must be named in the partnership's or corporation's appointment.*

Sec. 19. *An exchange enrollment facilitator:*

1. *May not concurrently hold a license as a producer of insurance, an insurance consultant or a surplus lines broker's license in any line.*

2. *Shall not:*

(a) *Sell, solicit or negotiate insurance;*

(b) *Receive any consideration, directly or indirectly, from any health insurance issuer or issuer of stop-loss insurance in connection with the enrollment of any individuals or employees in a qualified health plan or health insurance plan; or*

(c) *Employ, be employed by or be in partnership with, or receive any remuneration arising out of his or her activities as an exchange enrollment facilitator from, any licensed producer of insurance, insurance consultant or surplus lines broker or insurer.*

Sec. 20. *An exchange enrollment facilitator is obligated under his or her certificate to:*

1. *Serve with objectivity and complete loyalty the interests of his or her client; and*

2. *Render to his or her client information, counsel and service which, to the best of the exchange enrollment facilitator's knowledge, understanding and opinion, best serves the client's insurance needs and interests.*

Sec. 21. 1. *A nonresident who is an exchange enrollment facilitator shall appoint the Commissioner, in writing, as his or her registered agent upon whom may be served all legal process issued in connection with any action or proceeding brought or pending in this State against or involving the nonresident certificate holder and relating to transactions under his or her Nevada certificate. The appointment is irrevocable and remains in force*

so long as such an action or proceeding exists or may arise. Duplicate copies of process must be served upon the Commissioner, or other person in apparent charge of the Division during the Commissioner's absence, accompanied by payment of the fee for service of process. Promptly after any such service, the Commissioner shall forward a copy of the process by certified mail, return receipt requested, to the nonresident certificate holder at his or her business address of most recent record with the Division. Process so served and the copy so forwarded constitutes personal service upon the certificate holder for all purposes.

2. Each such nonresident certificate holder shall also file with the Commissioner a written agreement to appear before the Commissioner pursuant to notice of hearing, order to show cause or subpoena issued by the Commissioner and sent by certified mail to the certificate holder at his or her business address of most recent record with the Division, and that if the nonresident certificate holder fails to appear, the nonresident certificate holder thereby consents to any subsequent suspension, revocation or refusal to renew his or her certificate.

Sec. 22. 1. The Commissioner may place an exchange enrollment facilitator on probation, suspend his or her certificate for not more than 12 months, or revoke or refuse to renew his or her certificate, or may impose an administrative fine or take any combination of the foregoing actions, for one or more of the causes set forth in NRS 683A.451.

2. The provisions of NRS 683A.461 also apply to an exchange enrollment facilitator.

Sec. 23. 1. Upon the suspension, limitation or revocation of the certificate of an exchange enrollment facilitator, the Commissioner shall immediately notify the certificate holder in person or by mail addressed to the certificate holder at his or her most recent address of record with the Division. Notice by mail is effective when mailed.

2. Upon the suspension, limitation or revocation of the certificate of an exchange enrollment facilitator, the Commissioner shall immediately notify the Executive Director of the Exchange. Upon receipt of such notification, the Executive Director shall immediately terminate the certificate holder's appointment.

3. The Commissioner shall not again issue a certificate under this chapter to any natural person whose certificate has been revoked until at least 1 year after the revocation has become final, and thereafter not until the person again qualifies for a certificate under this chapter. A person whose certificate has been revoked twice is not eligible for any certificate under this title.

Sec. 24. 1. If an exchange enrollment facilitator fails to obtain an appointment by the Exchange within 30 days after the date on which the certificate was issued, the exchange enrollment facilitator's certificate expires and the exchange enrollment facilitator shall promptly deliver his or her certificate to the Commissioner.

2. *If the Exchange terminates an exchange enrollment facilitator's appointment, the exchange enrollment facilitator is prohibited from engaging in the business of an exchange enrollment facilitator under his or her certificate until such time as the exchange enrollment facilitator receives a new appointment by the Exchange. If the exchange enrollment facilitator does not obtain a new appointment by the Exchange within 30 days after the date the appointment was terminated, the exchange enrollment facilitator's certificate expires and the exchange enrollment facilitator shall promptly deliver his or her certificate to the Commissioner.*

3. *Except as otherwise provided in subsection 4, if the Exchange terminates the appointment of an entity other than a natural person:*

(a) The appointments of exchange enrollment facilitators named on the entity's appointment also terminate; and

(b) The exchange enrollment facilitator is prohibited from engaging in the business of an exchange enrollment facilitator under his or her certificate until such time as the exchange enrollment facilitator receives a new appointment by the Exchange. If the exchange enrollment facilitator does not obtain a new appointment by the Exchange within 30 days after the date on which the appointment was terminated, the exchange enrollment facilitator's certificate expires and the exchange enrollment facilitator shall promptly deliver his or her certificate to the Commissioner.

4. *The provisions of subsection 3 do not apply to any appointments the exchange enrollment facilitator may have individually or through an entity other than the terminated entity.*

5. *Upon the termination of an appointment for an entity or certificate holder, the Executive Director of the Exchange shall notify the Commissioner of the effective date of the termination and the grounds for termination.*

Sec. 25. 1. *The Commissioner shall adopt regulations:*

(a) For establishing and conducting an examination required by this chapter for the initial issuance and renewal of a certificate;

(b) For the establishment of a course of instruction as required by this chapter for the initial issuance and renewal of a certificate;

(c) Establishing the fee required by section 9 of this act for the processing of an application;

(d) Establishing the fee required by section 11 of this act for the administration of the examination; and

(e) For carrying out the provisions of this chapter.

2. *The Commissioner may contract with a person to perform functions required by this chapter, including, without limitation:*

(a) Administering examinations;

(b) Providing courses of instruction;

(c) Processing applications; and

(d) Collecting fees.

Sec. 26. 1. *No person may engage in the business of an exchange enrollment facilitator unless a certificate has been issued to the person by the Commissioner.*

2. *A person who violates subsection 1 is subject to an administrative fine of not more than \$1,000 for each act or violation.*

Sec. 27. Chapter 679A of NRS is hereby amended by adding thereto the provisions set forth as sections 28, 28.5 and 29 of this act.

Sec. 28. *"Federal Act" means the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to, or regulations or guidance issued pursuant to, those acts.*

Sec. 28.5. *"Grandfathered plan" means a health benefit plan that meets the requirements of 42 U.S.C. § 18011.*

Sec. 29. *"Rating characteristic" means age, family composition, tobacco use or geographic rating area.*

Sec. 30. NRS 679A.020 is hereby amended to read as follows:

679A.020 As used in this Code, unless the context otherwise requires, the words and terms defined in NRS 679A.030 to 679A.130, inclusive, and sections 28, 28.5 and 29 of this act have the meanings ascribed to them in those sections.

Sec. 31. NRS 680B.010 is hereby amended to read as follows:

680B.010 The Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, fees and miscellaneous charges as follows:

1. Insurer's certificate of authority:
 - (a) Filing initial application..... \$2,450
 - (b) Issuance of certificate:
 - (1) For any one kind of insurance as defined in NRS 681A.010 to 681A.080, inclusive 283
 - (2) For two or more kinds of insurance as so defined 578
 - (3) For a reinsurer 2,450
 - (c) Each annual continuation of a certificate..... 2,450
 - (d) Reinstatement pursuant to NRS 680A.180, 50 percent of the annual continuation fee otherwise required.
 - (e) Registration of additional title pursuant to NRS 680A.240 50
 - (f) Annual renewal of the registration of additional title pursuant to NRS 680A.240..... 25
2. Charter documents, other than those filed with an application for a certificate of authority. Filing amendments to articles of incorporation, charter, bylaws, power of attorney and other constituent documents of the insurer, each document..... \$10
3. Annual statement or report. For filing annual statement or report \$25
4. Service of process:

(a) Filing of power of attorney	\$5
(b) Acceptance of service of process.....	\$30
5. Licenses, appointments and renewals for producers of insurance:	
(a) Application and license.....	\$125
(b) Appointment fee for each insurer	15
(c) Triennial renewal of each license	125
(d) Temporary license	10
(e) Modification of an existing license.....	50
6. Surplus lines brokers:	
(a) Application and license.....	\$125
(b) Triennial renewal of each license	125
7. Managing general agents' licenses, appointments and renewals:	
(a) Application and license.....	\$125
(b) Appointment fee for each insurer	15
(c) Triennial renewal of each license	125
8. Adjusters' licenses and renewals:	
(a) Independent and public adjusters:	
(1) Application and license	\$125
(2) Triennial renewal of each license	125
(b) Associate adjusters:	
(1) Application and license	125
(2) Triennial renewal of each license	125
9. Licenses and renewals for appraisers of physical damage to motor vehicles:	
(a) Application and license.....	\$125
(b) Triennial renewal of each license	125
10. Additional title and property insurers pursuant to NRS 680A.240:	
(a) Original registration.....	\$50
(b) Annual renewal.....	25
11. Insurance vending machines:	
(a) Application and license, for each machine	\$125
(b) Triennial renewal of each license	125
12. Permit for solicitation for securities:	
(a) Application for permit	\$100
(b) Extension of permit	50
13. Securities salespersons for domestic insurers:	
(a) Application and license.....	\$25
(b) Annual renewal of license	15
14. Rating organizations:	
(a) Application and license.....	\$500
(b) Annual renewal.....	500
15. Certificates and renewals for administrators licensed pursuant to chapter 683A of NRS:	

(a) Application and certificate of registration	\$125
(b) Triennial renewal.....	125
16. For copies of the insurance laws of Nevada, a fee which is not less than the cost of producing the copies.	
17. Certified copies of certificates of authority and licenses issued pursuant to the Code	\$10
18. For copies and amendments of documents on file in the Division, a reasonable charge fixed by the Commissioner, including charges for duplicating or amending the forms and for certifying the copies and affixing the official seal.	
19. Letter of clearance for a producer of insurance or other licensee if requested by someone other than the licensee	\$10
20. Certificate of status as a producer of insurance or other licensee if requested by someone other than the licensee	\$10
21. Licenses, appointments and renewals for bail agents:	
(a) Application and license.....	\$125
(b) Appointment for each surety insurer	15
(c) Triennial renewal of each license	125
22. Licenses and renewals for bail enforcement agents:	
(a) Application and license.....	\$125
(b) Triennial renewal of each license	125
23. Licenses, appointments and renewals for general agents for bail:	
(a) Application and license.....	\$125
(b) Initial appointment by each insurer	15
(c) Triennial renewal of each license	125
24. Licenses and renewals for bail solicitors:	
(a) Application and license.....	\$125
(b) Triennial renewal of each license	125
25. Licenses and renewals for title agents and escrow officers:	
(a) Application and license.....	\$125
(b) Triennial renewal of each license	125
(c) Appointment fee for each title insurer	15
(d) Change in name or location of business or in association	10
26. Certificate of authority and renewal for a seller of prepaid funeral contracts.....	\$125
27. Licenses and renewals for agents for prepaid funeral contracts:	
(a) Application and license.....	\$125
(b) Triennial renewal of each license	125
28. Licenses, appointments and renewals for agents for fraternal benefit societies:	
(a) Application and license.....	\$125
(b) Appointment for each insurer.....	15
(c) Triennial renewal of each license	125
29. Reinsurance intermediary broker or manager:	

(a) Application and license.....	\$125
(b) Triennial renewal of each license	125
30. Agents for and sellers of prepaid burial contracts:	
(a) Application and certificate or license	\$125
(b) Triennial renewal.....	125
31. Risk retention groups:	
(a) Initial registration	\$250
(b) Each annual continuation of a certificate of registration	250
32. Required filing of forms:	
(a) For rates and policies	\$25
(b) For riders and endorsements.....	10
33. Viatical settlements:	
(a) Provider of viatical settlements:	
(1) Application and license	\$1,000
(2) Annual renewal.....	1,000
(b) Broker of viatical settlements:	
(1) Application and license	500
(2) Annual renewal.....	500
(c) Registration of producer of insurance acting as a viatical settlement broker	250
34. Insurance consultants:	
(a) Application and license.....	\$125
(b) Triennial renewal.....	125
35. Licensee's association with or appointment or sponsorship by an organization:	
(a) Initial appointment, association or sponsorship, for each organization	\$50
(b) Renewal of each association or sponsorship	50
(c) Annual renewal of appointment.....	15
36. Purchasing groups:	
(a) Initial registration and review of an application	\$100
(b) Each annual continuation of registration.....	100
37. <i>Exchange enrollment facilitators:</i>	
(a) <i>Application and certificate</i>	<i>\$125</i>
(b) <i>Triennial renewal of each certificate</i>	<i>125</i>
(c) <i>Temporary certificate</i>	<i>10</i>
(d) <i>Modification of an existing certificate</i>	<i>\$50</i>
38. In addition to any other fee or charge, all applicable fees required of any person, including, without limitation, persons listed in this section, pursuant to NRS 680C.110.	

Sec. 31.5. NRS 680B.050 is hereby amended to read as follows:

680B.050 1. Except as otherwise provided in this section, a domestic or foreign insurer, including, without limitation, an insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29), which owns and substantially occupies and uses any building in this state as its home office or

as a regional home office is entitled to the following credits against the tax otherwise imposed by NRS 680B.027:

(a) An amount equal to 50 percent of the aggregate amount of the tax as determined under NRS 680B.025 to 680B.039, inclusive; and

(b) An amount equal to the full amount of ad valorem taxes paid by the insurer during the calendar year next preceding the filing of the report required by NRS 680B.030, upon the home office or regional home office together with the land, as reasonably required for the convenient use of the office, upon which the home office or regional home office is situated.

➤ These credits must not reduce the amount of tax payable to less than 20 percent of the tax otherwise payable by the insurer under NRS 680B.027.

2. As used in this section, a "regional home office" means an office of the insurer performing for an area covering two or more states, with a minimum of 25 employees on its office staff, the supervision, underwriting, issuing and servicing of the insurance business of the insurer.

3. The insurer shall, on or before March 15 of each year, furnish proof to the satisfaction of the Executive Director of the Department of Taxation, on forms furnished by or acceptable to the Executive Director, as to its entitlement to the tax reduction provided for in this section. A determination of the Executive Director of the Department of Taxation pursuant to this section is not binding upon the Commissioner for the purposes of NRS 682A.240.

4. An insurer is not entitled to the credits provided in this section unless:

(a) The insurer owned the property upon which the reduction is based for the entire year for which the reduction is claimed; and

(b) The insurer occupied at least 70 percent of the usable space in the building to transact insurance or the insurer is a general or limited partner and occupies 100 percent of its ownership interest in the building.

5. If two or more insurers under common ownership or management and control jointly own in equal interest, and jointly occupy and use such a home office or regional home office in this state for the conduct and administration of their respective insurance businesses as provided in this section, each of the insurers is entitled to the credits provided for by this section if otherwise qualified therefor under this section.

6. *For the purposes of subsection 1, any insurer that is exempt from federal taxation pursuant to 26 U.S.C. § 501(c)(29) and is restricted or prohibited from purchasing or owning real property pursuant to a contract with the Federal Government, including any entity thereof, shall be deemed to own any portion of any real property that the insurer occupies. The provisions of this subsection expire upon the expiration, cancellation, repayment or any other termination of the contract restricting or prohibiting such purchase or ownership.*

Sec. 32. NRS 680C.110 is hereby amended to read as follows:

680C.110 1. In addition to any other fee or charge, the Commissioner shall collect in advance and receipt for, and persons so served must pay to the Commissioner, the fees required by this section.

2. A fee required by this section must be:

- (a) If an initial fee, paid at the time of an initial application or issuance of a license, as applicable;
- (b) If an annual fee, paid on or before March 1 of every year;
- (c) If a triennial fee, paid on or before the time of continuation, renewal or other similar action in regard to a certificate, license, permit or other type of authorization, as applicable; and
- (d) Deposited in the Fund for Insurance Administration and Enforcement created by NRS 680C.100.

3. The fees required pursuant to this section are not refundable.

4. The following fees must be paid by the following persons to the Commissioner:

(a) Associations of self-insured private employers, as defined in NRS 616A.050:

- (1) Initial fee \$1,300
- (2) Annual fee \$1,300

(b) Associations of self-insured public employers, as defined in NRS 616A.055:

- (1) Initial fee \$1,300
- (2) Annual fee \$1,300

(c) Independent review organizations, as provided for in NRS 616A.469 or 683A.3715, or both:

- (1) Initial fee \$60
- (2) Annual fee \$60

(d) Insurers not otherwise provided for in this subsection:

- (1) Initial fee \$1,300
- (2) Annual fee \$1,300

(e) Producers of insurance, as defined in NRS 679A.117:

- (1) Initial fee \$60
- (2) Triennial fee \$60

(f) Accredited reinsurers, as provided for in NRS 681A.160:

- (1) Initial fee \$1,300
- (2) Annual fee \$1,300

(g) Intermediaries, as defined in NRS 681A.330:

- (1) Initial fee \$60
- (2) Triennial fee \$60

(h) Reinsurers, as defined in NRS 681A.370:

- (1) Initial fee \$1,300
- (2) Annual fee \$1,300

(i) Administrators, as defined in NRS 683A.025:

- (1) Initial fee \$60
- (2) Triennial fee \$60

- (j) Managing general agents, as defined in NRS 683A.060:
 - (1) Initial fee \$60
 - (2) Triennial fee \$60
- (k) Agents who perform utilization reviews, as defined in NRS 683A.376:
 - (1) Initial fee \$60
 - (2) Annual fee \$60
- (l) Insurance consultants, as defined in NRS 683C.010:
 - (1) Initial fee \$60
 - (2) Triennial fee \$60
- (m) Independent adjusters, as defined in NRS 684A.030:
 - (1) Initial fee \$60
 - (2) Triennial fee \$60
- (n) Public adjusters, as defined in NRS 684A.030:
 - (1) Initial fee \$60
 - (2) Triennial fee \$60
- (o) Associate adjusters, as defined in NRS 684A.030:
 - (1) Initial fee \$60
 - (2) Triennial fee \$60
- (p) Motor vehicle physical damage appraisers, as defined in NRS 684B.010:
 - (1) Initial fee \$60
 - (2) Triennial fee \$60
- (q) Brokers, as defined in NRS 685A.031:
 - (1) Initial fee \$60
 - (2) Triennial fee \$60
- (r) Eligible surplus line insurers, as provided for in NRS 685A.070:
 - (1) Initial fee \$1,300
 - (2) Annual fee \$1,300
- (s) Companies, as defined in NRS 686A.330:
 - (1) Initial fee \$1,300
 - (2) Annual fee \$1,300
- (t) Rate service organizations, as defined in NRS 686B.020:
 - (1) Initial fee \$1,300
 - (2) Annual fee \$1,300
- (u) Brokers of viatical settlements, as defined in NRS 688C.030:
 - (1) Initial fee \$60
 - (2) Annual fee \$60
- (v) Providers of viatical settlements, as defined in NRS 688C.080:
 - (1) Initial fee \$60
 - (2) Annual fee \$60

(w) Agents for prepaid burial contracts subject to the provisions of chapter 689 of NRS:

- (1) Initial fee \$60
- (2) Triennial fee \$60

(x) Agents for prepaid funeral contracts subject to the provisions of chapter 689 of NRS:

- (1) Initial fee \$60
- (2) Triennial fee \$60

(y) Sellers of prepaid burial contracts subject to the provisions of chapter 689 of NRS:

- (1) Initial fee \$60
- (2) Triennial fee \$60

(z) Sellers of prepaid funeral contracts subject to the provisions of chapter 689 of NRS:

- (1) Initial fee \$60
- (2) Triennial fee \$60

(aa) Providers, as defined in NRS 690C.070:

- (1) Initial fee \$1,300
- (2) Annual fee \$1,300

(bb) Escrow officers, as defined in NRS 692A.028:

- (1) Initial fee \$60
- (2) Triennial fee \$60

(cc) Title agents, as defined in NRS 692A.060:

- (1) Initial fee \$60
- (2) Triennial fee \$60

(dd) Captive insurers, as defined in NRS 694C.060:

- (1) Initial fee \$250
- (2) Annual fee \$250

(ee) Fraternal benefit societies, as defined in NRS 695A.010:

- (1) Initial fee \$1,300
- (2) Annual fee \$1,300

(ff) Insurance agents for societies, as provided for in NRS 695A.330:

- (1) Initial fee \$60
- (2) Triennial fee \$60

(gg) Corporations subject to the provisions of chapter 695B of NRS:

- (1) Initial fee \$1,300
- (2) Annual fee \$1,300

(hh) Health maintenance organizations, as defined in NRS 695C.030:

- (1) Initial fee \$1,300
- (2) Annual fee \$1,300

(ii) Organizations for dental care, as defined in NRS 695D.060:

(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(jj) Purchasing groups, as defined in NRS 695E.100:	
(1) Initial fee	\$250
(2) Annual fee	\$250
(kk) Risk retention groups, as defined in NRS 695E.110:	
(1) Initial fee	\$250
(2) Annual fee	\$250
(ll) Prepaid limited health service organizations, as defined in NRS 695F.050:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(mm) Medical discount plans, as defined in NRS 695H.050:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(nn) Club agents, as defined in NRS 696A.040:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(oo) Motor clubs, as defined in NRS 696A.050:	
(1) Initial fee	\$1,300
(2) Annual fee	\$1,300
(pp) Bail agents, as defined in NRS 697.040:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(qq) Bail enforcement agents, as defined in NRS 697.055:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(rr) Bail solicitors, as defined in NRS 697.060:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(ss) General agents, as defined in NRS 697.070:	
(1) Initial fee	\$60
(2) Triennial fee	\$60
(tt) <i>Exchange enrollment facilitators, as defined in section 5 of this act:</i>	
(1) <i>Initial fee</i>	<i>\$60</i>
(2) <i>Triennial fee</i>	<i>\$60</i>

Sec. 32.1. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2 ~~†~~ and NRS 686B.125, NRS 686B.010 to 686B.1799, inclusive, apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

- (a) Ocean marine insurance;
- (b) Contracts issued by fraternal benefit societies;
- (c) Life insurance and credit life insurance;

- (d) Variable and fixed annuities;
- (e) Credit accident and health insurance;
- (f) Property insurance for business and commercial risks;
- (g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS;
- (h) Surety insurance;
- (i) Health insurance offered through a group health plan maintained by a large employer; and
- (j) Credit involuntary unemployment insurance.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

Sec. 32.2. NRS 686B.070 is hereby amended to read as follows:

686B.070 1. Every authorized insurer and every rate service organization licensed under NRS 686B.140 which has been designated by any insurer for the filing of rates under subsection 2 of NRS 686B.090 shall file with the Commissioner all:

- (a) Rates and proposed increases thereto;
- (b) Forms of policies to which the rates apply;
- (c) Supplementary rate information; and
- (d) Changes and amendments thereof,

↪ made by it for use in this state.

2. If an insurer makes a filing for a proposed increase in a rate for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, the insurer shall not include in the filing any component that is directly or indirectly related to the following:

(a) Capital losses, diminished cash flow from any dividends, interest or other investment returns, or any other financial loss that is materially outside of the claims experience of the professional liability insurance industry, as determined by the Commissioner.

(b) Losses that are the result of any criminal or fraudulent activities of a director, officer or employee of the insurer.

↪ If the Commissioner determines that a filing includes any such component, the Commissioner shall, pursuant to NRS 686B.110, disapprove the proposed increase, in whole or in part, to the extent that the proposed increase relies upon such a component.

3. *If an insurer makes a filing for a proposed increase in a rate for a health benefit plan, as that term is defined in section 33.4 of this act, the filing must include a unified rate review template, a written description justifying the rate increase and any rate filing documentation.*

4. *As used in this section, "rate filing documentation," "unified rate review template" and "written description justifying the rate increase" have the meanings ascribed in 45 C.F.R. § 154.215.*

Sec. 32.5. NRS 686B.080 is hereby amended to read as follows:

686B.080 ~~[Each]~~

1. *Except as otherwise provided in subsections 2 and 3, each filing and any supporting information filed under NRS 686B.010 to 686B.1799, inclusive, must, as soon as filed, be open to public inspection at any reasonable time. Copies may be obtained by any person on request and upon payment of a reasonable charge therefor.*

2. *All approved rates for health benefit plans available for purchase by individuals are considered proprietary and to constitute trade secrets, and are not subject to disclosure by the Commissioner to persons outside the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.*

3. *The provisions of subsection 2 expire annually on the date 30 days before open enrollment.*

4. *For the purposes of this section, "open enrollment" has the meaning ascribed to it in 45 C.F.R. § 147.104(b)(1)(ii).*

Sec. 32.8. NRS 686B.125 is hereby amended to read as follows:

686B.125 ~~[No]~~

1. *Except as otherwise provided in this section, no insurer, organization or person licensed pursuant to this title may sell or offer to sell any contract providing coverage for dental care at a rate which is excessive for the benefits offered to the insured or member. For the purpose of this section, a ratio of losses to premiums collected which is less than 75 percent is presumed to show an excessive rate.*

2. *The provisions of subsection 1 do not apply to a contract providing coverage for dental care that is sold to a small employer pursuant to the provisions of chapter 689C of NRS.*

3. *As used in this section, "small employer" has the meaning ascribed to it in NRS 689C.095.*

Sec. 33. Chapter 687B of NRS is hereby amended by adding thereto the provisions set forth as sections 33.4 to 33.8, inclusive, of this act.

Sec. 33.4. 1. *"Health benefit plan" means a policy, contract, certificate or agreement offered by a carrier to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services. Except as otherwise provided in this section, the term includes catastrophic health insurance policies and a policy that pays on a cost-incurred basis.*

2. *The term does not include:*

(a) *Coverage that is only for accident or disability income insurance, or any combination thereof;*

(b) *Coverage issued as a supplement to liability insurance;*

(c) *Liability insurance, including general liability insurance and automobile liability insurance;*

(d) *Workers' compensation or similar insurance;*

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage specified pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Coverage under a short-term health insurance policy; and

(j) Coverage under a blanket student accident and health insurance policy.

3. The term does not include the following benefits if the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan:

(a) Limited-scope dental or vision benefits;

(b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and

(c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. The term does not include the following benefits if the benefits are provided under a separate policy, certificate or contract, there is no coordination between the provisions of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor:

(a) Coverage that is only for a specified disease or illness; and

(b) Hospital indemnity or other fixed indemnity insurance.

5. The term does not include any of the following, if offered as a separate policy, certificate or contract of insurance:

(a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;

(b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and

(c) Similar supplemental coverage provided under a group health plan.

Sec. 33.5. 1. All health benefit plans must be made available in the manner required by 45 C.F.R § 147.104.

2. In addition to the requirements of subsection 1, any health benefit plan for individuals that is not purchased on the Silver State Health Insurance Exchange established by NRS 695I.210:

(a) Must be made available for purchase at any time during the calendar year;

(b) Is subject to a waiting period of not more than 90 days after the date on which the application for coverage was received;

(c) Is effective upon the first day of the month immediately succeeding the month in which the waiting period expires; and

(d) Is not retroactive to the date on which the application for coverage was received.

Sec. 33.6. 1. *A carrier that offers coverage in the group or individual market must, before making any network plan available for sale in this State, demonstrate the capacity to deliver services adequately by applying to the Commissioner for the issuance of a network plan and submitting a description of the procedures and programs to be implemented to meet the requirements described in subsection 2.*

2. *The Commissioner shall determine, within 90 days after receipt of the application required pursuant to subsection 1, if the carrier, with respect to the network plan:*

(a) Has demonstrated the willingness and ability to ensure that health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities in a manner that enhances availability, accessibility and continuity of service;

(b) Has organizational arrangements established in accordance with regulations promulgated by the Commissioner; and

(c) Has a procedure established in accordance with regulations promulgated by the Commissioner to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the Commissioner.

3. *The Commissioner may certify that the carrier and the network plan meet the requirements of subsection 2, or may determine that the carrier and the network plan do not meet such requirements. Upon a determination that the carrier and the network plan do not meet the requirements of subsection 2, the Commissioner shall specify in what respects the carrier and the network plan are deficient.*

4. *A carrier approved to issue a network plan pursuant to this section must file annually with the Commissioner a summary of information compiled pursuant to subsection 2 in a manner determined by the Commissioner.*

5. *The Commissioner shall, not less than once each year, or more often if deemed necessary by the Commissioner for the protection of the interests of the people of this State, make a determination concerning the availability and accessibility of the health care services of any network plan approved pursuant to this section.*

6. *The expense of any determination made by the Commissioner pursuant to this section must be assessed against the carrier and remitted to the Commissioner.*

7. *As used in this section, "network plan" has the meaning ascribed to it in NRS 689B.570.*

Sec. 33.8. 1. *The premium rate charged by a health insurer for health benefit plans offered in the individual or small group market may vary with respect to the particular plan or coverage involved based solely on these characteristics:*

- (a) Whether the plan or coverage applies to an individual or a family;*
- (b) Geographic rating area;*
- (c) Tobacco use, except that the rate shall not vary by a ratio of more than 1.5 to 1 for like individuals who vary in tobacco use; and*
- (d) Age, except that the rate must not vary by a ratio of more than 3 to 1 for like individuals of different age who are age 21 years or older and that the variation in rate must be actuarially justified for individuals who are under the age of 21 years, consistent with the uniform age rating curve established in the Federal Act. For the purpose of identifying the appropriate age adjustment under this paragraph and the age band defined in the Federal Act to a specific enrollee, the enrollee's age as of the date of policy issuance or renewal must be used.*

2. *The provisions of subsection 1:*

- (a) Apply to a fraternal benefit society organized under chapter 695A of NRS; and*
- (b) Do not apply to grandfathered plans.*

Sec. 34. NRS 689A.020 is hereby amended to read as follows:

689A.020 Nothing in this chapter applies to or affects:

- 1. Any policy of liability or workers' compensation insurance with or without supplementary expense coverage therein.
- 2. Any group or blanket policy.
- 3. Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to health insurance as to:
 - (a) Provide additional benefits in case of death or dismemberment or loss of sight by accident or accidental means; or
 - (b) Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity if the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract.

4. Reinsurance, except as otherwise provided in NRS 689A.470 to 689A.740, inclusive, and 689C.610 to ~~689C.980,~~ 689C.940, inclusive, relating to the program of reinsurance.

Sec. 35. NRS 689A.030 is hereby amended to read as follows:

689A.030 A policy of health insurance must not be delivered or issued for delivery to any person in this State unless it otherwise complies with this Code, and complies with the following:

- 1. The entire money and other considerations for the policy must be expressed therein.

2. The time when the insurance takes effect and terminates must be expressed therein.

3. It must purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family, who shall be deemed the policyholder, any two or more eligible members of that family, including the husband, wife, *domestic partner as defined in NRS 122A.030*, dependent children, from the time of birth, adoption or placement for the purpose of adoption as provided in NRS 689A.043, or any ~~children under a specified age which must not exceed 19~~ child on or before the last day of the month in which the child attains 26 years ~~[except as provided in NRS 689A.045,]~~ of age, and any other person dependent upon the policyholder.

4. The style, arrangement and overall appearance of the policy must not give undue prominence to any portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers must be plainly printed in light-faced type of a style in general use, the size of which must be uniform and not less than 10 points with a lowercase unspaced alphabet length not less than 120 points. "Text" includes all printed matter except the name and address of the insurer, the name or the title of the policy, the brief description, if any, and captions and subcaptions.

5. The exceptions and reductions of indemnity must be set forth in the policy and, other than those contained in NRS 689A.050 to 689A.290, inclusive, must be printed, at the insurer's option, with the benefit provision to which they apply or under an appropriate caption such as "Exceptions" or "Exceptions and Reductions," except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of that exception or reduction must be included with the benefit provision to which it applies.

6. Each such form, including riders and endorsements, must be identified by a number in the lower left-hand corner of the first page thereof.

7. The policy must not contain any provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless that portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates or classification of risks, or short-rate table filed with the Commissioner.

8. The policy must provide benefits for expense arising from care at home or health supportive services if that care or service was prescribed by a physician and would have been covered by the policy if performed in a medical facility or facility for the dependent as defined in chapter 449 of NRS.

9. The policy must provide, at the option of the applicant, benefits for expenses incurred for the treatment of abuse of alcohol or drugs, unless the policy provides coverage only for a specified disease or provides for the payment of a specific amount of money if the insured is hospitalized or receiving health care in his or her home.

10. The policy must provide benefits for expense arising from hospice care.

Sec. 36. NRS 689A.040 is hereby amended to read as follows:

689A.040 1. Except as otherwise provided in subsections 2 and 3, each such policy delivered or issued for delivery to any person in this State must contain the provisions specified in NRS 689A.050 to 689A.170, inclusive, in the words in which the provisions appear, except that the insurer may, at its option, substitute for one or more of the provisions corresponding provisions of different wording approved by the Commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision must be preceded individually by the applicable caption shown or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

2. ~~[Each policy delivered or issued for delivery in this State after November 1, 1973, must contain a provision, if applicable, setting forth the provisions of NRS 689A.045.]~~

~~—3.—~~ If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the Commissioner, may omit from the policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of a provision in such a manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

Sec. 37. (Deleted by amendment.)

Sec. 38. NRS 689A.044 is hereby amended to read as follows:

689A.044 1. A policy of health insurance must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine ~~[to women and girls at such ages]~~ as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A policy of health insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

Sec. 39. NRS 689A.0455 is hereby amended to read as follows:

689A.0455 1. ~~[Notwithstanding any provisions of this Title to the contrary, a]~~ A policy of health insurance delivered or issued for delivery in

this state pursuant to this chapter must provide coverage for the treatment of conditions relating to severe mental illness.

2. ~~{The coverage required by this section:~~

~~— (a) Must provide:~~

~~— (1) Benefits for at least 40 days of hospitalization as an inpatient per policy year and 40 visits for treatment as an outpatient per policy year, excluding visits for the management of medication; and~~

~~— (2) That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of hospitalization not used by the insured. In no event is the policy required to provide coverage for more than 40 days of hospitalization as an inpatient per policy year.~~

~~— (b) Is not required to provide benefits for psychosocial rehabilitation or care received as a custodial inpatient.~~

~~— 3. Any deductibles and copayments required to be paid for the coverage required by this section must not be greater than 150 percent of the out-of-pocket expenses required to be paid for medical and surgical benefits provided pursuant to the policy of health insurance.~~

~~— 4. The provisions of this section do not apply to a policy of health insurance if, at the end of the policy year, the premiums charged for that policy, or a standard grouping of policies, increase by more than 2 percent as a result of providing the coverage required by this section and the insurer obtains an exemption from the Commissioner pursuant to subsection 5.~~

~~— 5. To obtain the exemption required by subsection 4, an insurer must submit to the Commissioner a written request therefor that is signed by an actuary and sets forth the reasons and actuarial assumptions upon which the request is based. To determine whether an exemption may be granted, the Commissioner shall subtract from the amount of premiums charged during the policy year the amount of premiums charged during the period immediately preceding the policy year and the amount of any increase in the premiums charged that is attributable to factors that are unrelated to providing the coverage required by this section. The Commissioner shall verify the information within 30 days after receiving the request. The request shall be deemed approved if the Commissioner does not deny the request within that time.~~

~~— 6. The provisions of this section do not:~~

~~— (a) Limit the provision of specialized services covered by Medicaid for persons with conditions relating to mental health or substance abuse.~~

~~— (b) Supersede any provision of federal law, any federal or state policy relating to Medicaid, or the terms and conditions imposed on any Medicaid waiver granted to this state with respect to the provisions of services to persons with conditions relating to mental health or substance abuse.~~

~~— 7. A policy of health insurance subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after January 1, 2000, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in~~

~~conflict with this section is void, unless the policy is otherwise exempt from the provisions of this section pursuant to subsection 4.~~

~~—8.]~~ As used in this section, "severe mental illness" means any of the following mental illnesses that are biologically based and for which diagnostic criteria are prescribed in the *most recent edition of the Diagnostic and Statistical Manual of Mental Disorders*, ~~[Fourth Edition,]~~ published by the American Psychiatric Association:

- (a) Schizophrenia.
- (b) Schizoaffective disorder.
- (c) Bipolar disorder.
- (d) Major depressive disorders.
- (e) Panic disorder.
- (f) Obsessive-compulsive disorder.

Sec. 39.5. NRS 689A.230 is hereby amended to read as follows:

689A.230 1. There may be a provision as follows:

Coordination of Benefits: If, with respect to a person covered under this policy, benefits for allowable expense incurred during a claim determination period under this policy, together with benefits for allowable expense during such period under all other valid coverage (without giving effect to this provision or to any "coordination of benefits provision" applying to such other valid coverage), exceed the total of such person's allowable expense during such period, this insurer shall be liable only for such proportionate amount of the benefits for allowable expense under this policy during such period as (a) the total allowable expense during such period bears to (b) the total amount of benefits payable during such period for such expense under this policy and all other valid coverage (without giving effect to this provision or to any "coordination of benefits provision" applying to such other valid coverage) less in both (a) and (b) any amount of benefits for allowable expense payable under other valid coverage which does not contain a "coordination of benefits provision." In no event shall this provision operate to increase the amount of benefits for allowable expense payable under this policy with respect to a person covered under this policy above the amount which would have been paid in the absence of this provision. This insurer may pay benefits to any insurer providing other valid coverage in the event of overpayment by such insurer. Any such payment shall discharge the liability of this insurer as fully as if the payment had been made directly to the insured or the assignee or beneficiary of the insured. If this insurer pays benefits to the insured or the assignee or beneficiary of the insured, in excess of the amount which would have been payable if the existence of other valid coverage had been disclosed, this insurer shall have a right of action against the insured or the assignee or beneficiary of the insured to recover the amount which would not have been paid had there been a disclosure of the existence

of the other valid coverage. The amount of other valid coverage which is on a provision of service basis shall be computed as the amount the services rendered would have cost in the absence of such coverage.

For the purposes of this provision:

(1) "Allowable expense" means 100 percent of any necessary, reasonable and customary item of expense which is covered, in whole or in part, as a hospital, surgical, medical or major medical expense under this policy or under any other valid coverage.

(2) "Claim determination period" with respect to any covered person means the initial period of (insert period of not less than 30 days) and each successive period of a like number of days, during which allowable expense covered under this policy is incurred on account of such person. The first such period begins on the date when the first such expense is incurred, and successive periods shall begin when such expense is incurred after expiration of a prior period.

or, in lieu thereof:

(2) "Claim determination period" with respect to any covered person means each (insert calendar or policy period of not less than a month) during which allowable expense covered under this policy is incurred on account of such person.

(3) "Coordination of benefits provision" means this provision and any other provision which may reduce an insurer's liability because of the existence of benefits under other valid coverage.

2. The foregoing policy provisions may be inserted in all policies providing hospital, surgical, medical or major medical benefits for which the application includes a question as to other coverages subject to this provision. If the policy provision stated in subsection 1 is included in a policy which also contains the policy provision stated in NRS 689A.240, there shall be added to the caption of the provision stated in subsection 1 of the phrase "expense-incurred benefits." The insurer may make this provision applicable to either or both:

(a) Other valid coverage with other insurers; and

(b) Other valid coverage with the same insurer.

➡ The insurer shall include in this provision a definition of "other valid coverage" approved as to form by the Commissioner. Such term may include hospital, surgical, medical or major medical benefits provided by individual or family-type coverage, government programs or workers' compensation. Such term shall not include any ~~{group insurance,}~~ automobile medical payments or third-party liability coverage. The insurer shall not include a subrogation clause in the policy. The insurer may require, as part of the proof of claim, the information necessary to administer this provision.

3. If by application of any of the foregoing provisions the insurer effects a material reduction of benefits otherwise payable under the policy, the insurer shall refund to the insured any premium unearned on the policy by reason of such reduction of coverage during the policy year current and that

next preceding at the time the loss commenced, subject to the insurer's right to provide in the policy that no such reduction of benefits or refund will be made unless the unearned premium to be so refunded amounts to \$5 or such larger sum as the insurer may so specify.

Sec. 40. NRS 689A.470 is hereby amended to read as follows:

689A.470 As used in NRS 689A.470 to 689A.740, inclusive, unless the context otherwise requires, the words and terms defined in NRS 689A.475 to ~~689A.605,~~ 689A.600, inclusive, have the meanings ascribed to them in those sections.

Sec. 41. NRS 689A.520 is hereby amended to read as follows:

689A.520 ~~["Established geographic"]~~ "Geographic service area" means a geographic area, as approved by the Commissioner, ~~[and based on the certificate of authority of the carrier to transact insurance in this state,]~~ within which the carrier is authorized to provide coverage.

Sec. 42. NRS 689A.525 is hereby amended to read as follows:

689A.525 "Geographic rating area" means an area established by the Commissioner for use in adjusting the rates for a health benefit plan.

Sec. 43. NRS 689A.630 is hereby amended to read as follows:

689A.630 1. Except as otherwise provided in this section, coverage under an individual health benefit plan must be renewed by the individual carrier that issued the plan, at the option of the individual, unless:

(a) The individual has failed to pay premiums or contributions in accordance with the terms of the health benefit plan or the individual carrier has not received timely premium payments.

(b) The individual has performed an act or a practice that constitutes fraud or has made an intentional misrepresentation of material fact under the terms of the coverage.

(c) The individual carrier decides to discontinue offering and renewing all health benefit plans delivered or issued for delivery in this state. If the individual carrier decides to discontinue offering and renewing such plans, the individual carrier shall:

(1) Provide notice of its intention to the Commissioner and the chief regulatory officer for insurance in each state in which the individual carrier is licensed to transact insurance at least 60 days before the date on which notice of cancellation or nonrenewal is delivered or mailed to the persons covered by the insurance to be discontinued pursuant to subparagraph (2).

(2) Provide notice of its intention to all persons covered by the discontinued insurance and to the Commissioner and the chief regulatory officer for insurance in each state in which such a person is known to reside. The notice must be made at least 180 days before the nonrenewal of any health benefit plan by the individual carrier.

(3) Discontinue all health insurance issued or delivered for issuance for individuals in this state and not renew coverage under any health benefit plan issued to such individuals.

(d) The Commissioner finds that the continuation of the coverage in this state by the individual carrier would not be in the best interests of the policyholders or certificate holders of the individual carrier or would impair the ability of the individual carrier to meet its contractual obligations. If the Commissioner makes such a finding, the Commissioner shall assist the persons covered by the discontinued insurance in this state in finding replacement coverage.

2. An individual carrier may discontinue the issuance and renewal of a form of a product of a health benefit plan if the Commissioner finds that the form of the product offered by the individual carrier is obsolete and is being replaced with comparable coverage. A form of a product of a health benefit plan may be discontinued by the individual carrier pursuant to this subsection only if:

(a) The individual carrier notifies the Commissioner and the chief regulatory officer for insurance in each state in which it is licensed of its decision pursuant to this subsection to discontinue the issuance and renewal of the form of the product at least 60 days before the individual carrier notifies the persons covered by the discontinued insurance pursuant to paragraph (b).

(b) The individual carrier notifies each person covered by the discontinued insurance, the Commissioner and the chief regulatory officer for insurance in each state in which a person covered by the discontinued insurance is known to reside of the decision of the individual carrier to discontinue offering the form of the product. The notice must be made to persons covered by the discontinued insurance at least 180 days before the date on which the individual carrier will discontinue offering the form of the product.

(c) The individual carrier offers to each person covered by the discontinued insurance the option to purchase any other health benefit plan currently offered by the individual carrier to individuals in this state.

(d) In exercising the option to discontinue the form of the product and in offering the option to purchase other coverage pursuant to paragraph (c), the individual carrier acts uniformly without regard to the claim experience of the persons covered by the discontinued insurance or any health status-related factor relating to those persons or beneficiaries covered by the discontinued form of the product or any persons or beneficiaries who may become eligible for such coverage.

3. An individual carrier may discontinue the issuance and renewal of a health benefit plan that is made available to individuals pursuant to this chapter only through a bona fide association if:

(a) The membership of the individual in the association was the basis for the provision of coverage;

(b) The membership of the individual in the association ceases; and

(c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the covered individual.

4. An individual carrier that elects not to renew a health benefit plan pursuant to paragraph (c) of subsection 1 shall not write new business for individuals pursuant to this chapter for 5 years after the date on which notice is provided to the Commissioner pursuant to subparagraph (2) of paragraph (c) of subsection 1.

5. If an individual carrier does business in only one ~~established~~ geographic service area of this state, the provisions of this section apply only to the operations of the individual carrier in that service area.

Sec. 44. NRS 689A.635 is hereby amended to read as follows:

689A.635 1. An individual carrier that offers coverage through a network plan is not required pursuant to NRS 689A.630 to offer coverage to or accept an application from ~~an eligible~~ a person if the ~~eligible~~ person does not reside or work in the ~~established~~ geographic service area or in a geographic *rating* area, ~~[for which the individual carrier is authorized to transact insurance,]~~ provided that the coverage is refused or terminated uniformly without regard to any health status-related factor of any eligible person.

2. As used in this section, "network plan" means a health benefit plan offered by a health carrier under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the carrier. The term does not include an arrangement for the financing of premiums.

Sec. 45. NRS 689A.637 is hereby amended to read as follows:

689A.637 1. An individual carrier that offers a health benefit plan that includes a provision for a restricted network shall use its best efforts to contract with at least one health center in each ~~established~~ geographic service area to provide health care services to persons covered by the plan if the health center:

(a) Meets all conditions imposed by the carrier on similarly situated providers of health care with which the carrier contracts, including, without limitation:

(1) Certification for participation in the Medicaid or Medicare program; and

(2) Requirements relating to the appropriate credentials for providers of health care; and

(b) Agrees to reasonable reimbursement rates that are generally consistent with those offered by the carrier to similarly situated providers of health care with which the carrier contracts.

2. As used in this section, "health center" has the meaning ascribed to it in 42 U.S.C. § 254b.

Sec. 46. (Deleted by amendment.)

Sec. 47. NRS 689A.690 is hereby amended to read as follows:

689A.690 1. As part of its solicitation and sales materials for an individual health benefit plan, an individual carrier shall disclose, to the extent reasonable:

(a) The extent to which premium rates for an individual and the dependent of the individual are established or adjusted based upon rating characteristics;

(b) The right of the individual carrier to change premium rates and the factors, other than claims experience, that may affect changes in premium rates; *and*

(c) Any provisions in the individual health benefit plan relating to the renewability of the plan . ~~[- and~~

~~—(d) Any provisions in the individual health benefit plan relating to an exclusion for a preexisting condition.]~~

2. For the purposes of this section, an individual carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

~~{3. On or before March 1 of each year, an individual carrier shall file with the Commissioner an actuarial certification that the individual carrier is in compliance with NRS 689A.680 to 689A.700, inclusive, and that the rating methods of the individual carrier are actuarially sound. The certification must be in such a form and must contain such information as specified by the Commissioner. A copy of the certification must be retained by the individual carrier at its principal place of business.~~

~~—4. As used in this section, "actuarial certification" means a written statement signed by a member of the American Academy of Actuaries or any other person acceptable to the Commissioner that an individual carrier is in compliance with the provisions of NRS 689A.680 to 689A.700, inclusive, based upon an examination conducted by the person which included a review of the appropriate records and the actuarial assumptions and methods used by the individual carrier in establishing premium rates for applicable health benefit plans.]~~

Sec. 47.5. NRS 689A.695 is hereby amended to read as follows:

689A.695 An individual carrier shall make the information and documents described in NRS ~~{689A.680 to}~~ 689A.690, 689A.695 and 689A.700, ~~[inclusive,]~~ available to the Commissioner upon request. Except in cases of violations of the provisions of this chapter, the information, other than the premium rates charged by the individual carrier, is proprietary, constitutes a trade secret and is not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.

Sec. 48. NRS 689A.700 is hereby amended to read as follows:

689A.700 The Commissioner may adopt regulations to carry out the provisions of NRS ~~{689A.680 to}~~ 689A.690, 689A.695 and 689A.700, ~~[inclusive,]~~ and to ensure that the practices used by individual carriers relating to the establishment of rates are consistent with the purposes of NRS 689A.470 to 689A.740, inclusive . ~~[- including, but not limited to,~~

~~determining the manner in which geographic rating areas are designated by all individual carriers.]~~

Sec. 49. NRS 689A.710 is hereby amended to read as follows:

689A.710 1. Except as otherwise provided in this section, an individual carrier or a producer shall not, directly or indirectly:

(a) Encourage or direct an ~~[eligible person]~~ *individual or family* to refrain from filing an application for coverage with an individual carrier because of the health status, claims experience, industry, occupation or geographic location of the ~~[eligible person]~~ *individual or family*.

(b) Encourage or direct an ~~[eligible person]~~ *individual or family* to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the ~~[eligible person]~~ *individual or family*.

2. The provisions of subsection 1 do not apply to information provided to an ~~[eligible person]~~ *individual or family* by an individual carrier or a producer relating to the ~~[established]~~ geographic service area or a provision for a restricted network of the individual carrier.

3. Except as otherwise provided in this subsection, an individual carrier shall not, directly or indirectly, enter into any contract, agreement or arrangement with a producer if the contract, agreement or arrangement provides for or results in a variation to the compensation paid to a producer for the sale of a health benefit plan because of the health status, claims experience, industry, occupation or geographic location of the individual at the time that the health benefit plan is issued to or renewed by the individual. ~~[The provisions of this subsection do not apply to any arrangement for compensation that provides payment to a producer on the basis of a percentage of premiums, except that the percentage may not vary because of the health status, claims experience, industry, occupation or geographic area of the individual.]~~

4. An individual carrier shall not terminate, fail to renew, or limit its contract or agreement of representation with a producer for any reason related to the health status, claims experience, industry, occupation or geographic location of an individual at the time that the health benefit plan is issued to or renewed by the individual placed by the producer with the individual carrier.

5. A denial by an individual carrier of an application for coverage from an ~~[eligible person]~~ *individual or family* must be in writing and must state the reason for the denial.

6. The Commissioner may adopt regulations that set forth additional standards to provide for the fair marketing and broad availability of health benefit plans to ~~[eligible persons]~~ *individuals or families* in this state.

7. A violation of any provision of this section by an individual carrier may constitute an unfair trade practice for the purposes of chapter 686A of NRS.

8. The provisions of this section apply to a third-party administrator if the third-party administrator enters into a contract, agreement or other arrangement with an individual carrier to provide administrative, marketing or other services related to the offering of a health benefit plan to ~~{eligible persons}~~ *individuals or families* in this state.

9. Nothing in this section interferes with the right and responsibility of a ~~{broker}~~ *producer* to advise and represent the best interests of an ~~{eligible person}~~ *individual or family* who is seeking health insurance coverage from an individual carrier.

Sec. 50. NRS 689A.725 is hereby amended to read as follows:

689A.725 For the purposes of NRS 689A.470 to 689A.740, inclusive, a plan for coverage of a bona fide association must:

1. Conform with ~~{NRS 689A.680 to}~~ *689A.690, 689A.695 and 689A.700, [inclusive,]* concerning rates.

2. Provide for the renewability of coverage for members of the bona fide association, and their dependents, if such coverage meets the criteria set forth in NRS 689A.630.

~~{3. Provide for the availability of coverage for members of the bona fide association, and their dependents, if such coverage conforms with NRS 689A.640, except that the bona fide association is not required to offer basic and standard health benefit plan coverage to its members or their dependents.~~

~~4. Conform with subsection 1 of NRS 689A.660, relating to preexisting conditions.~~

Sec. 51. (Deleted by amendment.)

Sec. 52. NRS 689B.0313 is hereby amended to read as follows:

689B.0313 1. A policy of group health insurance must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine ~~{to women and girls at such ages}~~ as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A policy of group health insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

Sec. 53. NRS 689B.033 is hereby amended to read as follows:

689B.033 1. All group health insurance policies providing coverage on an expense-incurred basis and all employee welfare plans providing medical, surgical or hospital care or benefits established or maintained for employees or their families or dependents, or for both, must as to the family members' coverage provide that the health benefits applicable for children are payable with respect to:

- (a) A newly born child of the insured from the moment of birth;
- (b) An adopted child from the date the adoption becomes effective, if the child was not placed in the home before adoption; and
- (c) A child placed with the insured for the purpose of adoption from the moment of placement as certified by the public or private agency making the placement. The coverage of such a child ceases if the adoption proceedings are terminated as certified by the public or private agency making the placement.

↪ The policies must provide the coverage specified in subsection 3 and must not exclude premature births.

2. The policy or contract may require that notification of:

- (a) The birth of a newly born child;
- (b) The effective date of adoption of a child; or
- (c) The date of placement of a child for adoption,

↪ and payments of the required premium or fees, if any, must be furnished to the insurer or welfare plan within 31 days after the date of birth, adoption or placement for adoption in order to have the coverage continue beyond the 31-day period.

3. The coverage for newly born and adopted children and children placed for adoption consists of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities and, within the limits of the policy, necessary transportation costs from place of birth to the nearest specialized treatment center under major medical policies, and with respect to basic policies to the extent such costs are charged by the treatment center.

~~[4. An insurer shall not restrict the coverage of a dependent child adopted or placed for adoption solely because of a preexisting condition the child has at the time the child would otherwise become eligible for coverage pursuant to the group health policy. Any provision relating to an exclusion for a preexisting condition must comply with NRS 689B.500.]~~

Sec. 54. NRS 689B.061 is hereby amended to read as follows:

689B.061 A policy of group health insurance which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

- 1. ~~[May not require a deductible of more than \$600 difference per admission to a facility for inpatient treatment which is not a preferred provider of health care.]~~

~~—2. May not require a deductible of more than \$500 difference per treatment, other than inpatient treatment at a hospital, by a provider which is not preferred.~~

~~—3.}~~ May not require an insured, another insurer who issues policies of group health insurance, a nonprofit medical service corporation or a health maintenance organization to pay any amount in excess of the deductible or coinsurance due from the insured based on the rates agreed upon with a provider.

~~{4. May not provide for a difference in percentage rates of payment for coinsurance of more than 30 percentage points between the payment for coinsurance required to be paid by the insured to a preferred provider of health care and the payment for coinsurance required to be paid by the insured to a provider of health care who is not preferred.~~

~~—5.}~~ 2. Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

~~{6.}~~ 3. Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a calendar year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.

~~{7.}~~ 4. Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured requests the service and the insurer determines that the use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

~~{8.}~~ 5. Must require the insurer to process a claim of a provider of health care who is not preferred not later than 30 working days after the date on which proof of the claim is received.

Sec. 54.5. NRS 689B.063 is hereby amended to read as follows:

689B.063 1. When a policy of group insurance is primary, its benefits are determined before those of another policy and the benefits of another policy are not considered. When a policy of group insurance is secondary, its benefits are determined after those of another policy. Secondary benefits may not be reduced because of benefits under the primary policy. When there are more than two policies, a policy may be primary as to one and may be secondary as to another.

2. The benefits payable under a policy of group health insurance may not be reduced because of any benefits payable under ~~an individual health insurance policy,~~ health insurance on a franchise plan or first-party coverage under an automobile insurance policy.

3. As used in this section, "a policy of group insurance" includes Medicare.

Sec. 55. NRS 689B.340 is hereby amended to read as follows:

689B.340 As used in NRS 689B.340 to ~~689B.500,~~ 689B.580, inclusive, unless the context otherwise requires, the words and terms defined in NRS 689B.350 to 689B.460, inclusive, have the meanings ascribed to them in those sections.

Sec. 56. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. NRS 689B.480 is hereby amended to read as follows:

689B.480 1. In determining the applicable creditable coverage of a person for the purposes of NRS 689B.340 to ~~689B.500,~~ 689B.580, inclusive, a period of creditable coverage must not be included if, after the expiration of that period but before the enrollment date, there was a 63-day period during all of which the person was not covered under any creditable coverage. To establish a period of creditable coverage, a person must present any certificates of coverage provided to the person in accordance with NRS 689B.490 and such other evidence of coverage as required by regulations adopted by the Commissioner. For the purposes of this subsection, any waiting period for coverage or an affiliation period must not be considered in determining the applicable period of creditable coverage.

2. In determining the period of creditable coverage of a person, ~~for the purposes of NRS 689B.500,~~ a carrier shall include each applicable period of creditable coverage without regard to the specific benefits covered during that period, except that the carrier may elect to include applicable periods of creditable coverage based on coverage of specific benefits as specified in the regulations of the United States Department of Health and Human Services, if such an election is made on a uniform basis for all participants and beneficiaries of the health benefit plan or coverage. Pursuant to such an election, the carrier shall include each applicable period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within that class or category, as specified by those regulations.

3. Regardless of whether coverage is actually provided, if a carrier elects in accordance with subsection 2 to determine creditable coverage based on specified benefits, a statement that such an election has been made and a description of the effect of the election must be:

(a) Included prominently in any disclosure statement concerning the health benefit plan; and

(b) Provided to each person at the time of enrollment in the health benefit plan.

4. *The provisions of this section apply only to grandfathered plans.*

Sec. 59. NRS 689B.500 is hereby amended to read as follows:

689B.500 ~~[1.— Except as otherwise provided in this section, a]~~ A carrier that issues a group health plan or coverage under blanket accident and health insurance or group health insurance shall not deny, exclude or limit a benefit for a preexisting condition . ~~[for:~~

~~— (a) More than 12 months after the effective date of coverage if the employee or other insured enrolls through open enrollment or after the first day of the waiting period for that enrollment, whichever is earlier; or~~

~~— (b) More than 18 months after the effective date of coverage for a late enrollee.~~

~~→ A carrier may not define a preexisting condition more restrictively than that term is defined in NRS 689B.450.~~

~~— 2. The period of any exclusion for a preexisting condition imposed by a group health plan or coverage under blanket accident and health insurance or group health insurance on a person to be insured in accordance with the provisions of this chapter must be reduced by the aggregate period of creditable coverage of that person, if the creditable coverage was continuous to a date not more than 63 days before the effective date of the coverage. The period of continuous coverage must not include:~~

~~— (a) Any waiting period for the effective date of the new coverage applied by the employer or the carrier; or~~

~~— (b) Any affiliation period not to exceed 60 days for a new enrollee and 90 days for a late enrollee required before becoming eligible to enroll in the group health plan.~~

~~— 3. A health maintenance organization authorized to transact insurance pursuant to chapter 695C of NRS that does not restrict coverage for a preexisting condition may require an affiliation period before coverage becomes effective under a plan of insurance if the affiliation period applies uniformly to all employees or other persons insured and without regard to any health status related factors. During the affiliation period, the carrier shall not collect any premiums for coverage of the employee or other insured.~~

~~— 4. An insurer that restricts coverage for preexisting conditions shall not impose an affiliation period.~~

~~— 5. A carrier shall not impose any exclusion for a preexisting condition:~~

~~— (a) Relating to pregnancy.~~

~~— (b) In the case of a person who, as of the last day of the 30 day period beginning on the date of the birth of the person, is covered under creditable coverage.~~

~~— (c) In the case of a child who is adopted or placed for adoption before attaining the age of 18 years and who, as of the last day of the 30-day period beginning on the date of adoption or placement for adoption, whichever is earlier, is covered under creditable coverage. The provisions of this paragraph do not apply to coverage before the date of adoption or placement for adoption.~~

~~— (d) In the case of a condition for which medical advice, diagnosis, care or treatment was recommended or received for the first time while the covered~~

~~person held creditable coverage, and the medical advice, diagnosis, care or treatment was a benefit under the plan, if the creditable coverage was continuous to a date not more than 63 days before the effective date of the new coverage.~~

~~→ The provisions of paragraphs (b) and (c) do not apply to a person after the end of the first 63-day period during all of which the person was not covered under any creditable coverage.~~

~~—6— As used in this section, "late enrollee" means an eligible employee, or a dependent of the eligible employee, who requests enrollment in a group health plan following the initial period of enrollment, if that initial period of enrollment is at least 30 days, during which the person is entitled to enroll under the terms of the health benefit plan. The term does not include an eligible employee or a dependent of the eligible employee if:~~

~~—(a) The employee or dependent:~~

~~—(1) Was covered under creditable coverage at the time of the initial enrollment;~~

~~—(2) Lost coverage under creditable coverage as a result of cessation of contributions by his or her employer, termination of employment or eligibility, reduction in the number of hours of employment, involuntary termination of creditable coverage, or death of, or divorce or legal separation from, a covered spouse; and~~

~~—(3) Requests enrollment not later than 30 days after the date on which the creditable coverage of the employee or dependent was terminated or on which the change in conditions that gave rise to the termination of the coverage occurred.~~

~~—(b) The employee enrolls during the open enrollment period, as provided in the contract or as otherwise specifically provided by specific statute.~~

~~—(c) The employer of the employee offers several health benefit plans and the employee elected a different plan during an open enrollment period.~~

~~—(d) A court has ordered coverage to be provided to the spouse or a minor or dependent child of an employee under a health benefit plan of the employee and a request for enrollment is made within 30 days after the issuance of the court order.~~

~~—(e) The employee changes status from not being an eligible employee to being an eligible employee and requests enrollment, subject to any waiting period, within 30 days after the change in status.~~

~~—(f) The person has continued coverage in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, and that coverage has been exhausted.]~~

Sec. 60. NRS 689B.560 is hereby amended to read as follows:

689B.560 1. Except as otherwise provided in this section, coverage under a policy of group health insurance must be renewed by the carrier at the option of the plan sponsor, unless:

(a) The plan sponsor has failed to pay premiums or contributions in accordance with the terms of the group health insurance or the carrier has not received timely premium payments;

(b) The plan sponsor has performed an act or a practice that constitutes fraud or has made an intentional misrepresentation of material fact under the terms of the coverage;

(c) The plan sponsor has failed to comply with any material provision of the group health insurance relating to employer contributions and group participation; or

(d) The carrier decides to discontinue offering coverage under group health insurance. If the carrier decides to discontinue offering and renewing such insurance, the carrier shall:

(1) Provide notice of its intention to the Commissioner and the chief regulatory officer for insurance in each state in which the carrier is licensed to transact insurance at least 60 days before the date on which notice of cancellation or nonrenewal is delivered or mailed to the persons covered by the discontinued insurance pursuant to subparagraph (2).

(2) Provide notice of its intention to all persons covered by the discontinued insurance and to the Commissioner and the chief regulatory officer for insurance in each state in which such a person is known to reside. The notice must be made at least 180 days before the discontinuance of any group health plan by the carrier.

(3) Discontinue all health insurance issued or delivered for issuance for persons in this state and not renew coverage under any group health insurance issued to such persons.

2. A carrier may discontinue the issuance and renewal of a form of a product of group health insurance if the Commissioner finds that the form of the product offered by the carrier is obsolete and is being replaced with comparable coverage. A form of a product may be discontinued by the carrier pursuant to this subsection only if:

(a) The carrier notifies the Commissioner and the chief regulatory officer in each state in which it is licensed of its decision pursuant to this subsection to discontinue the issuance and renewal of the form of the product at least 60 days before the individual carrier notifies the persons covered by the discontinued insurance pursuant to paragraph (b).

(b) The carrier notifies each person covered by the discontinued insurance and the Commissioner and the chief regulatory officer in each state in which such a person is known to reside of the decision of the carrier to discontinue offering the form of the product. The notice must be made at least 180 days before the date on which the carrier will discontinue offering the form of the product.

(c) The carrier offers to each person covered by the discontinued insurance the option to purchase any other health benefit plan currently offered by the carrier to large groups in this state.

(d) In exercising the option to discontinue the form of the product and in offering the option to purchase other coverage pursuant to paragraph (c), the carrier acts uniformly without regard to the claim experience of the persons covered by the discontinued insurance or any health status-related factor relating to those persons or beneficiaries covered by the discontinued form of the product or any person or beneficiary who may become eligible for such coverage.

3. A carrier may discontinue the issuance and renewal of any type of group health insurance offered by the carrier in this state that is made available pursuant to this chapter only to a member of a bona fide association if:

(a) The membership of the person in the bona fide association was the basis for the provision of coverage under the group health insurance;

(b) The membership of the person in the bona fide association ceases; and

(c) Coverage is terminated pursuant to this subsection for all such former members uniformly without regard to any health status-related factor relating to the former member.

4. A carrier that elects not to renew group health insurance pursuant to paragraph (d) of subsection 1 shall not write new business pursuant to this chapter for 5 years after the date on which notice is provided to the Commissioner pursuant to subparagraph (2) of paragraph (d) of subsection 1.

5. If the carrier does business in only one ~~established~~ geographic service area of this state, the provisions of this section apply only to the operations of the carrier in that service area.

6. As used in this section, "bona fide association" has the meaning ascribed to it in NRS 689A.485.

Sec. 61. NRS 689B.570 is hereby amended to read as follows:

689B.570 1. A carrier that offers coverage through a network plan is not required to offer coverage to or accept an application from an employer that does not employ or no longer employs any enrollees who reside or work in the ~~established~~ geographic service area of the carrier, ~~for the geographic rating area for which the carrier is authorized to transact insurance,~~ provided that such coverage is refused or terminated uniformly without regard to any health status-related factor for any employee of the employer.

2. As used in this section, "network plan" means a health benefit plan offered by a health carrier under which the financing and delivery of medical care, including items and services paid for as medical care, are provided, in whole or in part, through a defined set of providers under contract with the carrier. The term does not include an arrangement for the financing of premiums.

Sec. 62. (Deleted by amendment.)

Sec. 63. NRS 689B.580 is hereby amended to read as follows:

689B.580 1. A plan sponsor of a governmental plan that is a group health plan to which the provisions of NRS 689B.340 to ~~689B.500,~~

689B.580, inclusive, otherwise apply may elect to exclude the governmental plan from compliance with those sections. Such an election:

(a) Must be made in such a form and in such a manner as the Commissioner prescribes by regulation.

(b) Is effective for a single specified year of the plan or, if the plan is provided pursuant to a collective bargaining agreement, for the term of that agreement.

(c) May be extended by subsequent elections.

(d) Excludes the governmental plan from those provisions in this chapter that apply only to group health plans.

2. If a plan sponsor of a governmental plan makes an election pursuant to this section, the plan sponsor shall:

(a) Annually and at the time of enrollment, notify the enrollees in the plan of the election and the consequences of the election; and

(b) Provide certification and disclosure of creditable coverage under the plan with respect to those enrollees pursuant to NRS 689B.490.

3. As used in this section, "governmental plan" has the meaning ascribed to in section 3(32) of the Employee Retirement Income Security Act of 1974, as that section existed on July 16, 1997.

Sec. 64. NRS 689C.055 is hereby amended to read as follows:

689C.055 "Dependent" means a spouse , *a domestic partner as defined in NRS 122A.030*, or ~~;~~

~~—1. An unmarried} a child {under 19} on or before the last day of the month in which the child attains 26 years of age . ;~~

~~—2. An unmarried child who is a full time student under 24 years of age and who is financially dependent upon the parent; or~~

~~—3. An unmarried child of any age who is medically certified as disabled and dependent upon the parent;~~

~~→ who the parent claimed as his or her dependent on the form for income tax returns which the parent filed with the Internal Revenue Service for the previous fiscal year.}~~

Sec. 65. NRS 689C.067 is hereby amended to read as follows:

689C.067 ~~{ "Established geographic }~~ "Geographic service area" means a geographic area, as approved by the Commissioner , ~~{and based on the certificate of authority of the carrier to transact insurance in this state,}~~ within which the carrier is authorized to provide coverage.

Sec. 66. NRS 689C.071 is hereby amended to read as follows:

689C.071 "Geographic *rating* area" means an area established by the Commissioner for use in adjusting the rates for a health benefit plan.

Sec. 66.5. NRS 689C.095 is hereby amended to read as follows:

689C.095 ~~{1-}~~ "Small employer" ~~{means, with respect to a calendar year and a plan year, an employer who employed on business days during the preceding calendar year an average of at least 2 employees, but not more than 50 employees, who have a normal workweek of 30 hours or more, and who employs at least 2 employees on the first day of the plan year. For the~~

~~purposes of determining the number of eligible employees, organizations which are affiliated or which are eligible to file a combined tax return for the purposes of taxation constitute one employer.~~

~~2. For the purposes of this section, organizations are "affiliated" if one directly, or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the other, as determined pursuant to the provisions of NRS 692C.050.] has the meaning ascribed to it in 42 U.S.C. § 18024(b)(2).~~

Sec. 67. NRS 689C.125 is hereby amended to read as follows:

689C.125 1. A carrier serving small employers shall apply rating factors ~~[, including characteristics,]~~ consistently with respect to all small employers. ~~[in a class of business.]~~ Rating factors must produce premiums for identical groups that differ only by the amounts attributable to the design of the plans and the terms of the coverage and do not reflect differences based on the nature of the groups that will select particular health benefit plans. As used in this subsection, "premium" means all money paid by a small employer and eligible employees to a carrier as a condition of receiving coverage from a carrier, including any fees or other contributions associated with the health benefit plan.

2. A carrier serving small employers shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period, if the terms of coverage provided in the plans are the same.

Sec. 68. (Deleted by amendment.)

Sec. 69. NRS 689C.155 is hereby amended to read as follows:

689C.155 The Commissioner may adopt regulations to carry out the provisions of NRS ~~[689C.107]~~ 689C.109 to ~~[689C.145,]~~ 689C.142, inclusive, 689C.156 to 689C.159, inclusive, 689C.165, 689C.183, 689C.187, 689C.191, 689C.192 to 689C.198, inclusive, 689C.203, 689C.207, 689C.265, ~~[689C.283, 689C.287,]~~ 689C.325, ~~[689C.342 to 689C.348, inclusive,]~~ 689C.355 and 689C.610 to ~~[689C.980,]~~ 689C.940, inclusive, and to ensure that rating practices used by carriers serving small employers are consistent with those sections, including regulations that:

1. Ensure that differences in rates charged for health benefit plans by such carriers are reasonable and reflect only differences in the designs of the plans, the terms of the coverage, the amount contributed by the employers to the cost of coverage and differences based on the rating factors established by the carrier.

2. Prescribe the manner in which ~~[characteristics]~~ rating factors may be used by such carriers.

Sec. 70. NRS 689C.156 is hereby amended to read as follows:

689C.156 1. As a condition of transacting business in this State with small employers, a carrier shall actively market to a small employer each health benefit plan which is actively marketed in this State by the carrier to any small employer in this State. ~~[The health insurance plans marketed pursuant to this section by the carrier must include, without limitation, a~~

~~basic health benefit plan and a standard health benefit plan.]~~ A carrier shall be deemed to be actively marketing a health benefit plan when it makes available any of its plans to a small employer that is not currently receiving coverage under a health benefit plan issued by that carrier.

2. A carrier shall issue to a small employer any health benefit plan marketed in accordance with this section if the eligible small employer applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan that are not inconsistent with NRS 689C.015 to 689C.355, inclusive, and 689C.610 to ~~689C.980,]~~ 689C.940, inclusive, except that a carrier is not required to issue a health benefit plan to a self-employed person who is covered by, or is eligible for coverage under, a health benefit plan offered by another employer.

3. If a health benefit plan marketed pursuant to this section provides, delivers, arranges for, pays for or reimburses any cost of health care services through managed care, the carrier shall provide a system for resolving any complaints of an employee concerning those health care services that complies with the provisions of NRS 695G.200 to 695G.310, inclusive.

Sec. 71. NRS 689C.159 is hereby amended to read as follows:

689C.159 The provisions of NRS 689C.156 ~~[-689C.157]~~ and 689C.190 do not apply to health benefit plans offered by a carrier if the carrier makes the health benefit plan available in the small employer market only through a bona fide association.

Sec. 72. NRS 689C.160 is hereby amended to read as follows:

689C.160 The requirements used by a carrier serving small employers to determine whether to provide coverage to a small employer, including, without limitation, ~~[standards for medical underwriting,]~~ requirements for minimum participation of eligible employees and minimum employer's contributions, must be applied uniformly among all small employers with the same number of eligible employees applying for coverage or receiving coverage from the carrier.

Sec. 73. NRS 689C.169 is hereby amended to read as follows:

689C.169 1. ~~[Notwithstanding any provisions of this title to the contrary, a]~~ A policy of group health insurance delivered or issued for delivery in this State pursuant to this chapter must provide coverage for the treatment of conditions relating to severe mental illness.

2. ~~[The coverage required by this section:~~

~~—(a) Must provide:~~

~~—(1) Benefits for at least 40 days of hospitalization as an inpatient per policy year and 40 visits for treatment as an outpatient per policy year, excluding visits for the management of medication; and~~

~~—(2) That two visits for partial or respite care, or a combination thereof, may be substituted for each 1 day of hospitalization not used by the insured. In no event is the policy required to provide coverage for more than 40 days of hospitalization as an inpatient per policy year.~~

~~—(b) Is not required to provide benefits for psychosocial rehabilitation or care received as a custodial inpatient.~~

~~—3. Any deductibles and copayments required to be paid for the coverage required by this section must not be greater than 150 percent of the out of pocket expenses required to be paid for medical and surgical benefits provided pursuant to the policy of group health insurance.~~

~~—4. The provisions of this section do not apply to a policy of group health insurance if, at the end of the policy year, the premiums charged for that policy, or a standard grouping of policies, increase by more than 2 percent as a result of providing the coverage required by this section and the insurer obtains an exemption from the Commissioner pursuant to subsection 5.~~

~~—5. To obtain the exemption required by subsection 4, an insurer must submit to the Commissioner a written request therefor that is signed by an actuary and sets forth the reasons and actuarial assumptions upon which the request is based. To determine whether an exemption may be granted, the Commissioner shall subtract from the amount of premiums charged during the policy year the amount of premiums charged during the period immediately preceding the policy year and the amount of any increase in the premiums charged that is attributable to factors that are unrelated to providing the coverage required by this section. The Commissioner shall verify the information within 30 days after receiving the request. The request shall be deemed approved if the Commissioner does not deny the request within that time.~~

~~—6. The provisions of this section do not:~~

~~—(a) Limit the provision of specialized services covered by Medicaid for persons with conditions relating to mental health or substance abuse.~~

~~—(b) Supersede any provision of federal law, any federal or state policy relating to Medicaid, or the terms and conditions imposed on any Medicaid waiver granted to this State with respect to the provisions of services to persons with conditions relating to mental health or substance abuse.~~

~~—7. A policy of group health insurance subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after October 3, 2009, has the legal effect of including the coverage required by this section, and any provision of the policy or the renewal which is in conflict with this section is void, unless the policy is otherwise exempt from the provisions of this section pursuant to subsection 4.~~

~~—8.] As used in this section, "severe mental illness" means any of the following mental illnesses that are biologically based and for which diagnostic criteria are prescribed in the *latest edition of the Diagnostic and Statistical Manual of Mental Disorders*, [Fourth Edition,] published by the American Psychiatric Association:~~

- ~~(a) Schizophrenia.~~
- ~~(b) Schizoaffective disorder.~~
- ~~(c) Bipolar disorder.~~
- ~~(d) Major depressive disorders.~~

(e) Panic disorder.

(f) Obsessive-compulsive disorder.

Sec. 74. NRS 689C.190 is hereby amended to read as follows:

689C.190 ~~{1. Except as otherwise provided in this section, a}~~ A carrier serving small employers that issues a health benefit plan shall not deny, exclude or limit a benefit for a preexisting condition. ~~{~~

~~—(a) For more than 12 months after the effective date of coverage if the employee enrolls through open enrollment or after the first day of the waiting period for such enrollment, whichever is earlier; or~~

~~—(b) For more than 18 months after the effective date of coverage for a late enrollee. A carrier may not define a preexisting condition in its health benefit plan more restrictively than that term is defined in NRS 689C.082.~~

~~— 2. The period of any exclusion for a preexisting condition imposed by a health benefit plan on a person to be insured in accordance with the provisions of this chapter must be reduced by the aggregate period of creditable coverage of that person, if the creditable coverage was continuous to a date not more than 63 days before the effective date of the new coverage. The period of continuous coverage must not include:~~

~~—(a) Any waiting period for the effective date of the new coverage applied by the employer or the carrier; or~~

~~—(b) Any affiliation period, not to exceed 60 days for a new enrollee and 90 days for a late enrollee, required before becoming eligible to enroll in the health benefit plan.~~

~~— 3. A health maintenance organization authorized to transact insurance pursuant to chapter 695C of NRS that does not restrict coverage for a preexisting condition may require an affiliation period before coverage becomes effective under a plan of insurance if the affiliation period applies uniformly to all employees and without regard to any health status related factors. During the affiliation period, the carrier shall not collect any premiums for coverage of the employee.~~

~~— 4. A carrier that restricts coverage for preexisting conditions shall not impose an affiliation period.~~

~~— 5. A carrier shall not impose any exclusion for a preexisting condition:~~

~~—(a) Relating to pregnancy.~~

~~—(b) In the case of a person who, as of the last day of the 30 day period beginning on the date of the person's birth, is covered under creditable coverage.~~

~~—(c) In the case of a child who is adopted or placed for adoption before attaining the age of 18 years and who, as of the last day of the 30-day period beginning on the date of adoption or placement for adoption, whichever is earlier, is covered under creditable coverage. The provisions of this paragraph do not apply to coverage before the date of adoption or placement for adoption.~~

~~—(d) In the case of a condition for which medical advice, diagnosis, care or treatment was recommended or received for the first time while the covered~~

~~person held creditable coverage, and the medical advice, diagnosis, care or treatment was a covered benefit under the plan, if the creditable coverage was continuous to a date not more than 90 days before the effective date of the new coverage.~~

~~➔ The provisions of paragraphs (b) and (c) do not apply to a person after the end of the first 63-day period during all of which the person was not covered under any creditable coverage.~~

~~—6— As used in this section, "late enrollee" means an eligible employee, or a dependent of the eligible employee, who requests enrollment in a health benefit plan of a small employer following the initial period of enrollment, if the initial period of enrollment is at least 30 days, during which the person is entitled to enroll under the terms of the health benefit plan. The term does not include an eligible employee or a dependent of the eligible employee if:~~

~~—(a) The employee or dependent:~~

~~—(1) Was covered under creditable coverage at the time of the initial enrollment;~~

~~—(2) Lost coverage under creditable coverage as a result of cessation of employer contribution, termination of employment or eligibility, reduction in the number of hours of employment, involuntary termination of creditable coverage, or the death of, or divorce or legal separation from, a covered spouse; and~~

~~—(3) Requests enrollment not later than 30 days after the date on which his or her creditable coverage was terminated or on which the change in conditions that gave rise to the termination of the coverage occurred.~~

~~—(b) The person enrolls during the open enrollment period, as provided in the contract or as otherwise provided by specific statute.~~

~~—(c) The person is employed by an employer which offers multiple health benefit plans and the person elected a different plan during an open enrollment period.~~

~~—(d) A court has ordered coverage to be provided to the spouse or a minor or dependent child of an employee under a health benefit plan of the employee and a request for enrollment is made within 30 days after the issuance of the court order.~~

~~—(e) The person changes status from not being an eligible employee to being an eligible employee and requests enrollment, subject to any waiting period, within 30 days after the change in status.~~

~~—(f) The person has continued coverage in accordance with the Consolidated Omnibus Budget Reconciliation Act of 1985 and such coverage has been exhausted.]~~

Sec. 75. NRS 689C.191 is hereby amended to read as follows:

689C.191 1. In determining the applicable creditable coverage of a person, [for the purposes of NRS 689C.190,] a period of creditable coverage must not be included if, after the expiration of that period but before the enrollment date, there was a 63-day period during all of which the person was not covered under any creditable coverage. To establish a period of

creditable coverage, an eligible employee must present any certificates of coverage provided to the eligible employee in accordance with NRS 689C.192 and such other evidence of coverage as required by regulations adopted by the Commissioner. For the purposes of this subsection, any waiting period for coverage or an affiliation period must not be considered in determining the applicable period of creditable coverage.

2. In determining the period of creditable coverage of a person, ~~for the purposes of NRS 689C.190,~~ a carrier shall include each applicable period of creditable coverage without regard to the specific benefits covered during that period, except that the carrier may elect to include applicable periods of creditable coverage based on coverage of specific benefits as specified by the United States Department of Health and Human Services by regulation, if such an election is made on a uniform basis for all participants and beneficiaries of the health benefit plan or coverage. Pursuant to such an election, the carrier shall include each applicable period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within that class or category, as specified by those regulations.

3. Regardless of whether coverage is actually provided, if a carrier elects in accordance with subsection 2 to determine creditable coverage based on specified benefits, a statement that such an election has been made and a description of the effect of the election must be:

(a) Included prominently in any disclosure statement concerning the health benefit plan; and

(b) Provided to each eligible employee at the time of enrollment in the health benefit plan.

4. *The provisions of this section apply only to grandfathered plans.*

Sec. 76. NRS 689C.193 is hereby amended to read as follows:

689C.193 1. A carrier shall not place any restriction on a small employer or an eligible employee or a dependent of the eligible employee as a condition of being a participant in or a beneficiary of a health benefit plan that is inconsistent with NRS 689C.015 to 689C.355, inclusive.

2. A carrier that offers health insurance coverage to small employers pursuant to this chapter shall not establish rules of eligibility, including, but not limited to, rules which define applicable waiting periods, for the initial or continued enrollment under a health benefit plan offered by the carrier that are based on the following factors relating to the eligible employee or a dependent of the eligible employee:

(a) Health status.

(b) Medical condition, including physical and mental illnesses, or both.

(c) Claims experience.

(d) Receipt of health care.

(e) Medical history.

(f) Genetic information.

(g) Evidence of insurability, including conditions which arise out of acts of domestic violence.

(h) Disability.

3. Except as otherwise provided in NRS 689C.190, the provisions of subsection 1 do not ~~for~~:

~~—(a) Require~~ *require* a carrier to provide particular benefits other than those that would otherwise be provided under the terms of the health benefit plan or coverage. ~~for~~ or

~~—(b) Prevent a carrier from establishing limitations or restrictions on the amount, level, extent or nature of the benefits or coverage for similarly situated persons.]~~

4. As a condition of enrollment or continued enrollment under a health benefit plan, a carrier shall not require any person to pay a premium or contribution that is greater than the premium or contribution for a similarly situated person covered by similar coverage on the basis of any factor described in subsection 2 in relation to the person or a dependent of the person.

5. Nothing in this section:

(a) Restricts the amount that a small employer may be charged for coverage by a carrier;

(b) Prevents a carrier from establishing premium discounts or rebates or from modifying otherwise applicable copayments or deductibles in return for adherence by the insured person to programs of health promotion and disease prevention; or

(c) Precludes a carrier from establishing rules relating to employer contribution or group participation when offering health insurance coverage to small employers in this State.

6. As used in this section:

(a) "Contribution" means the minimum employer contribution toward the premium for enrollment of participants and beneficiaries in a health benefit plan.

(b) "Group participation" means the minimum number of participants or beneficiaries that must be enrolled in a health benefit plan in relation to a specified percentage or number of eligible persons or employees of the employer.

Sec. 77. NRS 689C.200 is hereby amended to read as follows:

689C.200 A carrier serving small employers is not required to accept applications from or offer coverage to:

1. A small employer if the employer is not physically located in the carrier's ~~established~~ geographic *service* area; or

2. An employee if the employee does not work or reside within the carrier's ~~established~~ geographic *service* area.

Sec. 78. NRS 689C.250 is hereby amended to read as follows:

689C.250 ~~[A carrier serving small employers shall make the information and documents described in NRS 689C.210 to 689C.240, inclusive, available to the Commissioner upon request.]~~

1. Except in cases of violations of NRS 689C.015 to 689C.355, inclusive, the ~~[information is]~~ *unified rate review template and rate filing documentation used by carriers servicing small employers are considered proprietary, ~~[constitutes]~~ constitute a trade secret, and ~~[is]~~ are not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.*

2. *As used in this section, "rate filing documentation" and "unified rate review template" ascribed to in 45 C.F.R § 154.215.*

Sec. 79. NRS 689C.310 is hereby amended to read as follows:

689C.310 1. Except as otherwise provided in subsections 2 and 3, a carrier shall renew a health benefit plan at the option of the small employer who purchased the plan.

2. A carrier may refuse to issue or to renew a health benefit plan if:

(a) The carrier discontinues transacting insurance in this state or in the geographic *service* area of this state where the employer is located;

(b) The employer fails to pay the premiums or contributions required by the terms of the plan;

(c) The employer misrepresents any information regarding the employees covered under the plan or other information regarding eligibility for coverage under the plan;

(d) The plan sponsor has engaged in an act or practice that constitutes fraud to obtain or maintain coverage under the plan;

(e) The employer is not in compliance with the minimum requirements for participation or employer contribution as set forth in the plan; or

(f) The employer fails to comply with any of the provisions of this chapter.

3. A carrier may require a small employer to exclude a particular employee or a dependent of the particular employee from coverage under a health benefit plan as a condition to renewal of the plan if the employee or dependent of the employee commits fraud upon the carrier or misrepresents a material fact which affects his or her coverage under the plan.

4. A carrier shall discontinue the issuance and renewal of coverage to a small employer if the Commissioner finds that the continuation of the coverage would not be in the best interests of the policyholders or certificate holders of the carrier in this state or would impair the ability of the carrier to meet its contractual obligations. If the Commissioner makes such a finding, the Commissioner shall assist the affected small employers in finding replacement coverage.

5. A carrier may discontinue the issuance and renewal of a form of a product of a health benefit plan offered to small employers pursuant to this chapter if the Commissioner finds that the form of the product offered by the carrier is obsolete and is being replaced with comparable coverage. A form

of a product of a health benefit plan may be discontinued by a carrier pursuant to this subsection only if:

(a) The carrier notifies the Commissioner and the chief regulatory officer for insurance in each state in which it is licensed of its decision pursuant to this subsection to discontinue the issuance and renewal of the form of the product at least 60 days before the carrier notifies the affected small employers pursuant to paragraph (b).

(b) The carrier notifies each affected small employer and the Commissioner and the chief regulatory officer for insurance in each state in which any affected small employer is located or eligible employee resides of the decision of the carrier to discontinue offering the form of the product. The notice must be made at least 180 days before the date on which the carrier will discontinue offering the form of the product.

(c) The carrier offers to each affected small employer the option to purchase any other health benefit plan currently offered by the carrier to small employers in this state.

(d) In exercising the option to discontinue the particular form of the product and in offering the option to purchase other coverage pursuant to paragraph (c), the carrier acts uniformly without regard to the claims experience of the affected small employers or any health status-related factor relating to any participant or beneficiary covered by the discontinued product or any new participant or beneficiary who may become eligible for such coverage.

6. A carrier may discontinue the issuance and renewal of a health benefit plan offered to a small employer or an eligible employee pursuant to this chapter only through a bona fide association if:

(a) The membership of the small employer or eligible employee in the association was the basis for the provision of coverage;

(b) The membership of the small employer or eligible employee in the association ceases; and

(c) The coverage is terminated pursuant to this subsection uniformly without regard to any health status-related factor relating to the small employer or eligible employee or dependent of the eligible employee.

7. If a carrier does business in only one ~~established~~ geographic service area of this state, the provisions of this section apply only to the operations of the carrier in that service area.

Sec. 80. NRS 689C.320 is hereby amended to read as follows:

689C.320 1. A carrier that discontinues transacting insurance in this State or in a particular geographic *service* area of this State shall:

(a) Notify the Commissioner and the chief regulatory officer for insurance in each state in which the carrier is licensed to transact insurance at least 60 days before a notice of cancellation or nonrenewal is delivered or mailed to the affected small employers pursuant to paragraph (b).

(b) Notify the Commissioner and each small employer affected not less than 180 days before the expiration of any policy or contract of insurance

under any health benefit plan issued to a small employer pursuant to this chapter.

2. A carrier that cancels any health benefit plan because it has discontinued transacting insurance in this State or in a particular geographic service area of this State:

(a) Shall discontinue the issuance and delivery for issuance of all health benefit plans pursuant to this chapter in this State and not renew coverage under any health benefit plan issued to a small employer; and

(b) May not issue any health benefit plans pursuant to this chapter in this State or in the particular geographic area for 5 years after it gives notice to the Commissioner pursuant to paragraph (b) of subsection 1.

Sec. 81. NRS 689C.325 is hereby amended to read as follows:

689C.325 A carrier that offers coverage through a network plan is not required to offer coverage to or accept any applications for coverage from the eligible employees of a small employer pursuant to NRS 689C.310 and 689C.320 if:

1. The eligible employees do not reside or work in the ~~[established]~~ geographic service area of the network plan.

2. For a small employer whose eligible employees reside or work in the ~~[established]~~ geographic service area of the network plan, the carrier demonstrates to the satisfaction of the Commissioner that the carrier does not have the capacity to deliver adequate service to additional small employers and eligible employees because of the existing obligations of the carrier. If a carrier is authorized by the Commissioner not to offer coverage pursuant to this subsection, the carrier shall not thereafter offer coverage to additional small employers and eligible employees within that ~~[established]~~ geographic service area until the carrier demonstrates to the satisfaction of the Commissioner that it has regained the capacity to deliver adequate service to additional small employers and eligible employees within that service area.

Sec. 82. (Deleted by amendment.)

Sec. 83. NRS 689C.350 is hereby amended to read as follows:

689C.350 A health benefit plan which offers a difference of payment between preferred providers of health care and providers of health care who are not preferred:

1. ~~[May not require a deductible of more than \$600 difference per admission to a facility for inpatient treatment which is not a preferred provider of health care.]~~

~~2. May not require a deductible of more than \$500 difference per treatment, other than inpatient treatment at a hospital, by a provider which is not preferred.~~

~~3. May not provide for a difference in percentage rates of payment for coinsurance of more than 30 percentage points between the payment for coinsurance required to be paid by the insured to a preferred provider of health care and the payment for coinsurance required to be paid by the insured to a provider of health care who is not preferred.~~

~~—4.]~~ Must require that the deductible and payment for coinsurance paid by the insured to a preferred provider of health care be applied to the negotiated reduced rates of that provider.

~~{5.}~~ 2. Must include for providers of health care who are not preferred a provision establishing the point at which an insured's payment for coinsurance is no longer required to be paid if such a provision is included for preferred providers of health care. Such provisions must be based on a ~~{calendar}~~ plan year. The point at which an insured's payment for coinsurance is no longer required to be paid for providers of health care who are not preferred must not be greater than twice the amount for preferred providers of health care, regardless of the method of payment.

~~{6.}~~ 3. Must provide that if there is a particular service which a preferred provider of health care does not provide and the provider of health care who is treating the insured requests the service and the insurer determines that the use of the service is necessary for the health of the insured, the service shall be deemed to be provided by the preferred provider of health care.

~~{7. Must require the insurer to process a claim of a provider of health care who is not preferred not later than 30 working days after the date on which proof of the claim is received.}~~

Sec. 84. NRS 689C.355 is hereby amended to read as follows:

689C.355 1. Except as otherwise provided in this section, a carrier or a producer shall not, directly or indirectly:

(a) Encourage or direct a small employer to refrain from filing an application for coverage with the carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

(b) Encourage or direct a small employer to seek coverage from another carrier because of the health status, claims experience, industry, occupation or geographic location of the small employer.

2. The provisions of subsection 1 do not apply to information provided to a small employer by a carrier or a producer relating to the ~~{established}~~ geographic service area or a provision for a restricted network of the carrier.

3. Except as otherwise provided in this subsection, a carrier shall not, directly or indirectly, enter into any contract, agreement or arrangement with a producer if the contract, agreement or arrangement provides for or results in a variation to the compensation that is paid to a producer for the sale of a health benefit plan because of the health status, claims experience, industry, occupation or geographic location of the small employer at the time that the health benefit plan is issued to or renewed by the small employer. ~~{The provisions of this subsection do not apply to any arrangement for compensation that provides payment to a producer on the basis of percentage of premium, except that the percentage may not vary because of the health status, claims experience, industry, occupation or geographic area of the small employer.}~~

4. A carrier shall not terminate, fail to renew, or limit its contract or agreement of representation with a producer for any reason related to the health status, claims experience, occupation or geographic location of a small employer at the time that the health benefit plan is issued to or renewed by the small employer placed by the producer with the carrier.

5. A carrier or producer shall not induce or otherwise encourage a small employer to separate or otherwise exclude an employee or a dependent of the employee from health coverage or benefits provided in connection with the employment of the employee.

6. A violation of any provision of this section by a carrier may constitute an unfair trade practice for the purposes of chapter 686A of NRS.

7. The provisions of this section apply to a third-party administrator if the third-party administrator enters into a contract, agreement or other arrangement with a carrier to provide administrative, marketing or other services related to the offering of a health benefit plan to small employers in this state.

8. Nothing in this section interferes with the right and responsibility of a ~~broker~~ *producer* to advise and represent the best interests of a small employer who is seeking health insurance coverage from a small employer carrier.

Sec. 85. NRS 689C.390 is hereby amended to read as follows:

689C.390 "Dependent" means a spouse, ~~an unmarried~~ *a domestic partner as defined in NRS 122A.030, or a child [who has not attained 19] on or before the last day of the month in which the child attains 26 years of age . [an unmarried child who is a full time student who has not attained 24 years of age and who is financially dependent upon the parent, and an unmarried child of any age who is medically certified as disabled and dependent upon the parent.]*

Sec. 86. NRS 689C.610 is hereby amended to read as follows:

689C.610 As used in NRS 689C.610 to ~~689C.980,~~ *689C.940*, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~689C.620 to 689C.730, inclusive,~~ *689C.630, 689C.660 and 689C.670* have the meanings ascribed to them in those sections.

Sec. 87. (Deleted by amendment.)

Sec. 88. NRS 695A.152 is hereby amended to read as follows:

695A.152 1. To the extent reasonably applicable, a fraternal benefit society shall comply with the provisions of NRS 689B.340 to ~~689B.590,~~ *689B.580*, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance offered by the society to its members. If there is a conflict between the provisions of this chapter and the provisions of NRS 689B.340 to ~~689B.590,~~ *689B.580*, inclusive, and chapter 689C of NRS, the provisions of NRS 689B.340 to ~~689B.590,~~ *689B.580*, inclusive, and chapter 689C of NRS control.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to a group health plan or a carrier that provides

coverage under a group health plan, any reference in those sections to "group health plan" or "carrier" must be replaced by "fraternal benefit society."

Sec. 89. NRS 695A.159 is hereby amended to read as follows:

695A.159 1. If a person:

(a) Adopts a dependent child; or

(b) Assumes and retains a legal obligation for the total or partial support of a dependent child in anticipation of adopting the child,

↪ while the person is eligible for group coverage under a certificate for health benefits, the society issuing that certificate shall not restrict the coverage, in accordance with NRS 689B.340 to ~~[689B.590,]~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance, of the child solely because of a preexisting condition the child has at the time he or she would otherwise become eligible for coverage pursuant to that policy.

2. For the purposes of this section, "child" means a person who is under 18 years of age at the time of his or her adoption or the assumption of a legal obligation for his or her support in anticipation of his or her adoption.

Sec. 90. NRS 695B.187 is hereby amended to read as follows:

695B.187 Except as otherwise provided by the provisions of NRS 689B.340 to ~~[689B.590,]~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance:

1. A group contract for hospital, medical or dental services issued by a nonprofit hospital, medical or dental service corporation to replace any discontinued policy or coverage for group health insurance must:

(a) Provide coverage for all persons who were covered under the previous policy or coverage on the date it was discontinued; and

(b) Except as otherwise provided in subsection 2, provide benefits which are at least as extensive as the benefits provided by the previous policy or coverage, except that the benefits may be reduced or excluded to the extent that such a reduction or exclusion was permissible under the terms of the previous policy or coverage,

↪ if that contract is issued within 60 days after the date on which the previous policy or coverage was discontinued.

2. If an employer obtains a replacement contract pursuant to subsection 1 to cover the employees of the employer, any benefits provided by the previous policy or coverage may be reduced if notice of the reduction is given to the employees of the employer pursuant to NRS 608.1577.

3. Any corporation which issues a replacement contract pursuant to subsection 1 may submit a written request to the insurer which provided the previous policy or coverage for a statement of benefits which were provided under that policy or coverage. Upon receiving such a request, the insurer shall give a written statement to the corporation which indicates what benefits were provided and what exclusions or reductions were in effect under the previous policy or coverage.

4. The provisions of this section apply to a self-insured employer who provides health benefits to the employees of the self-insured employer and replaces those benefits with a group contract for hospital, medical or dental services issued by a nonprofit hospital, medical or dental service corporation.

Sec. 91. NRS 695B.189 is hereby amended to read as follows:

695B.189 A group contract issued by a corporation under the provisions of this chapter must contain a provision which permits the continuation of coverage pursuant to the provisions of NRS ~~{689B.245 to 689B.249, inclusive, and}~~ 689B.340 to ~~{689B.590,}~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.

Sec. 92. NRS 695B.192 is hereby amended to read as follows:

695B.192 1. No hospital, medical or dental service contract issued by a corporation pursuant to the provisions of this chapter may contain any exclusion, reduction or other limitation of coverage relating to complications of pregnancy, unless the provision applies generally to all benefits payable under the contract and complies with the provisions of NRS 689B.340 to ~~{689B.590,}~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.

2. As used in this section, the term "complications of pregnancy" includes any condition which requires hospital confinement for medical treatment and:

(a) If the pregnancy is not terminated, is caused by an injury or sickness not directly related to the pregnancy or by acute nephritis, nephrosis, cardiac decompensation, missed abortion or similar medically diagnosed conditions; or

(b) If the pregnancy is terminated, results in nonelective cesarean section, ectopic pregnancy or spontaneous termination.

3. A contract subject to the provisions of this chapter which is issued or delivered on or after July 1, 1977, has the legal effect of including the coverage required by this section, and any provision of the contract which is in conflict with this section is void.

Sec. 93. NRS 695B.251 is hereby amended to read as follows:

695B.251 1. Except as otherwise provided in the provisions of this section, NRS 689B.340 to ~~{689B.590,}~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance, all group subscriber contracts delivered or issued for delivery in this state providing for hospital, surgical or major medical coverage, or any combination of these coverages, on a service basis or an expense-incurred basis, or both, must contain a provision that the employee or member is entitled to have issued to him or her a subscriber contract of health coverage when the employee or member is no longer covered by the group subscriber contract.

2. The requirement in subsection 1 does not apply to contracts providing benefits only for specific diseases or accidental injuries.

3. If an employee or member was a recipient of benefits under the coverage provided pursuant to NRS 695B.1944, the employee or member is not entitled to have issued to him or her by a replacement insurer a subscriber contract of health coverage unless the employee or member has reported for his or her normal employment for a period of 90 consecutive days after last being eligible to receive any benefits under the coverage provided pursuant to NRS 695B.1944.

Sec. 94. NRS 695B.259 is hereby amended to read as follows:

695B.259 The medical service corporation may continue coverage identical to that provided under the group contract instead of issuing a converted contract. Coverage may be offered by amending the group certificate or by issuing an individual contract and ~~[-except as otherwise provided in NRS 689B.245 to 689B.249, inclusive.]~~ must otherwise comply with every requirement of NRS 695B.251 to 695B.259, inclusive.

Sec. 95. NRS 695B.318 is hereby amended to read as follows:

695B.318 1. Nonprofit hospital, medical or dental service corporations are subject to the provisions of NRS 689B.340 to ~~[-689B.590.]~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance offered by such organizations. If there is a conflict between the provisions of this chapter and the provisions of NRS 689B.340 to ~~[-689B.590.]~~ 689B.580, inclusive, and chapter 689C of NRS, the provisions of NRS 689B.340 to ~~[-689B.590.]~~ 689B.580, inclusive, and chapter 689C of NRS control.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to a group health plan or a carrier that provides coverage under a group health plan, any reference in those sections to:

(a) "Carrier" must be replaced by "corporation."

(b) "Group health plan" must be replaced by "group contract for hospital, medical or dental services."

Sec. 95.5. NRS 695B.320 is hereby amended to read as follows:

695B.320 Nonprofit hospital and medical or dental service corporations are subject to the provisions of this chapter, and to the provisions of chapters 679A and 679B of NRS, NRS 686A.010 to 686A.315, inclusive, 687B.010 to 687B.040, inclusive, 687B.070 to 687B.140, inclusive, 687B.150, 687B.160, 687B.180, 687B.200 to 687B.255, inclusive, 687B.270, 687B.310 to 687B.380, inclusive, 687B.410, 687B.420, 687B.430, *and section 33.8 of this act*, and chapters 692C and 696B of NRS, to the extent applicable and not in conflict with the express provisions of this chapter.

Sec. 96. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated

pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.173, inclusive, 695C.1733 to 695C.200, inclusive, ~~{695C.250}~~ and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 96.5. NRS 695C.055 is hereby amended to read as follows:

695C.055 1. The provisions of NRS 449.465, 679A.200, 679B.700, subsections 2, 4, 18, 19 and 32 of NRS 680B.010, NRS 680B.020 to 680B.060, inclusive, *and section 33.8 of this act*, and chapters 686A and 695G of NRS apply to a health maintenance organization.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to insurers, any reference in those sections to "insurer" must be replaced by "health maintenance organization."

Sec. 97. NRS 695C.057 is hereby amended to read as follows:

695C.057 1. A health maintenance organization is subject to the provisions of NRS 689B.340 to ~~{689B.590,}~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance offered by such organizations. If there is a conflict between the provisions of this chapter and the provisions of NRS 689B.340 to ~~{689B.590,}~~ 689B.580, inclusive, and chapter 689C of NRS, the provisions of NRS 689B.340 to ~~{689B.590,}~~ 689B.580, inclusive, and chapter 689C of NRS control.

2. For the purposes of subsection 1, unless the context requires that a provision apply only to a group health plan or a carrier that provides coverage under a group health plan, any reference in those sections to "group health plan" or "carrier" must be replaced by "health maintenance organization."

Sec. 98. NRS 695C.080 is hereby amended to read as follows:

695C.080 1. ~~[Upon receipt of an application for issuance of a certificate of authority, the Commissioner shall forthwith transmit copies of such application and accompanying documents to the State Board of Health.~~

~~—2.]~~ The ~~[State Board of Health]~~ Commissioner shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

(a) Has demonstrated the willingness and ability to ensure that such health care services will be provided in a manner to ensure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility and continuity of service;

(b) Has organizational arrangements, established in accordance with regulations promulgated by the *Commissioner and in consultation with the* State Board of Health; and

(c) Has a procedure established in accordance with regulations of the ~~[State Board of Health]~~ Commissioner to develop, compile, evaluate and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services and such other matters as may be reasonably required by the ~~[State Board of Health]~~

~~—3.]~~ Commissioner.

2. Within 90 days of receipt of the application for issuance of a certificate of authority, the ~~[State Board of Health shall certify to the]~~ Commissioner *shall certify* whether the proposed health maintenance organization meets the requirements of subsection ~~{2.}~~ 1. If the ~~[State Board of Health]~~ Commissioner certifies that the health maintenance organization does not meet such requirements, it shall specify in what respects it is deficient.

Sec. 99. NRS 695C.090 is hereby amended to read as follows:

695C.090 The Commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to NRS 695C.060 within 90 days ~~[of receipt of the]~~ after certification . ~~[from the State Board of Health.]~~ Issuance of a certificate of authority must be granted upon payment of the fees prescribed in NRS 695C.230 if the Commissioner is satisfied that the following conditions are met:

1. The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy and possess good reputations.

2. The ~~[State Board of Health]~~ Commissioner certifies, in accordance with NRS 695C.080, that the health maintenance organization's proposed plan of operation meets the requirements of subsection ~~{2.}~~ 1 of NRS 695C.080.

3. The health care plan furnishes comprehensive health care services.

4. The health maintenance organization is financially responsible and may reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the Commissioner may consider:

(a) The financial soundness of the health care plan's arrangements for health care services and the schedule of charges used in connection therewith;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a government, or any other organization for insuring the payment of the cost of health care services;

(d) Any agreement with providers for the provision of health care services; and

(e) Any surety bond or deposit of cash or securities submitted in accordance with NRS 695C.270 as a guarantee that the obligations will be duly performed.

5. The enrollees will be afforded an opportunity to participate in matters of program content pursuant to NRS 695C.110.

6. Nothing in the proposed method of operation, as shown by the information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, or by independent investigation is contrary to the public interest.

Sec. 100. NRS 695C.140 is hereby amended to read as follows:

695C.140 1. A health maintenance organization shall, unless otherwise provided for in this chapter, file notice with the Commissioner ~~and the State Board of Health~~ before any material modification of the operations described in the information required by NRS 695C.070. If the Commissioner does not disapprove within 90 days after filing of the notice, the modification is deemed approved.

2. The Commissioner may adopt regulations to carry out the provisions of this section.

Sec. 101. NRS 695C.1693 is hereby amended to read as follows:

695C.1693 1. Except as otherwise provided in NRS 695C.050, a health care plan issued by a health maintenance organization must provide coverage for medical treatment which an enrollee receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II, Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;

(3) The Food and Drug Administration as an application for a new investigational drug;

(4) The United States Department of Veterans Affairs; or

(5) The United States Department of Defense;

(c) In the case of:

(1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or

(2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;

(d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;

(e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;

(f) The clinical trial or study is conducted in this State; and

(g) The enrollee has signed, before participating in the clinical trial or study, a statement of consent indicating that the enrollee has been informed of, without limitation:

(1) The procedure to be undertaken;

(2) Alternative methods of treatment; and

(3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.

2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:

(a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or device has been approved for use in the medical treatment of the enrollee.

(b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the health care plan.

(c) The cost of any routine health care services that would otherwise be covered under the health care plan for an enrollee in a Phase I clinical trial or study.

(d) The initial consultation to determine whether the enrollee is eligible to participate in the clinical trial or study.

(e) Health care services required for the clinically appropriate monitoring of the enrollee during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the enrollee during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➔ Except as otherwise provided in NRS 695C.1691, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the

services are provided by a provider with whom the health maintenance organization has contracted for such services. If the health maintenance organization has not contracted for the provision of such services, the health maintenance organization shall pay the provider the rate of reimbursement that is paid to other providers with whom the health maintenance organization has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to an enrollee is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the enrollee.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the enrollee's health care plan, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the enrollee during the clinical trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the enrollee.

(h) Any costs for the management of research relating to the clinical trial or study.

5. A health maintenance organization that delivers or issues for delivery a health care plan specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the enrollee, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial or study relevant to the coverage of medical treatment pursuant to this section.

6. A health maintenance organization that delivers or issues for delivery a health care plan specified in subsection 1 shall ~~[-~~

~~—(a) Include in the disclosure required pursuant to NRS 695C.193 notice to each enrollee of the availability of the benefits required by this section.~~

~~—(b) Provide~~ *provide* the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the plan.

7. A health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the plan that conflicts with this section is void.

8. A health maintenance organization that delivers or issues for delivery a health care plan specified in subsection 1 is immune from liability for:

(a) Any injury to an enrollee caused by:

(1) Any medical treatment provided to the enrollee in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the enrollee in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of an enrollee's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) "Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer" means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the Policies and Guidelines Relating to the Cancer-Center Support Grant published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) "Provider of health care" means:

- (1) A hospital; or
- (2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

Sec. 102. NRS 695C.1705 is hereby amended to read as follows:

695C.1705 Except as otherwise provided in the provisions of NRS 689B.340 to ~~[689B.590,]~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and accountability of health insurance:

1. A group health care plan issued by a health maintenance organization to replace any discontinued policy or coverage for group health insurance must:

(a) Provide coverage for all persons who were covered under the previous policy or coverage on the date it was discontinued; and

(b) Except as otherwise provided in subsection 2, provide benefits which are at least as extensive as the benefits provided by the previous policy or coverage, except that benefits may be reduced or excluded to the extent that such a reduction or exclusion was permissible under the terms of the previous policy or coverage,

→ if that plan is issued within 60 days after the date on which the previous policy or coverage was discontinued.

2. If an employer obtains a replacement plan pursuant to subsection 1 to cover the employees of the employer, any benefits provided by the previous policy or coverage may be reduced if notice of the reduction is given to the employees pursuant to NRS 608.1577.

3. Any health maintenance organization which issues a replacement plan pursuant to subsection 1 may submit a written request to the insurer which provided the previous policy or coverage for a statement of benefits which were provided under that policy or coverage. Upon receiving such a request, the insurer shall give a written statement to the organization indicating what benefits were provided and what exclusions or reductions were in effect under the previous policy or coverage.

4. If an employee or enrollee was a recipient of benefits under the coverage provided pursuant to NRS 695C.1709, the employee or enrollee is not entitled to have issued to him or her by a health maintenance organization a replacement plan unless the employee or enrollee has reported for his or her normal employment for a period of 90 consecutive days after last being eligible to receive any benefits under the coverage provided pursuant to NRS 695C.1709.

5. The provisions of this section apply to a self-insured employer who provides health benefits to the employees of the self-insured employer and replaces those benefits with a group health care plan issued by a health maintenance organization.

Sec. 103. NRS 695C.172 is hereby amended to read as follows:

695C.172 1. No health maintenance organization may issue evidence of coverage under a health care plan to any enrollee in this state if it contains

any exclusion, reduction or other limitation of coverage relating to complications of pregnancy unless the provision applies generally to all benefits payable under the policy and complies with the provisions of NRS 689B.340 to ~~{689B.590,}~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and accountability of health insurance.

2. As used in this section, the term "complications of pregnancy" includes any condition which requires hospital confinement for medical treatment and:

(a) If the pregnancy is not terminated, is caused by an injury or sickness not directly related to the pregnancy or by acute nephritis, nephrosis, cardiac decompensation, missed abortion or similar medically diagnosed conditions; or

(b) If the pregnancy is terminated, results in nonelective cesarean section, ectopic pregnancy or spontaneous termination.

3. Evidence of coverage under a health care plan subject to the provisions of this chapter which is issued on or after July 1, 1977, has the legal effect of including the coverage required by this section, and any provision which is in conflict with this section is void.

Sec. 104. NRS 695C.1727 is hereby amended to read as follows:

695C.1727 1. No evidence of coverage that provides coverage for hospital, medical or surgical expenses may be delivered or issued for delivery in this state unless the evidence of coverage includes coverage for the management and treatment of diabetes, including, without limitation, coverage for the self-management of diabetes.

2. An insurer who delivers or issues for delivery an evidence of coverage specified in subsection 1 ~~+~~

~~—(a) Shall include in the disclosure required pursuant to NRS 695C.193 notice to each enrollee under the evidence of coverage of the availability of the benefits required by this section.~~

~~—(b) Shall~~ shall provide the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for the evidence of coverage that are required under the evidence of coverage.

3. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 1998, has the legal effect of including the coverage required by this section, and any provision of the evidence of coverage that conflicts with this section is void.

4. As used in this section:

(a) "Coverage for the management and treatment of diabetes" includes coverage for medication, equipment, supplies and appliances that are medically necessary for the treatment of diabetes.

(b) "Coverage for the self-management of diabetes" includes:

(1) The training and education provided to the enrollee after the enrollee is initially diagnosed with diabetes which is medically necessary for the care and management of diabetes, including, without limitation, counseling in

nutrition and the proper use of equipment and supplies for the treatment of diabetes;

(2) Training and education which is medically necessary as a result of a subsequent diagnosis that indicates a significant change in the symptoms or condition of the enrollee and which requires modification of the enrollee's program of self-management of diabetes; and

(3) Training and education which is medically necessary because of the development of new techniques and treatment for diabetes.

(c) "Diabetes" includes type I, type II and gestational diabetes.

Sec. 105. NRS 695C.1745 is hereby amended to read as follows:

695C.1745 1. A health care plan of a health maintenance organization must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine ~~[to women and girls at such ages]~~ as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A health care plan of a health maintenance organization must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. Any evidence of coverage subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

Sec. 106. NRS 695C.200 is hereby amended to read as follows:

695C.200 The Commissioner shall within a reasonable period approve any form if the requirements of NRS 695C.170 are met. ~~[and any schedule of charges if the requirements of NRS 695C.180 are met.]~~ It is unlawful to issue such form or to use such schedule of charges until approved. If the Commissioner disapproves such filing, the Commissioner shall notify the filer. In the notice, the Commissioner shall specify the reasons for disapproval. A hearing will be granted within 90 days after a request in writing by the person filing.

Sec. 107. NRS 695C.210 is hereby amended to read as follows:

695C.210 1. Every health maintenance organization shall file with the Commissioner on or before March 1 of each year a report showing its financial condition on the last day of the preceding calendar year. The report must be verified by at least two principal officers of the organization. ~~[The organization shall file a copy of the report with the State Board of Health.]~~

2. The report must be on forms prescribed by the Commissioner and must include:

(a) A financial statement of the organization, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information submitted pursuant to NRS 695C.070;

(c) The number of persons enrolled during the year, the number of enrollees as of the end of the year, the number of enrollments terminated during the year and, if requested by the Commissioner, a compilation of the reasons for such terminations;

(d) The number and amount of malpractice claims initiated against the health maintenance organization and any of the providers used by it during the year broken down into claims with and without form of legal process, and the disposition, if any, of each such claim, if requested by the Commissioner;

(e) A summary of information compiled pursuant to paragraph (c) of subsection ~~[2]~~ 1 of NRS 695C.080 in such form as required by the ~~[State Board of Health]~~ Commissioner; and

(f) Such other information relating to the performance of the health maintenance organization as is necessary to enable the Commissioner to carry out his or her duties pursuant to this chapter.

3. Every health maintenance organization shall file with the Commissioner annually an audited financial statement of the organization prepared by an independent certified public accountant. The statement must cover the preceding 12-month period and must be filed with the Commissioner within 120 days after the end of the organization's fiscal year. Upon written request, the Commissioner may grant a 30-day extension.

4. If an organization fails to file timely the report or financial statement required by this section, it shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

5. The Commissioner may grant a reasonable extension of time for filing the report or financial statement required by this section, if the request for an extension is submitted in writing and shows good cause.

Sec. 108. NRS 695C.310 is hereby amended to read as follows:

695C.310 1. The Commissioner shall make an examination of the affairs of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary for the protection of the interests of the people of this State. An examination must be made not less frequently than once every 3 years.

2. The ~~[State Board of Health]~~ Commissioner shall make an examination concerning the quality of health care services of any health maintenance organization and providers with whom such organization has contracts, agreements or other arrangements pursuant to its health care plan as often as

it deems necessary for the protection of the interests of the people of this State. An examination must be made not less frequently than once every 3 years.

3. Every health maintenance organization and provider shall submit its books and records relating to the health care plan to an examination made pursuant to subsection 1 or 2 and in every way facilitate the examination. Medical records of natural persons and records of physicians providing service pursuant to a contract to the health maintenance organization are not subject to such examination, although the records are subject to subpoena upon a showing of good cause. For the purpose of examinations, the Commissioner ~~{and the State Board of Health}~~ may administer oaths to, and examine the officers and agents of the health maintenance organization and the principals of such providers concerning their business.

4. The expenses of examinations pursuant to this section must be assessed against the organization being examined and remitted to the Commissioner. ~~{for the State Board of Health, whichever is appropriate.}~~

5. In lieu of such examination, the Commissioner may accept the report of an examination made by the insurance commissioner or the state board of health of another state.

Sec. 109. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The ~~{State Board of Health certifies to the}~~ Commissioner *certifies* that the health maintenance organization:

(1) Does not meet the requirements of subsection ~~{2}~~ 1 of NRS 695C.080; or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 110. NRS 695C.340 is hereby amended to read as follows:

695C.340 1. When the Commissioner has cause to believe that grounds for the denial of an application for a certificate of authority exist, or that grounds for the suspension or revocation of a certificate of authority exist, the Commissioner shall notify the health maintenance organization ~~and the State Board of Health~~ in writing specifically stating the grounds for denial, suspension or revocation and fixing a time at least 30 days thereafter for a hearing on the matter.

2. ~~[The State Board of Health or its delegated representative shall be in attendance at the hearing and shall participate in the proceedings. The recommendation and findings of the State Board of Health with respect to~~

~~matters relating to the quality of health maintenance services provided in connection with any decision regarding denial, suspension or revocation of a certificate of authority are conclusive and binding upon the Commissioner.]~~ After the hearing, or upon the failure of the health maintenance organization to appear at the hearing, the Commissioner shall take action as is deemed advisable on written findings which must be mailed to the health maintenance organization . ~~[with a copy thereof to the State Board of Health.]~~ The action of the Commissioner ~~[and the recommendation and findings of the State Board of Health]~~ are subject to review by the First Judicial District Court of the State of Nevada in and for Carson City. The court may, in disposing of the issue before it, modify, affirm or reverse the order of the Commissioner in whole or in part.

Sec. 111. NRS 695C.350 is hereby amended to read as follows:

695C.350 1. The Commissioner may, in lieu of suspension or revocation of a certificate of authority under NRS 695C.330, levy an administrative penalty in an amount not more than \$2,500 for each act or violation, if reasonable notice in writing is given of the intent to levy the penalty.

2. Any person who violates the provisions of this chapter is guilty of a misdemeanor.

3. If the Commissioner ~~for the State Board of Health]~~ for any reason ~~[have]~~ has cause to believe that any violation of this chapter has occurred or is threatened, the Commissioner ~~for the State Board of Health]~~ may give notice to the health maintenance organization and to the representatives, or other persons who appear to be involved in the suspected violation, to arrange a conference with the alleged violators or their authorized representatives to attempt to determine the facts relating to the suspected violation, and, if it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing the violation.

4. The proceedings conducted pursuant to the provisions of subsection 3 must not be governed by any formal procedural requirements, and may be conducted in such manner as the Commissioner ~~for the State Board of Health]~~ may deem appropriate under the circumstances.

5. The Commissioner may issue an order directing a health maintenance organization or a representative of a health maintenance organization to cease and desist from engaging in any act or practice in violation of the provisions of this chapter.

6. Within 30 days after service of the order to cease and desist, the respondent may request a hearing on the question of whether acts or practices in violation of this chapter have occurred. The hearing must be conducted pursuant to the provisions of chapter 233B of NRS and judicial review must be available as provided therein.

7. In the case of any violation of the provisions of this chapter, if the Commissioner elects not to issue a cease and desist order, or in the event of

noncompliance with a cease and desist order issued pursuant to subsection 5, the Commissioner may institute a proceeding to obtain injunctive relief, or seek other appropriate relief in the district court of the judicial district of the county in which the violator resides.

Sec. 112. NRS 695F.090 is hereby amended to read as follows:

695F.090 Prepaid limited health service organizations are subject to the provisions of this chapter and to the following provisions, to the extent reasonably applicable:

1. NRS 687B.310 to 687B.420, inclusive, concerning cancellation and nonrenewal of policies.
2. NRS 687B.122 to 687B.128, inclusive, concerning readability of policies.
3. The requirements of NRS 679B.152.
4. The fees imposed pursuant to NRS 449.465.
5. NRS 686A.010 to 686A.310, inclusive, concerning trade practices and frauds.
6. The assessment imposed pursuant to NRS 679B.700.
7. Chapter 683A of NRS.
8. To the extent applicable, the provisions of NRS 689B.340 to ~~689B.590,~~ 689B.580, inclusive, and chapter 689C of NRS relating to the portability and availability of health insurance.
9. NRS 689A.035, 689A.410, 689A.413 and 689A.415.
10. NRS 680B.025 to 680B.039, inclusive, concerning premium tax, premium tax rate, annual report and estimated quarterly tax payments. For the purposes of this subsection, unless the context otherwise requires that a section apply only to insurers, any reference in those sections to "insurer" must be replaced by a reference to "prepaid limited health service organization."
11. Chapter 692C of NRS, concerning holding companies.
12. NRS 689A.637, concerning health centers.

Sec. 113. NRS 695G.130 is hereby amended to read as follows:

695G.130 1. In addition to any other report which is required to be filed with the Commissioner, ~~for the State Board of Health,~~ each managed care organization shall file with the Commissioner, ~~and the State Board of Health,~~ on or before March 1 of each year, a report regarding its methods for reviewing the quality of health care services provided to its insureds.

2. Each managed care organization shall include in its report the criteria, data, benchmarks or studies used to:

(a) Assess the nature, scope, quality and accessibility of health care services provided to insureds; or

(b) Determine any reduction or modification of the provision of health care services to insureds.

3. Except as already required to be filed with the Commissioner, ~~for the State Board of Health,~~ if the managed care organization is not owned and

operated by a public entity and has more than 100 insureds, the report filed pursuant to subsection 1 must include:

- (a) A copy of all of its quarterly and annual financial reports;
- (b) A statement of any financial interest it has in any other business which is related to health care that is greater than 5 percent of that business or \$5,000, whichever is less; and
- (c) A description of each complaint filed with or against it that resulted in arbitration, a lawsuit or other legal proceeding, unless disclosure is prohibited by law or a court order.

4. A report filed pursuant to this section must be made available for public inspection within a reasonable time after it is received by the Commissioner.

Sec. 114. NRS 695G.171 is hereby amended to read as follows:

695G.171 1. A health care plan issued by a managed care organization must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine ~~[to women and girls at such ages]~~ as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A health care plan must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. An evidence of coverage for a health care plan subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal thereof which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

Sec. 115. NRS 695G.173 is hereby amended to read as follows:

695G.173 1. A health care plan issued by a managed care organization must provide coverage for medical treatment which a person insured under the plan receives as part of a clinical trial or study if:

(a) The medical treatment is provided in a Phase I, Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or in a Phase II, Phase III or Phase IV study or clinical trial for the treatment of chronic fatigue syndrome;

(b) The clinical trial or study is approved by:

(1) An agency of the National Institutes of Health as set forth in 42 U.S.C. § 281(b);

(2) A cooperative group;

(3) The Food and Drug Administration as an application for a new investigational drug;

- (4) The United States Department of Veterans Affairs; or
- (5) The United States Department of Defense;
- (c) In the case of:
 - (1) A Phase I clinical trial or study for the treatment of cancer, the medical treatment is provided at a facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer; or
 - (2) A Phase II, Phase III or Phase IV study or clinical trial for the treatment of cancer or chronic fatigue syndrome, the medical treatment is provided by a provider of health care and the facility and personnel for the clinical trial or study have the experience and training to provide the treatment in a capable manner;
 - (d) There is no medical treatment available which is considered a more appropriate alternative medical treatment than the medical treatment provided in the clinical trial or study;
 - (e) There is a reasonable expectation based on clinical data that the medical treatment provided in the clinical trial or study will be at least as effective as any other medical treatment;
 - (f) The clinical trial or study is conducted in this State; and
 - (g) The insured has signed, before participating in the clinical trial or study, a statement of consent indicating that the insured has been informed of, without limitation:
 - (1) The procedure to be undertaken;
 - (2) Alternative methods of treatment; and
 - (3) The risks associated with participation in the clinical trial or study, including, without limitation, the general nature and extent of such risks.
- 2. Except as otherwise provided in subsection 3, the coverage for medical treatment required by this section is limited to:
 - (a) Coverage for any drug or device that is approved for sale by the Food and Drug Administration without regard to whether the approved drug or device has been approved for use in the medical treatment of the insured.
 - (b) The cost of any reasonably necessary health care services that are required as a result of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study or as a result of any complication arising out of the medical treatment provided in a Phase II, Phase III or Phase IV clinical trial or study, to the extent that such health care services would otherwise be covered under the health care plan.
 - (c) The cost of any routine health care services that would otherwise be covered under the health care plan for an insured in a Phase I clinical trial or study.
 - (d) The initial consultation to determine whether the insured is eligible to participate in the clinical trial or study.
 - (e) Health care services required for the clinically appropriate monitoring of the insured during a Phase II, Phase III or Phase IV clinical trial or study.

(f) Health care services which are required for the clinically appropriate monitoring of the insured during a Phase I clinical trial or study and which are not directly related to the clinical trial or study.

➡ Except as otherwise provided in NRS 695G.164, the services provided pursuant to paragraphs (b), (c), (e) and (f) must be covered only if the services are provided by a provider with whom the managed care organization has contracted for such services. If the managed care organization has not contracted for the provision of such services, the managed care organization shall pay the provider the rate of reimbursement that is paid to other providers with whom the managed care organization has contracted for similar services and the provider shall accept that rate of reimbursement as payment in full.

3. Particular medical treatment described in subsection 2 and provided to a person insured under the plan is not required to be covered pursuant to this section if that particular medical treatment is provided by the sponsor of the clinical trial or study free of charge to the person insured under the plan.

4. The coverage for medical treatment required by this section does not include:

(a) Any portion of the clinical trial or study that is customarily paid for by a government or a biotechnical, pharmaceutical or medical industry.

(b) Coverage for a drug or device described in paragraph (a) of subsection 2 which is paid for by the manufacturer, distributor or provider of the drug or device.

(c) Health care services that are specifically excluded from coverage under the insured's health care plan, regardless of whether such services are provided under the clinical trial or study.

(d) Health care services that are customarily provided by the sponsors of the clinical trial or study free of charge to the participants in the trial or study.

(e) Extraneous expenses related to participation in the clinical trial or study including, without limitation, travel, housing and other expenses that a participant may incur.

(f) Any expenses incurred by a person who accompanies the insured during the clinical trial or study.

(g) Any item or service that is provided solely to satisfy a need or desire for data collection or analysis that is not directly related to the clinical management of the insured.

(h) Any costs for the management of research relating to the clinical trial or study.

5. A managed care organization that delivers or issues for delivery a health care plan specified in subsection 1 may require copies of the approval or certification issued pursuant to paragraph (b) of subsection 1, the statement of consent signed by the insured, protocols for the clinical trial or study and any other materials related to the scope of the clinical trial or study relevant to the coverage of medical treatment pursuant to this section.

6. A managed care organization that delivers or issues for delivery a health care plan specified in subsection 1 shall ~~[-~~

~~—(a) Include in the disclosure required pursuant to NRS 695C.193 notice to each person insured under the plan of the availability of the benefits required by this section.~~

~~—(b) Provide~~ *provide* the coverage required by this section subject to the same deductible, copayment, coinsurance and other such conditions for coverage that are required under the plan.

7. A health care plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2006, has the legal effect of including the coverage required by this section, and any provision of the plan that conflicts with this section is void.

8. A managed care organization that delivers or issues for delivery a health care plan specified in subsection 1 is immune from liability for:

(a) Any injury to an insured caused by:

(1) Any medical treatment provided to the insured in connection with his or her participation in a clinical trial or study described in this section; or

(2) An act or omission by a provider of health care who provides medical treatment or supervises the provision of medical treatment to the insured in connection with his or her participation in a clinical trial or study described in this section.

(b) Any adverse or unanticipated outcome arising out of an insured's participation in a clinical trial or study described in this section.

9. As used in this section:

(a) "Cooperative group" means a network of facilities that collaborate on research projects and has established a peer review program approved by the National Institutes of Health. The term includes:

(1) The Clinical Trials Cooperative Group Program; and

(2) The Community Clinical Oncology Program.

(b) "Facility authorized to conduct Phase I clinical trials or studies for the treatment of cancer" means a facility or an affiliate of a facility that:

(1) Has in place a Phase I program which permits only selective participation in the program and which uses clear-cut criteria to determine eligibility for participation in the program;

(2) Operates a protocol review and monitoring system which conforms to the standards set forth in the Policies and Guidelines Relating to the Cancer-Center Support Grant published by the Cancer Centers Branch of the National Cancer Institute;

(3) Employs at least two researchers and at least one of those researchers receives funding from a federal grant;

(4) Employs at least three clinical investigators who have experience working in Phase I clinical trials or studies conducted at a facility designated as a comprehensive cancer center by the National Cancer Institute;

(5) Possesses specialized resources for use in Phase I clinical trials or studies, including, without limitation, equipment that facilitates research and analysis in proteomics, genomics and pharmacokinetics;

(6) Is capable of gathering, maintaining and reporting electronic data; and

(7) Is capable of responding to audits instituted by federal and state agencies.

(c) "Provider of health care" means:

(1) A hospital; or

(2) A person licensed pursuant to chapter 630, 631 or 633 of NRS.

Sec. 116. NRS 695G.200 is hereby amended to read as follows:

695G.200 1. Each managed care organization shall establish a system for resolving complaints of an insured concerning:

(a) Payment or reimbursement for covered health care services;

(b) Availability, delivery or quality of covered health care services, including, without limitation, an adverse determination made pursuant to utilization review; or

(c) The terms and conditions of a health care plan.

➔ The system must be approved by the Commissioner in consultation with the State Board of Health.

2. If an insured makes an oral complaint, a managed care organization shall inform the insured that if the insured is not satisfied with the resolution of the complaint, the insured must file the complaint in writing to receive further review of the complaint.

3. Each managed care organization shall:

(a) Upon request, assign an employee of the managed care organization to assist an insured or other person in filing a complaint or appealing a decision of the review board;

(b) Authorize an insured who appeals a decision of the review board to appear before the review board to present testimony at a hearing concerning the appeal; and

(c) Authorize an insured to introduce any documentation into evidence at a hearing of a review board and require an insured to provide the documentation required by the health care plan of the insured to the review board not later than 5 business days before a hearing of the review board.

4. The Commissioner ~~for the State Board of Health~~ may examine the system for resolving complaints established pursuant to this section at such times as either deems necessary or appropriate.

Sec. 117. NRS 695G.220 is hereby amended to read as follows:

695G.220 1. Each managed care organization shall submit to the Commissioner ~~and the State Board of Health~~ an annual report regarding its system for resolving complaints established pursuant to NRS 695G.200 on a form prescribed by the Commissioner in consultation with the State Board of Health which includes, without limitation:

(a) A description of the procedures used for resolving complaints of an insured;

(b) The total number of complaints and appeals handled through the system for resolving complaints since the last report and a compilation of the causes underlying the complaints filed;

(c) The current status of each complaint and appeal filed; and

(d) The average amount of time that was needed to resolve a complaint and an appeal, if any.

2. Each managed care organization shall maintain records of complaints filed with it which concern something other than health care services and shall submit to the Commissioner a report summarizing such complaints at such times and in such format as the Commissioner may require.

Sec. 117.5. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 687B.408, 689B.030 to 689B.050, inclusive, and 689B.287 [and 689B.575] apply to coverage provided pursuant to this paragraph.

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, "legal services organization" means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 118. NRS 287.045 is hereby amended to read as follows:

287.045 1. Except as otherwise provided in this section, every state officer or employee is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment.

2. Professional employees of the Nevada System of Higher Education who have annual employment contracts are eligible to participate in the Program on:

(a) The effective dates of their respective employment contracts, if those dates are on the first day of a month; or

(b) The first day of the month following the effective dates of their respective employment contracts, if those dates are not on the first day of a month.

3. Every officer or employee who is employed by a participating local governmental agency on a permanent and full-time basis on the date on which the participating local governmental agency enters into an agreement to participate in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, and every officer or employee who commences employment with that participating local governmental agency after that date, is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment, unless that officer or employee is excluded pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.

4. Every member of the Senate and Assembly is eligible to participate in the Program on the first day of the month following the 90th day after the member's initial term of office begins.

5. Notwithstanding the provisions of subsections 1, 3 and 4, if the Board does not, pursuant to NRS 689B.580, elect to exclude the Program from compliance with NRS 689B.340 to ~~[689B.590.]~~ 689B.580, inclusive, and if the coverage under the Program is provided by a health maintenance organization authorized to transact insurance in this State pursuant to chapter 695C of NRS, any affiliation period imposed by the Program may not exceed the statutory limit for an affiliation period set forth in NRS 689B.500.

Sec. 118.1. Section 1 of Senate Bill No. 266 of this session is hereby amended to read as follows:

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer that offers or issues a policy of health insurance which provides coverage for the treatment of cancer through the use of chemotherapy shall not:

(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.

(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.

(c) Decrease the monetary limits applicable to chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.

2. A policy subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the policy or renewal which is in conflict with this section is void.

3. Nothing in this section shall be construed as requiring an insurer to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.

Sec. 118.2. Section 3 of Senate Bill No. 266 of this session is hereby amended to read as follows:

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer that offers or issues a policy of group health insurance which provides coverage for the treatment of cancer through the use of chemotherapy shall not:

(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.

(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.

(c) Decrease the monetary limits applicable to chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.

2. A policy subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on

or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the policy or renewal which is in conflict with this section is void.

3. Nothing in this section shall be construed as requiring an insurer to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.

Sec. 118.3. Section 4 of Senate Bill No. 266 of this session is hereby amended to read as follows:

Sec. 4. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer that offers or issues a contract for hospital or medical service which provides coverage for the treatment of cancer through the use of chemotherapy shall not:

(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.

(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.

(c) Decrease the monetary limits applicable to chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.

2. A contract subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the contract or renewal which is in conflict with this section is void.

3. Nothing in this section shall be construed as requiring an insurer to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.

Sec. 118.4. Section 5 of Senate Bill No. 266 of this session is hereby amended to read as follows:

Sec. 5. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health maintenance organization that offers or issues a health care plan which provides coverage for the treatment of cancer through the use of chemotherapy shall not:

(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.

(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.

(c) Decrease the monetary limits applicable to such chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.

2. Evidence of coverage subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.

3. Nothing in this section shall be construed as requiring a health maintenance organization to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.

Sec. 118.5. Section 8 of Senate Bill No. 266 of this session is hereby amended to read as follows:

Sec. 8. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. A managed care organization that offers or issues a health care plan which provides coverage for the treatment of cancer through the use of chemotherapy shall not:

(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26

U.S.C. § 223, and the amount of the annual deductible has not been satisfied.

(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.

(c) Decrease the monetary limits applicable to chemotherapy administered orally by means of a prescription drug or to chemotherapy which is administered by injection or intravenously to meet the requirements of this section.

2. An evidence of coverage for a health care plan subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the evidence of coverage or the renewal which is in conflict with this section is void.

3. Nothing in this section shall be construed as requiring a managed care organization to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.

Sec. 118.6. Section 9 of Senate Bill No. 266 of this session is hereby amended to read as follows:

Sec. 9. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental entity of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for the treatment of cancer through the use of chemotherapy shall not:

(a) Require a copayment, deductible or coinsurance amount for chemotherapy administered orally by means of a prescription drug in a combined amount that is more than \$100 per prescription. The limitation on the amount of the deductible that may be required pursuant to this paragraph does not apply to a health benefit plan, as defined in section 33.4 of Assembly Bill No. 425 of this session, if the health benefit plan is a high deductible health plan, as defined in 26 U.S.C. § 223, and the amount of the annual deductible has not been satisfied.

(b) Make the coverage subject to monetary limits that are less favorable for chemotherapy administered orally by means of a prescription drug than the monetary limits applicable to chemotherapy which is administered by injection or intravenously.

(c) Decrease the monetary limits applicable to such chemotherapy administered orally by means of a prescription drug or to

chemotherapy which is administered by injection or intravenously to meet the requirements of this section.

2. A plan of self-insurance subject to the provisions of this chapter which provides coverage for the treatment of cancer through the use of chemotherapy and that is delivered, issued for delivery or renewed on or after January 1, 2015, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the plan or the renewal which is in conflict with this section is void.

3. Nothing in this section shall be construed as requiring the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental entity of the State of Nevada that provides health insurance through a plan of self-insurance to provide coverage for the treatment of cancer through the use of chemotherapy administered by injection or intravenously or administered orally by means of a prescription drug.

Sec. 119. NRS 689A.045, 689A.370, 689A.480, 689A.500, 689A.515, 689A.545, 689A.560, 689A.565, 689A.575, 689A.595, 689A.605, 689A.610, 689A.620, 689A.640, 689A.645, 689A.650, 689A.655, 689A.660, 689A.665, 689A.670, 689A.675, 689A.680, 689A.685, 689A.730, 689B.120, 689B.130, 689B.140, 689B.150, 689B.170, 689B.180, 689B.200, 689B.210, 689B.245, 689B.246, 689B.247, 689B.248, 689B.249, 689B.283, 689B.410, 689B.420, 689B.470, 689B.575, 689B.590, 689C.021, 689C.035, 689C.051, 689C.076, 689C.084, 689C.089, 689C.099, 689C.107, 689C.145, 689C.157, 689C.210, 689C.230, 689C.240, 689C.260, 689C.283, 689C.287, 689C.290, 689C.300, 689C.327, 689C.340, 689C.342, 689C.344, 689C.346, 689C.348, 689C.620, 689C.640, 689C.650, 689C.680, 689C.690, 689C.700, 689C.710, 689C.720, 689C.730, 689C.740, 689C.750, 689C.760, 689C.770, 689C.780, 689C.790, 689C.800, 689C.810, 689C.820, 689C.830, 689C.840, 689C.850, 689C.860, 689C.870, 689C.880, 689C.890, 689C.900, 689C.910, 689C.920, 689C.930, 689C.950, 689C.955, 689C.960, 689C.970, 689C.980, 695C.1707, 695C.180, 695C.193, 695C.195, 695C.250 and 695I.050 are hereby repealed.

Sec. 119.5. The provisions of sections 27 to 30, inclusive, 32.2, 33 to 66, inclusive, and 67 to ~~118.1~~ 118.6, inclusive, of this act apply to policies which are issued on or after October 1, 2013, and which become effective on or after January 1, 2014.

Sec. 120. 1. This section and sections 1 to 26, inclusive, 31 to 32.1, inclusive, 32.5, ~~and~~ 32.8 and 118.1 to 118.6, inclusive, of this act become effective upon passage and approval.

2. Sections 27 to 30, inclusive, 32.2, 33 to 66, inclusive, ~~and~~ 67 to 118, inclusive, 119 and 119.5 ~~[inclusive]~~ of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations; and

(b) On January 1, 2014, for all other purposes.

3. Section 66.5 of this act becomes effective on January 1, 2016.

4. Sections 13, 14 and 15 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➔ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

689A.045 Termination of coverage on dependent child.

689A.370 Health insurance on franchise plan.

689A.480 "Basic health benefit plan" defined.

689A.500 "Converted policy" defined.

689A.515 "Eligible person" defined.

689A.545 "Health status-related factor" defined.

689A.560 "Individual reinsuring carrier" defined.

689A.565 "Individual risk-assuming carrier" defined.

689A.575 "Plan of operation" defined.

689A.595 "Program of Reinsurance" defined.

689A.605 "Standard health benefit plan" defined.

689A.610 Applicability; ceding arrangement prohibited in certain circumstances.

689A.620 Certain person with break in coverage deemed eligible person.

689A.640 Each health benefit plan marketed in this State required to be offered to eligible persons.

689A.645 Coverage to eligible person who does not reside in established geographic service area not required; coverage within certain areas not required.

689A.650 Coverage to eligible persons not required under certain circumstances; notice to Commissioner of and prohibition on writing new business after election not to offer new coverage required.

689A.655 Requirement to file basic and standard health benefit plans with Commissioner; disapproval of plan.

689A.660 Prohibited acts concerning preexisting conditions and modification of health benefit plan.

689A.665 Certain health carriers not required to offer health benefit insurance coverage to individuals.

689A.670 Election to operate as individual risk-assuming carrier or individual reinsuring carrier: Notice to Commissioner; effective date; change in status.

689A.675 Election to act as individual risk-assuming carrier: Suspension by Commissioner; applicable statutes.

689A.680 Rates for individual health benefit plans to be developed based on rating characteristics: Prohibited characteristics; health status as rating factor.

689A.685 Amount of change in rate of single block of business; plan with provision for restricted network; involuntary transfer of individual or dependent prohibited; premiums adjusted for block of business.

689A.730 Producer may only sign up eligible persons if eligible persons are actively engaged in or related to association.

689B.120 Policies of group health insurance to contain provision for conversion; exceptions; conditions.

689B.130 Conversion privilege available to spouse and children; conditions.

689B.140 Denial of converted policy because of overinsurance; notice concerning cancellation of other coverage.

689B.150 Choice of plans for converted policy.

689B.170 Benefits payable under converted policy may be reduced by amount payable under group policy.

689B.180 Issuance and effective date of converted policy; premiums; persons covered.

689B.200 Notice of conversion privilege.

689B.210 Converted policy delivered outside Nevada: Form.

689B.245 Required provision concerning continuation of coverage.

689B.246 Notice of eligibility or election to continue coverage.

689B.247 Payment of premium for continued coverage.

689B.248 New insurer to provide continued coverage.

689B.249 Termination of continued coverage before end of period.

689B.283 Mandatory renewal of coverage under conversion health benefit plan.

689B.410 "Health benefit plan" defined.

689B.420 "Health status-related factor" defined.

689B.470 Certain plan, fund or program to be treated as employee welfare benefit plan which is group health plan; partnership deemed employer of each partner.

689B.575 Carrier that offers coverage through network plan: Contracts with certain federally qualified health centers.

689B.590 Converted policies: Carrier may only offer choice of basic and standard plans; election of basic or standard plan; premium; rates must be same for persons with similar case characteristics; losses must be spread across book.

689C.021 "Basic health benefit plan" defined.

689C.035 "Characteristics" defined.

689C.051 "Converted policy" defined.

689C.076 "Health status-related factor" defined.

689C.084 "Program of Reinsurance" defined.

689C.089 "Risk-assuming carrier" defined.

689C.099 "Standard health benefit plan" defined.

689C.107 Affiliated carriers deemed one carrier in certain circumstances; affiliated carrier that is health maintenance organization considered separate carrier; ceding arrangement prohibited in certain circumstances.

689C.145 Characteristics that carrier may use to determine rating factors for establishing premiums.

689C.157 Requirement to file basic and standard health benefit plans with Commissioner; disapproval of plan.

689C.210 Procedure for increasing premium rates.

689C.230 Determination and application of index rate.

689C.240 Use of industry classifications as rating factor.

689C.260 Manner in which carrier may establish separate class of business; transferring small employer into or out of class of business.

689C.283 Election to operate as risk-assuming carrier or reinsuring carrier: Notice to Commissioner; effective date; change in status.

689C.287 Election to act as risk-assuming carrier: Suspension by Commissioner; applicable statutes.

689C.290 Commissioner authorized to suspend restriction on increase of premiums for new rating period based on new business for policy.

689C.300 Carrier to file actuarial certification annually with Commissioner.

689C.327 Carrier that offers network plan: Contracts with certain federally qualified health centers.

689C.340 Required provisions in health benefit plan of employer who employs less than 20 employees related to continuation of coverage.

689C.342 Notice of election and payment of premium.

689C.344 Amount of premium for continuation of coverage; change in rates; payment to insurer; termination.

689C.346 Effect of change in insurer during period of continued coverage.

689C.348 Continued coverage ceases before end of established period under certain circumstances.

689C.620 "Board" defined.

689C.640 "Committee" defined.

689C.650 "Eligible person" defined.

689C.680 "Individual reinsuring carrier" defined.

689C.690 "Individual risk-assuming carrier" defined.

689C.700 "Plan of operation" defined.

689C.710 "Program of Reinsurance" defined.

689C.720 "Reinsuring carrier" defined.

689C.730 "Risk-assuming carrier" defined.

689C.740 Creation.

689C.750 Board of Directors: Creation; members; term; vacancy.

689C.760 Meetings of Board; Chair of Board.

689C.770 Plan of operation: Submission by Board; approval by Commissioner; temporary plan when plan not suitable or not submitted.

689C.780 Requirements of plan of operation and temporary plan of operation.

689C.790 Program deemed to have powers and authority of insurance companies and health maintenance organizations; exceptions; powers.

689C.800 Amount of coverage to be reinsured; time within which reinsurance may begin; limitation on reimbursement to reinsuring carrier; termination of reinsurance; premium rate charged to federally qualified health maintenance organization; manner of handling managed care and claims by reinsuring carrier.

689C.810 Premium rates: Methodology for determining; minimum rates; review of methodology.

689C.820 Premiums for certain health benefit plans that are reinsured with program required to meet established requirements for premium rates.

689C.830 Board required to determine, account for and report to Commissioner net loss.

689C.840 Net loss from reinsuring small employers and eligible employees and dependents required to be recouped by assessments against reinsuring carriers.

689C.850 Net loss from reinsuring individual eligible persons and dependents required to be recouped by assessments against individual reinsuring carriers.

689C.860 Board required to determine, account for and report to Commissioner estimate of assessments needed to pay for losses; evaluation of operation of Program.

689C.870 Additional funding: Eligibility based on amount of assessment needed; Board to establish formula for additional assessments on all carriers.

689C.880 Use of excess assessments.

689C.890 Assessment against reinsuring carrier to be determined annually; penalty for late payment of assessments; deferment of assessment.

689C.900 Insurer to receive certificate of contribution for paying additional assessment; certain amount of contribution may be shown as asset and may offset liability for premium tax.

689C.910 Adjustment of assessment on federally qualified health maintenance organizations.

689C.920 Immunity from liability of Program and reinsuring carriers for certain acts.

689C.930 Board to develop standards setting forth manner and levels of compensation paid to producers for sale of health benefit plans.

689C.950 Certain provisions inapplicable to certain basic health benefit plan delivered to small employers or eligible persons.

689C.955 Member, agent or employee of Board immune from liability in certain circumstances.

689C.960 Creation; members; term; vacancy.

689C.970 Meetings; Chair; duties.

689C.980 Board and Committee to study and submit report concerning effectiveness of certain provisions.

695C.1707 Required provision for continuation of coverage.

695C.180 Schedule of charges.

695C.193 Summary of coverage: Contents of disclosure; approval by Commissioner; regulations.

695C.195 Summary of coverage: Copy to be provided before policy issued; policy not to be offered unless summary approved by Commissioner.

695C.250 Open enrollment.

695I.050 "Federal Act" defined.

Senator Atkinson moved the adoption of the amendment.

Remarks by Senator Atkinson.

Thank you, Mr. President. Amendment No. 967 to Assembly Bill No. 425 corresponds to provisions of Senate Bill No. 266 of this Session, which has already been passed by the Legislature, to provide that the limit on the amount of the deductible that may be required for orally-administered chemotherapy does not apply if the plan is a high deductible plan and the plan's annual deductible has not been satisfied.

Amendment adopted.

Bill read third time.

Remarks by Senator Denis.

Thank you, Mr. President. Assembly Bill No. 425 makes various changes to the Nevada Insurance Code for the purposes of implementing certain provisions of federal law. It establishes a regulatory structure for exchange enrollment facilitators who will be certified by the Commissioner of Insurance and appointed as navigators or assisters by the Silver State Health Insurance Exchange.

Roll call on Assembly Bill No. 425:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 425 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Assembly Bill No. 447.

Bill read third time.

Remarks by Senator Spearman.

Thank you, Mr. President. Assembly Bill No. 447 allows the Director of the Nevada Department of Transportation, with the approval of Nevada Department of Transportation's Board of Directors, to authorize a private person to erect or construct, sponsor, operate or maintain a facility or a sign at a rest area under contract with Nevada Department of Transportation. The bill also raises the limits on fines for violating certain provisions or regulations governing roadside parks or safety rest areas. The maximum fine for a first offense is increased from \$100 to \$1,000, and the maximum fine for each subsequent offense is increased from \$500 to \$5,000. This bill is effective on July 1, 2013.

Roll call on Assembly Bill No. 447:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 447 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 501.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Senate Bill No. 501 specifies that a facility for the treatment of alcohol and drug abuse is not eligible to receive State and federal money for alcohol and drug abuse programs unless it is licensed by the Health Division. In addition, this bill permits the Health Division to license inpatient alcohol and drug abuse treatment facilities, even if they are strictly private-pay facilities. The bill becomes effective on October 1, 2013.

Roll call on Senate Bill No. 501:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Senate Bill No. 501 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 7.

Bill read third time.

The following amendment was proposed by the Committee on Finance.

Amendment No. 980.

"SUMMARY—Revises provisions relating to ~~the Gaming Policy Committee,~~ gaming. (BDR 41-333)"

"AN ACT relating to gaming; revising the definition of "resort hotel"; revising provisions relating to the Gaming Policy Committee; making appropriations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally provides that the Nevada Gaming Commission is prohibited from approving a nonrestricted license for an establishment in a county whose population is 100,000 or more (currently Clark and Washoe Counties) unless the establishment is a resort hotel. (NRS 463.1605) Existing law defines "resort hotel" as any building or group of buildings that is maintained as and held out to the public to be a hotel where sleeping accommodations are furnished to the transient public and that has: (1) more than 200 rooms available for sleeping accommodations; (2) at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises; (3) at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and (4) a

gaming area within the building or group of buildings. (NRS 463.01865) Section 1 of this bill revises the definition of "resort hotel" to provide that in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County), an establishment must have more than 300 rooms available for sleeping accommodations. Under section 3.5 of this bill, the revised definition of "resort hotel" does not apply to an establishment that holds a nonrestricted license on July 1, 2013, unless the establishment ceases gaming operations for 24 or more consecutive months.

Existing law establishes the Gaming Policy Committee and provides for the composition and duties of the Committee. (NRS 463.021) Section ~~1.5~~ 1.5 of this bill: (1) adds to the Committee a representative of academia who possesses knowledge of matters related to gaming; (2) authorizes the Governor, as Chair of the Committee, to appoint an advisory committee on gaming education; and (3) specifies the duties of the advisory committee.

Sections 2 and 3 of this bill make appropriations to the State Gaming Control Board and the Nevada Gaming Commission for various travel, staffing and operating costs.

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

Section 1. NRS 463.01865 is hereby amended to read as follows:

463.01865 "Resort hotel" means any building or group of buildings that is maintained as and held out to the public to be a hotel where sleeping accommodations are furnished to the transient public and that has:

1. ~~More~~ In a county whose population:

(a) Is 700,000 or more, more than 200 rooms available for sleeping accommodations; or

(b) Is 100,000 or more and less than 700,000, more than 300 rooms available for sleeping accommodations;

2. At least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

3. At least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

4. A gaming area within the building or group of buildings.

~~Section 1.5~~ *Sec. 1.5.* NRS 463.021 is hereby amended to read as follows:

463.021 1. The Gaming Policy Committee, consisting of the Governor as Chair and ~~10~~ 11 members, is hereby created.

2. The Committee must be composed of:

(a) One member of the Commission, designated by the Chair of the Commission;

(b) One member of the Board, designated by the Chair of the Board;

(c) One member of the Senate appointed by the Legislative Commission;

(d) One member of the Assembly appointed by the Legislative Commission;

(e) One enrolled member of a Nevada Indian tribe appointed by the Inter-Tribal Council of Nevada, Inc.; and

(f) ~~Five~~ Six members appointed by the Governor for terms of 2 years as follows:

(1) Two representatives of the general public;

(2) Two representatives of nonrestricted gaming licensees; ~~and~~

(3) One representative of restricted gaming licensees ~~[-]~~; and

(4) *One representative of academia who possesses knowledge of matters related to gaming.*

3. Members who are appointed by the Governor serve at the pleasure of the Governor.

4. Members who are Legislators serve terms beginning when the Legislature convenes and continuing until the next regular session of the Legislature is convened.

5. Except as otherwise provided in subsection 6, the Governor may call meetings of the Gaming Policy Committee for the exclusive purpose of discussing matters of gaming policy. The recommendations concerning gaming policy made by the Committee pursuant to this subsection are advisory and not binding on the Board or the Commission in the performance of their duties and functions.

6. An appeal filed pursuant to NRS 463.3088 may be considered only by a Review Panel of the Committee. The Review Panel must consist of the members of the Committee who are identified in paragraphs (a), (b) and (e) of subsection 2 and subparagraph (1) of paragraph (f) of subsection 2.

7. *The Governor, as Chair of the Committee, may appoint an advisory committee on gaming education. An advisory committee appointed pursuant to this subsection must:*

(a) Contain not more than five members who serve at the pleasure of the Governor; and

(b) Be chaired by the person selected as chair by the Governor.

8. *An advisory committee created pursuant to subsection 7 shall:*

(a) Review and evaluate all gaming-related educational entities in this State, including, without limitation, the Culinary Academy of Las Vegas, the Institute for the Study of Gambling and Commercial Gaming of the University of Nevada, Reno, and the UNLV International Gaming Institute of the William F. Harrah College of Hotel Administration of the University of Nevada, Las Vegas, to determine how to align such entities with the needs of the gaming industry;

(b) Study and analyze the workforce and technology needs of the gaming industry to determine how the gaming-related educational entities may satisfy those needs;

(c) Study the potential for leveraging gaming-related competencies and technologies developed by gaming-related educational entities into other industries; and

(d) Report any findings and recommendations to the Committee.

Sec. 2. 1. There is hereby appropriated from the State General Fund to the State Gaming Control Board the following sums for travel and operating costs:

For the Fiscal Year 2013-2014..... \$15,208

For the Fiscal Year 2014-2015..... \$15,208

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the State Gaming Control Board or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2014, and September 18, 2015, respectively, by either the State Gaming Control Board or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2014, and September 18, 2015, respectively.

Sec. 3. 1. There is hereby appropriated from the State General Fund to the Nevada Gaming Commission the following sums for staffing and operating costs:

For the Fiscal Year 2013-2014..... \$54,673

For the Fiscal Year 2014-2015..... \$55,083

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the Nevada Gaming Commission or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 19, 2014, and September 18, 2015, respectively, by either the Nevada Gaming Commission or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 19, 2014, and September 18, 2015, respectively.

Sec. 3.5. The amendatory provisions of section 1 of this act do not apply to an establishment that holds a nonrestricted license on July 1, 2013, unless the establishment ceases gaming operations for 24 or more consecutive months.

Sec. 4. 1. This section and sections 1, 2, ~~and~~ 3 and 3.5 of this act become effective on July 1, 2013.

2. Section ~~1.1~~ 1.5 of this act becomes effective on October 1, 2013.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 980 to Assembly Bill No. 7 revises the definition of “resort hotel” in Washoe County exclusively to a facility with more than 300 rooms, an increase from 200 rooms.

Amendment adopted.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Assembly Bill No. 7 adds a representative of academia with knowledge of gaming-related matters to the Gaming Policy Committee, increasing the committee membership to 11. The bill allows the Governor to appoint an Advisory Committee on Gaming Education, establishes the membership of the Advisory Committee and identifies its duties. Additionally, the bill appropriates General Funds totaling \$15,208 in each year of the Biennium to the Gaming Control Board Account for travel and operating costs for the Gaming Policy Committee and for an additional \$54,673 in fiscal year 2014 and \$55,083 in fiscal year 2015 to the Gaming Commission for staffing and operating costs. Any money remaining at the end of each fiscal year must not be committed for expenditure after June 30 of the respective fiscal years. Any portion of the appropriated money remaining must revert to the General Fund on or before September 19, 2014 and September 18, 2015, respectively. The sections of the bill making appropriations to the Gaming Control Board and the Gaming Commission Account become effective on July 1, 2013. The section revising the membership of the Gaming Policy Committee becomes effective on October 1, 2013. This bill also amends the definition of “resort hotel” in Washoe County to a facility with 300 rooms.

Roll call on Assembly Bill No. 7:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 7 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Assembly Bill No. 462.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 462 provides a one-shot General Fund appropriation of \$938,119 and authorizes \$579,591 in Medicaid Administration funds to develop a new medical-records system for Developmental Services programs. The system will include intake, eligibility, authorization, case management, invoice and billing, Medicaid home-and-community-based waiver management and serious incident reporting. The bill requires any unspent portion of the appropriation to be reverted to the General Fund on or before September 18, 2015.

Roll call on Assembly Bill No. 462:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 462 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 467.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 467 authorizes a one-time General Fund appropriation of \$371,023 to the Division of State Parks of the State Department of Conservation and Natural Resources to fund new and replacement public-safety equipment, as well as other worn and obsolete equipment, including six pickup trucks, one tractor, one front loader, one backhoe, one track loader, one pickup bed insert, one tilt deck trailer, one lowboy trailer with semi-tractor and one storage shed. We are trying to catch up from a few years of not taking care of our assets. This bill will move things forward for the Division of State Parks.

Roll call on Assembly Bill No. 467:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 467 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 468.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 468 provides for a General Fund appropriation of \$1,902,000 to upgrade the Nevada Offender Tracking Information System, known as NOTIS, and provide end-user training. Currently, the Nevada Department of Corrections is one version behind the most current version of the Nevada Offender Tracking Information System software and is expected to be two versions behind within the next three months. Similar to the remarks I made on Assembly Bill No. 467, we are in a rebuilding-and-restoration mode. I urge your support.

Roll call on Assembly Bill No. 468:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 468 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 469.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 469 authorizes a one-time General Fund appropriation of \$1.3 million to the Division of Forestry of the State Department of Conservation and Natural Resources to fund the replacement of emergency response and firefighting equipment and vehicles, including three Type 6 fire engines, two transport trailers, one sport utility vehicle and a hose coupling machine. We are replacing some equipment that is used to respond to natural disasters including ten inmate crew carriers with equipment, five pickup trucks with equipment, five 15-passenger vans with equipment and miscellaneous parts. I urge your support.

Roll call on Assembly Bill No. 469:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 469 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 470.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 470 appropriates \$11.6 million from the State Highway Fund to the Nevada Highway Patrol to replace 199 fleet vehicles and 17 motorcycles that have exceeded the established replacement-mileage threshold. The appropriation must not be committed for expenditure after June 30, 2015, and any unspent amount must be reverted to the State Highway Fund on or before September 18, 2015.

Roll call on Assembly Bill No. 470:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 470 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 474.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 474 provides General Fund appropriations to restore fund balances in various accounts authorized in Chapter 353 of *Nevada Revised Statutes*. The General Fund appropriations include \$3 million to restore the balance of the Stale Claims Account, \$100,000 to restore the balance of the Emergency Account, \$3 million to restore the balance of the Reserve for Statutory Contingency Account and \$8.3 million to restore the balance of the Contingency Account.

Roll call on Assembly Bill No. 474:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 474 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 475.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 475 makes an appropriation to the Legislative Fund in the sum of \$758,573 for dues and registration costs for national organizations for the 2013-15 Biennium. The funding was requested by the Legislative Commission to pay dues and registration costs to the National Conference of State Legislators; the Council of State

Governments; the American Legislative Exchange Council; the National Conference of Commissioners on Uniform State Laws; the Education Commission of the States; the Interstate Commission on Educational Opportunity for Military Children; and the National Conference of Insurance Legislators.

Roll call on Assembly Bill No. 475:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 475 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 477.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 477 appropriates General Funds of \$470,397 to the State Controller's Office for the replacement of computer servers and tape drives for the statewide financial system. Any remaining balance at the end of fiscal year 2015 must be reverted to the General Fund.

Roll call on Assembly Bill No. 477:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 477 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 506.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 506 is the recent settlement on the complimentary-meal case that most of our members are undoubtedly familiar with. There is a small amount from the General Fund that will be applied to settle this case. Going forward, we will not be taxing complimentary meals, but it will wipe out the State's large potential liability. This has been a long, hard-fought settlement. I urge your support so we can move on.

Roll call on Assembly Bill No. 506:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 506 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senator Denis moved that the Senate recess subject to the call of the Chair.
Motion carried.

Senate in recess at 9:47 p.m.

SENATE IN SESSION

At 10:14 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 167.

Bill read third time.

Remarks by Senator Hardy.

Thank you, Mr. President. Assembly Bill No. 167 allows a business that has a business license in Nevada, but has a fleet of cars or trucks located somewhere else, to have an opportunity to help pay for our roads.

Roll call on Assembly Bill No. 167:

YEAS—19.

NAYS—None.

ABSENT—Atkinson.

EXCUSED—Woodhouse.

Assembly Bill No. 167 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 287.

Bill read third time.

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

Amendment No. 958.

"SUMMARY—Authorizes the involuntary court-ordered admission of certain persons with mental illness to programs of community-based or outpatient services under certain circumstances. (BDR 39-163)"

"AN ACT relating to mental health; authorizing the involuntary court-ordered admission of certain persons with mental illness to programs of community-based or outpatient services under certain circumstances; requiring a peace officer to take into custody and deliver a person to the appropriate location for an evaluation by an evaluation team from the Division of Mental Health and Developmental Services of the Department of Health and Human Services in certain circumstances; ~~removing the provision which generally requires a person and his or her responsible relatives to pay for certain costs relating to the person's involuntary admission to such a program;~~ providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prescribes the process for initiating a petition for the involuntary court-ordered admission to a mental health facility of a person who is alleged to have a mental illness. Additionally, existing law specifies that if a court finds that a person has a mental illness and is likely to harm himself or herself or others if not treated, the court must place the person in

the most appropriate course of treatment. (NRS 433A.115-433A.330) This bill authorizes the court to order the involuntary admission of such a person to a program of community-based or outpatient services if such a program is an appropriate course of treatment for that person.

Section 3 of this bill requires that: (1) a plan of treatment be developed by persons who are qualified in the field of psychiatric mental health, in consultation with the person who will receive the treatment; (2) the plan contain certain information relating to the course of treatment; and (3) the developers of the plan submit the plan to the court in writing.

Section 3.5 of this bill sets forth the manner in which to address a person who has been involuntarily admitted to a program of community-based or outpatient services and who fails to participate in the program or otherwise fails to carry out the written plan of treatment developed for the person and submitted to the court.

Section 4 of this bill authorizes under certain circumstances both the conditional release of a person involuntarily admitted to a program of community-based or outpatient services and the revocation of such release, and section 19 of this bill authorizes the unconditional release of such a person under certain circumstances.

Section 12 of this bill requires the counsel for a person who is judicially admitted to a program of community-based or outpatient services to represent the person until the person is released from the program. Section 12 also requires the court to serve notice upon such counsel of any action taken involving the person.

Section 13 of this bill sets forth the requirements for participation in a program of community-based or outpatient services, including that: (1) the person who is admitted to the program must be 18 years of age or older and have a history of noncompliance with treatment for mental illness; and (2) the court must approve the written plan of treatment which has been developed for the person and submitted to the court.

~~¶ Section 18 of this bill sets forth the process by which a professional responsible for providing or coordinating a program of community-based or outpatient services may petition the court to order a peace officer to take into custody and deliver a person who is involuntarily admitted to the program to the appropriate location for an evaluation by an evaluation team from the Division of Mental Health and Developmental Services of the Department of Health and Human Services if the person fails to participate in the program or otherwise fails to carry out the written plan of treatment developed for the person and submitted to the court.]~~

Section 23 of this bill revises existing law which generally requires a person and his or her responsible relatives to pay for the actual cost of the treatment and services rendered during the person's involuntary admission to a division facility to require the same for an involuntary admission to a program of community-based or outpatient services. (NRS 433A.640)

Responsible relatives include only the parent or legal guardian of a minor or the husband or wife of a person. (NRS 433A.610)

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

Section 1. Chapter 433A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~2, 3 and 4~~ 2 to 4, inclusive, of this act.

Sec. 2. *"Program of community-based or outpatient services" means care, treatment and training provided to persons with mental illness, including, without limitation:*

- 1. A program or service for the treatment of abuse of alcohol;*
- 2. A program or service for the treatment of abuse of drugs;*
- 3. A program of general education or vocational training;*
- 4. A program or service that assists in the dispensing or monitoring of medication;*
- 5. A program or service that provides counseling or therapy;*
- 6. A service which provides screening tests to detect the presence of alcohol or drugs;*
- 7. A program of supervised living; or*
- 8. Any combination of programs and services for persons with mental illness.*

➤ *The term does not include care, treatment and training provided to residents of a mental health facility.*

Sec. 3. *If a court determines pursuant to NRS 433A.310 that a person should be involuntarily admitted to a program of community-based or outpatient services, the court shall promptly cause two or more persons professionally qualified in the field of psychiatric mental health, which may include the person who filed the petition for involuntary court-ordered admission pursuant to NRS 433A.200 if he or she is so qualified, in consultation with the person to be involuntarily admitted, to develop and submit to the court a written plan prescribing a course of treatment and enumerating the program of community-based or outpatient services for the person. The plan must include, without limitation:*

- 1. A description of the types of services in which the person will participate;*
- 2. The medications, if any, which the person must take and the manner in which those medications will be administered;*
- 3. The name of the person professionally qualified in the field of psychiatric mental health who is responsible for providing or coordinating the program of community-based or outpatient services; and*
- 4. Any other requirements which the court deems necessary.*

Sec. 3.5. *1. When a person who is involuntarily admitted to a program of community-based or outpatient services fails to participate in the program or otherwise fails to carry out the plan of treatment developed pursuant to section 3 of this act, despite efforts by the professional responsible for providing or coordinating the program of community-based or outpatient*

services for the person to solicit the person's compliance, the professional may petition the court to issue an order requiring a peace officer to take into custody and deliver the person to the appropriate location for an evaluation by an evaluation team from the Division pursuant to NRS 433A.240. The petition must be accompanied by:

- (a) A copy of the order for involuntary admission;
- (b) A copy of the plan of treatment submitted to the court pursuant to section 3 of this act;
- (c) A list that sets forth the specific provisions of the plan of treatment which the person has failed to carry out; and
- (d) A statement by the petitioner which explains how the person's failure to participate in the program of community-based or outpatient services or failure to carry out the plan of treatment will likely cause the person to harm himself or herself or others.

2. If the court determines that there is probable cause to believe that the person is likely to harm himself or herself or others if the person does not comply with the plan of treatment, the court may issue an order requiring a peace officer to take into custody and deliver the person to an appropriate location for an evaluation by an evaluation team from the Division pursuant to NRS 433A.240.

3. As used in this section, "appropriate location" does not include a jail or prison.

Sec. 4. 1. Except as otherwise provided in subsection 3, any person involuntarily admitted to a program of community-based or outpatient services may be conditionally released from the program when, in the judgment of the professional responsible for providing or coordinating the program of community-based or outpatient services, ~~the conditional release is in the best interest of the person and will not be detrimental to the public welfare.~~ the person does not present a danger of harm to himself or herself or others. The professional responsible for providing or coordinating the program of community-based or outpatient services shall prescribe the period for which the conditional release is effective. The period must not extend beyond the last day of the court-ordered period of admission to a program of community-based or outpatient services pursuant to NRS 433A.310.

2. When a person is conditionally released pursuant to subsection 1, the State of Nevada, the agents and employees of the State or a mental health facility, the professionals responsible for providing or coordinating programs of community-based or outpatient services and any other professionals providing mental health services are not liable for any debts or contractual obligations incurred, medical or otherwise, or damages caused by the actions of the person who is released.

3. A person who is involuntarily admitted to a program of community-based or outpatient services may be conditionally released only if, at the time of the release, written notice is given to the court which

ordered the person to participate in the program to the attorney of the person and to the district attorney of the county in which the proceedings for admission were held.

4. Except as otherwise provided in subsection 6, the professional responsible for providing or coordinating the program of community-based or outpatient services shall order a person who is conditionally released pursuant to subsection 1 to resume participation in the program if the professional determines that the conditional release is no longer appropriate because that person presents a clear and present danger of harm to himself or herself or others. Except as otherwise provided in this subsection, the professional responsible for providing or coordinating the program of community-based or outpatient services shall, at least 3 days before the issuance of the order to resume participation, give written notice of the order to the court that admitted the person to the program. If an emergency exists in which the person presents an imminent threat of danger of harm to himself or herself or others, the order must be submitted to the court not later than 1 business day after the order is issued.

5. The court shall review an order submitted pursuant to subsection 4 and the current condition of the person who was ordered to resume participation in a program of community-based or outpatient services at the next regularly scheduled hearing for the review of petitions for involuntary admissions, but in no event later than 5 judicial days after participation in the program is resumed. ~~The professional responsible for providing or coordinating the program of community-based or outpatient services to~~ court shall serve notice on the person who was ordered to resume participation in the program ~~shall give written notice to that person~~ and to his or her attorney ~~if the person is represented by legal counsel,~~ of the time, date and place of the hearing and of the facts necessitating that the person resume participation in the program.

6. The provisions of subsection 4 do not apply if the period of conditional release has expired.

Sec. 5. NRS 433A.011 is hereby amended to read as follows:

433A.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 433A.012 to 433A.018, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 433A.115 is hereby amended to read as follows:

433A.115 1. As used in NRS 433A.115 to 433A.330, inclusive, and sections 3, 3.5 and 4 of this act, unless the context otherwise requires, "person with mental illness" means any person whose capacity to exercise self-control, judgment and discretion in the conduct of the person's affairs and social relations or to care for his or her personal needs is diminished, as a result of a mental illness, to the extent that the person presents a clear and present danger of harm to himself or herself or others, but does not include any person in whom that capacity is diminished by epilepsy, mental retardation, dementia, delirium, brief periods of intoxication caused by

alcohol or drugs, or dependence upon or addiction to alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

2. A person presents a clear and present danger of harm to himself or herself if, within the immediately preceding 30 days, the person has, as a result of a mental illness:

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, the person will be unable to satisfy his or her need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that the person's death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he or she is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and sections 3, 3.5 and 4 of this act* and adequate treatment is provided to the person;

(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that the person will commit suicide unless he or she is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and sections 3, 3.5 and 4 of this act* and adequate treatment is provided to the person; or

(c) Mutilated himself or herself, attempted or threatened to mutilate himself or herself or committed acts in furtherance of a threat to mutilate himself or herself, and if there exists a reasonable probability that he or she will mutilate himself or herself unless the person is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and sections 3, 3.5 and 4 of this act* and adequate treatment is provided to the person.

3. A person presents a clear and present danger of harm to others if, within the immediately preceding 30 days, the person has, as a result of a mental illness, inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that he or she will do so again unless the person is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, *and sections 3, 3.5 and 4 of this act* and adequate treatment is provided to him or her.

Sec. 7. NRS 433A.130 is hereby amended to read as follows:

433A.130 All applications and certificates for the admission of any person in the State of Nevada to a mental health facility *or to a program of community-based or outpatient services* under the provisions of this chapter shall be made on forms approved by the Division and the Office of the Attorney General and furnished by the clerks of the district courts in each county.

Sec. 8. NRS 433A.150 is hereby amended to read as follows:

433A.150 1. Any person alleged to be a person with mental illness may, upon application pursuant to NRS 433A.160 and subject to the provisions of subsection 2, be detained in a public or private mental health facility or hospital under an emergency admission for evaluation, observation and treatment.

2. Except as otherwise provided in subsection 3, a person detained pursuant to subsection 1 must be released within 72 hours, including weekends and holidays, after the certificate required pursuant to NRS 433A.170 and the examination required by paragraph (a) of subsection 1 of NRS 433A.165 have been completed, if such an examination is required, or within 72 hours, including weekends and holidays, after the person arrives at the mental health facility or hospital, if an examination is not required by paragraph (a) of subsection 1 of NRS 433A.165, unless, before the close of the business day on which the 72 hours expires, a written petition for an involuntary court-ordered admission *to a mental health facility* is filed with the clerk of the district court pursuant to NRS 433A.200, including, without limitation, the documents required pursuant to NRS 433A.210, or the status of the person is changed to a voluntary admission.

3. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 9. NRS 433A.200 is hereby amended to read as follows:

433A.200 1. Except as otherwise provided in NRS 432B.6075, a proceeding for an involuntary court-ordered admission of any person in the State of Nevada may be commenced by the filing of a petition *for the involuntary admission to a mental health facility or to a program of community-based or outpatient services* with the clerk of the district court of the county where the person who is to be treated resides. The petition may be filed by the spouse, parent, adult children or legal guardian of the person to be treated or by any physician, psychologist, social worker or registered nurse, by an accredited agent of the Department or by any officer authorized to make arrests in the State of Nevada. The petition must be accompanied:

(a) By a certificate of a physician, psychiatrist or licensed psychologist stating that he or she has examined the person alleged to be a person with mental illness and has concluded that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty ~~[-]~~ *or if not required to participate in a program of community-based or outpatient services;* or

(b) By a sworn written statement by the petitioner that:

(1) The petitioner has, based upon the petitioner's personal observation of the person alleged to be a person with mental illness, probable cause to believe that the person has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty ~~[-]~~ *or if*

not required to participate in a program of community-based or outpatient services; and

(2) The person alleged to be a person with mental illness has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. Except as otherwise provided in NRS 432B.6075, if the person to be treated is a minor and the petitioner is a person other than a parent or guardian of the minor, the petition must, in addition to the certificate or statement required by subsection 1, include a statement signed by a parent or guardian of the minor that the parent or guardian does not object to the filing of the petition.

Sec. 10. NRS 433A.240 is hereby amended to read as follows:

433A.240 1. After the filing of a petition to commence proceedings for the involuntary court-ordered admission of a person pursuant to NRS 433A.200 or 433A.210, the court shall promptly cause two or more physicians or licensed psychologists, one of whom must always be a physician, to examine the person alleged to be a person with mental illness, or request an evaluation by an evaluation team from the Division of the person alleged to be a person with mental illness.

2. To conduct the examination of a person who is not being detained at a mental health facility or hospital under emergency admission pursuant to an application made pursuant to NRS 433A.160, the court may order a peace officer to take the person into protective custody and transport the person to a mental health facility or hospital where the person may be detained until a hearing is had upon the petition.

3. If the person is not being detained under an emergency admission pursuant to an application made pursuant to NRS 433A.160, the person may be allowed to remain in his or her home or other place of residence pending an ordered examination or examinations and to return to his or her home or other place of residence upon completion of the examination or examinations. The person may be accompanied by one or more of his or her relations or friends to the place of examination.

4. *Each physician and licensed psychologist who examines a person pursuant to subsection 1 shall, in conducting such an examination, consider the least restrictive treatment appropriate for the person.*

5. Except as otherwise provided in this subsection, each physician and licensed psychologist who examines a person pursuant to subsection 1 shall, not later than 48 hours before the hearing set pursuant to NRS 433A.220, submit to the court in writing a summary of his or her findings and evaluation regarding the person alleged to be a person with mental illness. If the person alleged to be a person with mental illness is admitted under an emergency admission pursuant to an application made pursuant to NRS 433A.160, the written findings and evaluation must be submitted to the court not later than 24 hours before the hearing set pursuant to subsection 1 of NRS 433A.220.

Sec. 11. NRS 433A.250 is hereby amended to read as follows:

433A.250 1. The Administrator shall establish such evaluation teams as are necessary to aid the courts under NRS 433A.240 and 433A.310 ~~[and section]~~ sections 3 and 3.5 of this act.

2. Each team must be composed of a psychiatrist and other persons professionally qualified in the field of psychiatric mental health who are representative of the Division, selected from personnel in the Division.

3. Fees for the evaluations must be established and collected as set forth in NRS 433.414 or 433B.260, as appropriate.

Sec. 12. NRS 433A.270 is hereby amended to read as follows:

433A.270 1. The person alleged to be a person with mental illness or any relative or friend on the person's behalf is entitled to retain counsel to represent the person in any proceeding before the district court relating to involuntary court-ordered admission, and if he or she fails or refuses to obtain counsel, the court shall advise the person and the person's guardian or next of kin, if known, of such right to counsel and shall appoint counsel, who may be the public defender or his or her deputy.

2. Any counsel appointed pursuant to subsection 1 must be awarded compensation by the court for his or her services in an amount determined by it to be fair and reasonable. The compensation must be charged against the estate of the person for whom the counsel was appointed or, if the person is indigent, against the county where the person alleged to be a person with mental illness last resided.

3. The court shall, at the request of counsel representing the person alleged to be a person with mental illness in proceedings before the court relating to involuntary court-ordered admission, grant a recess in the proceedings for the shortest time possible, but for not more than 5 days, to give the counsel an opportunity to prepare his or her case.

4. If the person alleged to be a person with a mental illness is involuntarily admitted to a program of community-based or outpatient services, counsel shall continue to represent the person until the person is released from the program. The court shall serve notice upon such counsel of any action that is taken involving the person while the person is admitted to the program of community-based or outpatient services.

5. Each district attorney or his or her deputy shall appear and represent the State in all involuntary court-ordered admission proceedings in the district attorney's county. The district attorney is responsible for the presentation of evidence, if any, in support of the involuntary court-ordered admission of a person to a mental health facility *or to a program of community-based or outpatient services* in proceedings held pursuant to NRS 433A.200 or 433A.210.

Sec. 13. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary

court-ordered admission of a person : ~~[to a public or private mental health facility.]~~

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or exhibits observable behavior such that the person is likely to harm himself or herself or others if allowed his or her liberty ~~[.]~~ *or if not required to participate in a program of community-based or outpatient services*, the court shall enter its finding to that effect and the person must not be involuntarily ~~[detained in such a facility.]~~ *admitted to a public or private mental health facility or to a program of community-based or outpatient services.*

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or herself or others if allowed his or her liberty ~~[.]~~ *or if not required to participate in a program of community-based or outpatient services*, the court may order the involuntary admission of the person for the most appropriate course of treatment ~~[.]~~ *, including, without limitation, admission to a public or private mental health facility or participation in a program of community-based or outpatient services.* The order of the court must be interlocutory and must not become final if, within 30 days after the involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. *A court shall not admit a person to a program of community-based or outpatient services unless:*

(a) *A program of community-based or outpatient services is available in the community in which the person resides or is otherwise made available to the person;*

(b) *The person is 18 years of age or older;*

(c) *The person has a history of noncompliance with treatment for mental illness;*

(d) *The person is capable of surviving safely in the community in which he or she resides with available supervision;*

(e) *The court determines that, based on the person's history of treatment for mental illness, the person needs to be admitted to a program of community-based or outpatient services to prevent further disability or deterioration of the person which is likely to result in harm to himself or herself or others;*

(f) *The current mental status of the person or the nature of the person's illness limits or negates his or her ability to make an informed decision to seek treatment for mental illness voluntarily or to comply with recommended treatment for mental illness;*

(g) *The program of community-based or outpatient services is the least restrictive treatment which is in the best interest of the person; and*

(h) *The court has approved a plan of treatment developed for the person pursuant to section 3 of this act.*

3. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390 ~~{or by the professional responsible for providing or coordinating the program of community-based or outpatient services as provided for in subsection 3 of NRS 433A.390}~~. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division, ~~for~~ any mental health facility that is not operated by the Division or a program of community-based or outpatient services may petition to renew the ~~detention~~ involuntary admission of the person for additional periods not to exceed 6 months each. For each renewal, the petition must ~~set forth to the court specific reasons why further treatment would be in the person's own best interests.~~

~~{3-}~~ include evidence which meets the same standard set forth in subsection 1 that was required for the initial period of admission of the person to a public or private mental health facility or to a program of community-based or outpatient services.

4. Before issuing an order for involuntary admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment, *including involuntary admission to a program of community-based or outpatient services*, as suggested by the evaluation team who evaluated the person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

~~{4-}~~ 5. If the court issues an order involuntarily admitting a person to a public or private mental health facility *or to a program of community-based or outpatient services* pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

~~{5-}~~ 6. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in NRS 179A.062.

Sec. 14. NRS 433A.320 is hereby amended to read as follows:

433A.320 The order for involuntary court admission of any person to a public or private mental health facility ~~{public or private, shall}~~ *or to a program of community-based or outpatient services* must be accompanied by a clinical abstract, including a history of illness, diagnosis, treatment and the names of relatives or correspondents.

Sec. 15. NRS 433A.330 is hereby amended to read as follows:

433A.330 1. When ~~any~~ an involuntary court admission to a mental health facility is ordered under the provisions of this chapter, the

involuntarily admitted person, together with the court orders and certificates of the physicians, certified psychologists or evaluation team and a full and complete transcript of the notes of the official reporter made at the examination of such person before the court, must be delivered to the sheriff of the county who shall:

- (a) Transport the person; or
- (b) Arrange for the person to be transported by:

(1) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority; or

(2) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,
 ➔ to the appropriate public or private mental health facility.

2. No person with mental illness may be transported to the mental health facility without at least one attendant of the same sex or a relative in the first degree of consanguinity or affinity being in attendance.

Sec. 16. NRS 433A.350 is hereby amended to read as follows:

433A.350 1. Upon admission to any public or private mental health facility ~~[-]~~ *or to a program of community-based or outpatient services*, each consumer ~~[of the facility]~~ and the consumer's spouse and legal guardian, if any, must receive a written statement outlining in simple, nontechnical language all procedures for release provided by this chapter, setting out all rights accorded to such a consumer by this chapter and chapters 433 and 433B of NRS and, if the consumer has no legal guardian, describing procedures provided by law for adjudication of incompetency and appointment of a guardian for the consumer.

2. Written information regarding the services provided by and means of contacting the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of persons with mental illnesses must be posted in each public and private mental health facility and *in each location in which a program of community-based or outpatient services is provided and must be provided to each consumer* ~~[of such a facility]~~ upon admission.

Sec. 17. NRS 433A.360 is hereby amended to read as follows:

433A.360 1. A clinical record for each consumer must be diligently maintained by any division facility , ~~[-]~~ private institution , ~~[-]~~ facility offering mental health services ~~[-]~~ *or program of community-based or outpatient services*. The record must include information pertaining to the consumer's admission, legal status, treatment and individualized plan for habilitation. The clinical record is not a public record and no part of it may be released, except:

(a) If the release is authorized or required pursuant to NRS 439.538.

(b) The record must be released to physicians, attorneys and social agencies as specifically authorized in writing by the consumer, the consumer's parent, guardian or attorney.

(c) The record must be released to persons authorized by the order of a court of competent jurisdiction.

(d) The record or any part thereof may be disclosed to a qualified member of the staff of a division facility, an employee of the Division or a member of the staff of an agency in Nevada which has been established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq., or the Protection and Advocacy for Mentally Ill Individuals Act of 1986, 42 U.S.C. §§ 10801 et seq., when the Administrator deems it necessary for the proper care of the consumer.

(e) Information from the clinical records may be used for statistical and evaluative purposes if the information is abstracted in such a way as to protect the identity of individual consumers.

(f) To the extent necessary for a consumer to make a claim, or for a claim to be made on behalf of a consumer for aid, insurance or medical assistance to which the consumer may be entitled, information from the records may be released with the written authorization of the consumer or the consumer's guardian.

(g) The record must be released without charge to any member of the staff of an agency in Nevada which has been established pursuant to 42 U.S.C. §§ 15001 et seq. or 42 U.S.C. §§ 10801 et seq. if:

(1) The consumer is a consumer of that office and the consumer or the consumer's legal representative or guardian authorizes the release of the record; or

(2) A complaint regarding a consumer was received by the office or there is probable cause to believe that the consumer has been abused or neglected and the consumer:

(I) Is unable to authorize the release of the record because of the consumer's mental or physical condition; and

(II) Does not have a guardian or other legal representative or is a ward of the State.

(h) The record must be released as provided in NRS 433.332 or 433B.200 and in chapter 629 of NRS.

2. As used in this section, "consumer" includes any person who seeks, on the person's own or others' initiative, and can benefit from, care, treatment and training in a private institution or facility offering mental health services, ~~for~~ from treatment to competency in a private institution or facility offering mental health services ~~for~~ , or from a program of community-based or outpatient services.

Sec. 18. ~~NRS 433A.370 is hereby amended to read as follows:~~
~~433A.370 1. When a consumer committed by a court to a division facility on or before June 30, 1975, or a consumer who is judicially admitted on or after July 1, 1975, or a person who is involuntarily detained pursuant to NRS 433A.145 to 433A.300, inclusive, escapes from any division facility, or when a judicially admitted consumer has not returned to a division facility from conditional release after the administrative officer of the facility has~~

~~ordered the consumer to do so, any peace officer shall, upon written request of the administrative officer or the administrative officer's designee and without the necessity of a warrant or court order, apprehend, take into custody and deliver the person to such division facility or another state facility.~~

~~2. When a consumer who is judicially admitted to a program of community based or outpatient services fails to participate in the program or otherwise fails to carry out the plan of treatment developed pursuant to section 3 of this act, despite efforts by the professional responsible for providing or coordinating the program of community based or outpatient services for the consumer to solicit the consumer's compliance, the professional may petition the court to issue an order requiring a peace officer to take into custody and deliver the consumer to the appropriate location for an evaluation by an evaluation team from the Division pursuant to NRS 433A.240. The petition must be accompanied by:~~

- ~~(a) A copy of the order for involuntary admission;~~
- ~~(b) A copy of the plan of treatment submitted to the court pursuant to section 3 of this act;~~
- ~~(c) A list that sets forth the specific provisions of the plan of treatment which the consumer has failed to carry out; and~~
- ~~(d) A statement by the petitioner which explains how the consumer's failure to participate in the program of community based or outpatient services or failure to carry out the plan of treatment will likely cause the consumer to harm himself or herself or others.~~

~~3. If the court determines that there is probable cause to believe that the consumer is likely to harm himself or herself or others if the consumer does not comply with the plan of treatment, the court may issue an order requiring a peace officer to take into custody and deliver the consumer to the appropriate location for an evaluation by an evaluation team from the Division pursuant to NRS 433A.240.~~

~~4. Any person appointed or designated by the Director of the Department to take into custody and transport [to a division facility] persons who have escaped , [or] failed to return or failed to participate in a program of treatment as described in [subsection 1] this section may participate in the apprehension and delivery of any such person, but may not take the person into custody without a warrant. (Deleted by amendment.)~~

Sec. 19. NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a consumer, involuntarily admitted to a mental health facility or to a program of community-based or outpatient services by court order, is released at the end of the ~~[time]~~ period specified pursuant to NRS 433A.310, written notice must be given to the admitting court and to the consumer's legal guardian at least 10 days before the release of the consumer. The consumer may then be released without requiring further orders of the court. If the consumer has a legal guardian, the facility or the professional responsible for providing or coordinating the program of

community-based or outpatient services shall notify the guardian before discharging the consumer from the facility ~~[]~~ *or program*. The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team ~~[]~~ *or the professional responsible for providing or coordinating the program of community-based or outpatient services*. If the legal guardian does not inform the facility *or professional* as to where the consumer will be released within 3 days after the date of notification, the facility *or professional* shall discharge the consumer according to its proposed discharge plan.

2. ~~[An involuntarily court-admitted]~~ *A consumer who is involuntarily admitted to a mental health facility* may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the consumer has recovered from his or her mental illness or has improved to such an extent that the consumer is no longer considered to present a clear and present danger of harm to himself or herself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the mental health facility authorizes the release and gives written notice to the admitting court and to the consumer's legal guardian at least 10 days before the release of the consumer. If the consumer has a legal guardian, the facility shall notify the guardian before discharging the consumer from the facility. The legal guardian has discretion to determine where the consumer will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the legal guardian does not inform the facility as to where the consumer will be released within 3 days after the date of notification, the facility shall discharge the consumer according to its proposed discharge plan.

3. *A consumer who is involuntarily admitted to a program of community-based or outpatient services may be unconditionally released before the period specified in NRS 433A.310 when:*

(a) *The professional responsible for providing or coordinating the program of community-based or outpatient services for the consumer determines that the consumer has recovered from his or her mental illness or has improved to such an extent that the consumer is no longer considered to present a clear and present danger of harm to himself or herself or others; and*

(b) *Under advisement from an evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the professional responsible for providing or coordinating the program of community-based or outpatient services for the consumer authorizes the*

release and gives written notice to the admitting court at least 10 days before the release of the consumer from the program.

Sec. 20. NRS 433A.460 is hereby amended to read as follows:

433A.460 ~~{1.}~~ No person admitted to a public or private mental health facility *or to a program of community-based or outpatient services* pursuant to this chapter shall, by reason of such admission, be denied the right to dispose of property, marry, execute instruments, make purchases, enter into contractual relationships, vote and hold a driver's license, unless such person has been specifically adjudicated incompetent by a court of competent jurisdiction and has not been restored to legal capacity.

~~{2. If the responsible physician of the mental health facility in which any person is detained or the professional responsible for providing or coordinating the program of community-based or outpatient services for a person is of the opinion that such person is unable to exercise any of the aforementioned rights, the responsible physician or other responsible professional, as applicable, shall immediately notify the person and the person's attorney, legal guardian, spouse, parents or other nearest known adult relative, and the district court of that fact.}~~

Sec. 21. NRS 433A.580 is hereby amended to read as follows:

433A.580 No person may be admitted to a private hospital ~~{or}~~, a division mental health facility *or a program of community-based or outpatient services* pursuant to the provisions of this chapter unless mutually agreeable financial arrangements relating to the costs of treatment are made between the private hospital, ~~{or}~~ division facility *or professional responsible for providing or coordinating a program of community-based or outpatient services* and the consumer or person requesting his or her admission.

Sec. 22. NRS 433A.600 is hereby amended to read as follows:

433A.600 1. A person who is admitted to a *division facility or to a program of community-based or outpatient services* operated by the Division and not determined to be indigent and every responsible relative pursuant to NRS 433A.610 of the person shall be charged for the cost of treatment and is liable for that cost. If after demand is made for payment the person or his or her responsible relative fails to pay that cost, the administrative officer *or professional responsible for providing or coordinating the program of community-based or outpatient services, as applicable,* may recover the amount due by civil action.

2. All sums received ~~{by the administrative officer of a facility operated by the Division}~~ pursuant to subsection 1 must be deposited in the State Treasury and may be expended by the Division for the support of that facility *or program* in accordance with the allotment, transfer, work program and budget provisions of NRS 353.150 to 353.245, inclusive.

Sec. 23. NRS 433A.640 is hereby amended to read as follows:

433A.640 1. Once a court has ordered the admission of a person to a division facility, the administrative officer shall make an investigation,

pursuant to the provisions of this chapter, to determine whether the person or his or her responsible relatives pursuant to NRS 433A.610 are capable of paying for all or a portion of the costs that will be incurred during the period of admission.

2. If a person is admitted to a division facility *or program of community-based or outpatient services* pursuant to a court order, that person and his or her responsible relatives are responsible for the payment of the actual cost of the treatment and services rendered during his or her admission to the division facility *or program* unless the investigation reveals that the person and his or her *responsible* relatives are not capable of paying the full amount of the costs.

3. *Once a court has ordered the admission of a person to a program of community-based or outpatient services operated by the Division, the professional responsible for providing or coordinating the program shall make an investigation, pursuant to the provisions of this chapter, to determine whether the person or his or her responsible relatives pursuant to NRS 433A.610 are capable of paying for all or a portion of the costs that will be incurred during the period of admission.*

Sec. 24. NRS 433A.650 is hereby amended to read as follows:

433A.650 Determination of ability to pay pursuant to NRS 433A.640 shall include investigation of whether the consumer has benefits due and owing to the consumer for the cost of his or her treatment from third-party sources, such as Medicare, Medicaid, social security, medical insurance benefits, retirement programs, annuity plans, government benefits or any other financially responsible third parties. The administrative officer of a division mental health facility *or professional responsible for providing or coordinating a program of community-based or outpatient services* may accept payment for the cost of a consumer's treatment from the consumer's insurance company, Medicare or Medicaid and other similar third parties.

Sec. 25. NRS 433A.660 is hereby amended to read as follows:

433A.660 1. If the consumer, his or her responsible relative pursuant to NRS 433A.610, guardian or the estate neglects or refuses to pay the cost of treatment to the division facility *or to the program of community-based or outpatient services operated by the Division* rendering service pursuant to the fee schedule established under NRS 433.404 or 433B.250, as appropriate, the State is entitled to recover by appropriate legal action all sums due, plus interest.

2. Before initiating such legal action, the division facility *or program, as applicable*, shall demonstrate efforts at collection, which may include contractual arrangements for collection through a private collection agency.

Sec. 26. NRS 433A.715 is hereby amended to read as follows:

433A.715 1. A court shall seal all court records relating to the admission and treatment of any person who was admitted, voluntarily or as the result of a noncriminal proceeding, to a public or private hospital ~~for~~, a

mental health facility *or a program of community-based or outpatient services* in this State for the purpose of obtaining mental health treatment.

2. Except as otherwise provided in subsections 4 and 5, a person or governmental entity that wishes to inspect records that are sealed pursuant to this section must file a petition with the court that sealed the records. Upon the filing of a petition, the court shall fix a time for a hearing on the matter. The petitioner must provide notice of the hearing and a copy of the petition to the person who is the subject of the records. If the person who is the subject of the records wishes to oppose the petition, the person must appear before the court at the hearing. If the person appears before the court at the hearing, the court must provide the person an opportunity to be heard on the matter.

3. After the hearing described in subsection 2, the court may order the inspection of records that are sealed pursuant to this section if:

(a) A law enforcement agency must obtain or maintain information concerning persons who have been admitted to a public or private hospital ~~for~~, *a mental health facility or a program of community-based or outpatient services* in this State pursuant to state or federal law;

(b) A prosecuting attorney or an attorney who is representing the person who is the subject of the records in a criminal action requests to inspect the records; or

(c) The person who is the subject of the records petitions the court to permit the inspection of the records by a person named in the petition.

4. A governmental entity is entitled to inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if:

(a) The governmental entity has made a conditional offer of employment to the person who is the subject of the records;

(b) The position of employment conditionally offered to the person concerns public safety, including, without limitation, employment as a firefighter or peace officer;

(c) The governmental entity is required by law, rule, regulation or policy to obtain the mental health records of each individual conditionally offered the position of employment; and

(d) An authorized representative of the governmental entity presents to the court a written authorization signed by the person who is the subject of the records and notarized by a notary public or judicial officer in which the person who is the subject of the records consents to the inspection of the records.

5. Upon its own order, any court of this State may inspect court records that are sealed pursuant to this section without following the procedure described in subsection 2 if the records are necessary and relevant for the disposition of a matter pending before the court. The court may allow a party in the matter to inspect the records without following the procedure described in subsection 2 if the court deems such inspection necessary and appropriate.

6. Following the sealing of records pursuant to this section, the admission of the person who is the subject of the records to the public or private hospital, ~~for~~ mental health facility *or program of community-based or outpatient services*, is deemed never to have occurred, and the person may answer accordingly any question related to its occurrence, except in connection with:

(a) An application for a permit to carry a concealed firearm pursuant to the provisions of NRS 202.3653 to 202.369, inclusive;

(b) A transfer of a firearm; or

(c) An application for a position of employment described in subsection 4.

7. As used in this section:

(a) "Firefighter" means a person who is a salaried employee of a fire-fighting agency and whose principal duties are to control, extinguish, prevent and suppress fires. As used in this paragraph, "fire-fighting agency" means a public fire department, fire protection district or other agency of this State or a political subdivision of this State, the primary functions of which are to control, extinguish, prevent and suppress fires.

(b) "Peace officer" has the meaning ascribed to it in NRS 289.010.

(c) "Seal" means placing records in a separate file or other repository not accessible to the general public.

Sec. 27. NRS 433A.750 is hereby amended to read as follows:

433A.750 1. A person who:

(a) Without probable cause for believing a person to be mentally ill causes or conspires with or assists another to cause the involuntary court-ordered admission of the person under this chapter; or

(b) Causes or conspires with or assists another to cause the denial to any person of any right accorded to the person under this chapter,
➡ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. Unless a greater penalty is provided in subsection 1, a person who knowingly and willfully violates any provision of this chapter regarding the admission of a person to, or discharge of a person from, a public or private mental health facility *or a program of community-based or outpatient services* is guilty of a gross misdemeanor.

3. A person who, without probable cause for believing another person to be mentally ill, executes a petition, application or certificate pursuant to this chapter, by which the person secures or attempts to secure the apprehension, hospitalization, detention, *admission* or restraint of the person alleged to be mentally ill, or any physician, psychiatrist, ~~for~~ licensed psychologist *or other person professionally qualified in the field of psychiatric mental health* who knowingly makes any false certificate or application pursuant to this chapter as to the mental condition of any person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 28. This act becomes effective on July 1, 2013.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Assembly Bill No. 287 relates to involuntary civil commitments. Amendment No. 958 to Assembly Bill No. 287 was agreed to by many parties involved. It does several things. It establishes specific requirements that must be included with the petition for the detention and potential re-commitment of an individual that is judicially admitted to a community-based or outpatient program when they fail to carry out the plan of treatment. It specifies that a person involuntarily admitted to a community-based program may be conditionally released from the community-based program if the professional responsible for coordination of their participation determines that the person no longer presents a danger of harm to himself or herself or others. It also requires that the court serve notice on the person who was ordered to resume participation in the community-based program. It further requires the counsel that represented the person when they were involuntarily admitted to a community-based program to continue to represent that person until they are released from the community-based program.

The amendment requires a petition, requesting to renew the court-ordered period of treatment, to include evidence consistent with the evidence required for the initial admission into the mental health facility or community-based program.

Amendment adopted.

Bill read third time.

Remarks by Senator Jones.

Thank you, Mr. President. As you just heard from my colleague, Assembly Bill No. 287 authorizes a court-ordered admission of certain persons with mental illness to a community-based program or outpatient services under certain circumstances. This is something Mr. Stewart has been working on for a long time. It is something that is favored by the Governor and the Department of Health and Human Services to improve mental-health services in our State. I strongly urge my colleagues to vote in favor.

Roll call on Assembly Bill No. 287:

YEAS—19.

NAYS—Spearman.

EXCUSED—Woodhouse.

Assembly Bill No. 287 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Assembly Bill No. 388.

Bill read third time.

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

Amendment No. 968.

"SUMMARY—Revises provisions relating to renewable energy. (BDR 58-517)"

"AN ACT relating to renewable energy; revising provisions governing certain energy-related tax incentives; revising provisions governing portfolio energy systems; revising provisions governing jurisdiction of the courts of this State with respect to certain claims or actions relating to certain renewable energy projects; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the partial abatement of certain taxes for certain renewable energy facilities. (NRS 701A.300-701A.390) Section 3 of this bill ~~[removes the requirement that an application for a partial abatement of certain taxes for certain geothermal facilities be approved by the board of county commissioners before the application can be approved by the Director of the Office of Energy.]~~ revises the authority of a board of county commissioners relating to the approval of an application for a partial abatement of certain taxes submitted by a person who operates a facility for the generation of electricity from renewable energy.

Under existing law, a provider of electric service is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure for the purpose of satisfying the renewable portfolio standard of the provider. (NRS 704.78215) Section 4 of this bill revises provisions governing the calculation of the portfolio energy credits attributable to certain portfolio energy systems.

Section 5 of this bill clarifies that a court of this State has jurisdiction over a claim or action relating to a renewable energy project located upon certain Indian tribal land under certain circumstances.

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

Section 1. NRS 701A.340 is hereby amended to read as follows:

701A.340 1. "Renewable energy" means:

- (a) Biomass;
- (b) Fuel cells;
- (c) *Geothermal energy*;
- (d) Solar energy;
- ~~[(d)]~~ (e) Waterpower; or
- ~~[(e)]~~ (f) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel ~~[, geothermal energy]~~ or nuclear energy.

Sec. 2. NRS 701A.360 is hereby amended to read as follows:

701A.360 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy ~~[, a facility for the generation of electricity from geothermal resources]~~ or a facility for the transmission of electricity produced from renewable energy ~~[or geothermal resources]~~ in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS.

2. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to NRS 701A.300 to 701A.390, inclusive.

3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall forward a copy of the application to:

- (a) The Chief of the Budget Division of the Department of Administration;
- (b) The Department of Taxation;
- (c) The board of county commissioners;
- (d) The county assessor;
- (e) The county treasurer; and
- (f) The Office of Economic Development.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application.

5. The Director shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in subsection 3 have received a copy of the application.

Sec. 3. NRS 701A.365 is hereby amended to read as follows:

701A.365 1. ~~{Except as otherwise provided in subsection 2, the}~~ *The* Director, in consultation with the Office of Economic Development, shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if the Director, in consultation with the Office of Economic Development, makes the following determinations:

(a) The applicant has executed an agreement with the Director which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to NRS 701A.370, continue in operation in this State for a period specified by the Director, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for

benefits established by the Director by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

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

2. The Director shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by a facility for the generation of process heat from solar renewable energy or a wholesale facility for the generation of electricity from ~~geothermal resources~~ renewable energy unless the application is approved or deemed approved pursuant to this subsection. The board of county commissioners of a county must provide notice to the Director that the board intends to consider an application and, if such notice is given, must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners ~~must~~:

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

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

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

(2) The projected financial benefits that will result to the county from the employment by the facility of the residents of this State and from capital investments by the facility in the county will not exceed the projected loss of tax revenue that will result from the abatement;

(c) Must not condition the approval of the application on a requirement that the facility ~~for the generation of electricity from geothermal resources~~ agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility ~~for~~; and

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

➤ If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed ~~denied~~ approved.

3. Notwithstanding the provisions of subsection 1, the Director, in consultation with the Office of Economic Development, may, if the Director, in consultation with the Office, determines that such action is necessary:

- (a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or
- (b) Add additional requirements that a facility must meet to qualify for a partial abatement.

4. ~~3.7~~ The Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section.

5. ~~4.4~~ The Director shall submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted pursuant to this section.

Sec. 4. NRS 704.78215 is hereby amended to read as follows:

704.78215 1. Except as otherwise provided in this section or by specific statute, a provider is entitled to one portfolio energy credit for each kilowatt-hour of electricity that the provider generates, acquires or saves from a portfolio energy system or efficiency measure.

2. The Commission may adopt regulations that give a provider more than one portfolio energy credit for each kilowatt-hour of electricity saved by the provider during its peak load period from energy efficiency measures.

3. *Except as otherwise provided in this subsection, for portfolio energy systems placed into operation on or after January 1, 2016, the amount of electricity generated or acquired from a portfolio energy system does not include the amount of any electricity used by the portfolio energy system for its basic operations that reduce the amount of renewable energy delivered to the transmission grid for distribution and sale to customers of the provider. The provisions of this subsection do not apply to a portfolio energy system placed into operation on or after January 1, 2016, if a provider entered into a contract for the purchase of electricity generated by the portfolio energy system on or before December 31, 2012. For the purposes of this subsection, the amount of any electricity used by a portfolio energy system for its basic operations ~~does~~ :*

(a) Except as otherwise provided in paragraph (b), includes electricity used for the heating, lighting, air-conditioning and equipment of a building located on the site of the portfolio energy system, and for operating any other equipment located on such site.

(b) Does not include the electricity used by a portfolio energy system that generates electricity from geothermal energy for the extraction and transportation of geothermal brine ~~for~~ or used to pump or compress geothermal brine.

Sec. 5. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A court of this State has jurisdiction pursuant to subsection 1 of NRS 14.065 with respect to any claim or action relating to a renewable energy project located upon Indian tribal land if:*

(a) The Indian tribe occupying the tribal land has a reservation of not less than 60,000 acres;

(b) The Indian tribal land is located in a county whose population is 700,000 or more; and

(c) The governing body of the Indian tribe has expressly waived its sovereign immunity with respect to such claim or action in a written agreement, contract or other instrument which expressly states that the terms of the agreement, contract or other instrument must be governed by the applicable laws of this State.

2. *As used in this section, "renewable energy project" means a project for the construction or installation of a facility for the generation of renewable energy, as defined in NRS 701.070.*

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Thank you, Mr. President. Amendment No. 968 to Assembly Bill No. 388 revises the authority of a Board of County Commissioners relating to the approval of an application for a partial abatement of certain taxes submitted by a person who operates a facility for the generation of electricity from renewable energy.

Amendment adopted.

Bill read third time.

Remarks by Senator Jones.

Thank you, Mr. President. Assembly Bill No. 388 provides that certain facilities that generate electricity from geothermal energy are eligible for a partial abatement of taxes. The measure excludes from the calculation of portfolio energy credits the energy used by a portfolio energy system for its basic operations for any system placed into operation after December 31, 2015, under certain circumstances. It also revises the authority of a Board of County Commissioners relating to approving an application for a partial abatement of certain taxes for the generation of electricity from renewable energy. Finally, the bill also enacts certain provisions related to claims or causes of action relating to a renewable energy project located on Indian tribal land. I urge your support.

Roll call on Assembly Bill No. 388:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 388 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Assembly Bill No. 404.

Bill read third time.

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

Amendment No. 957.

"SUMMARY—Revises provisions relating to time shares. (BDR 10-960)"

"AN ACT relating to time shares; amending provisions relating to licensing and registration of sales agents, representatives, managers, developers, project brokers and time-share resale brokers; revising provisions relating to permits to sell time shares; amending provisions relating to time-share instruments; revising provisions governing public offering statements; amending provisions governing the sale and resale of time shares; revising provisions governing the management and development of time-share plans and time-share projects; revising provisions governing certain fees relating to time shares; prohibiting certain acts; amending various other provisions relating to time shares; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides certain exemptions from the requirements governing time shares. (NRS 119A.170) Section 11 of this bill revises these exemptions.

Existing law governs the qualifications and licensing of sales agents and requires a sales agent to be associated with a project broker. (NRS 119A.210-119A.237) Section 14 of this bill maintains the existing law requiring that a sales agent obtain a license from the Real Estate Division of the Department of Business and Industry, but provides that a sales agent is not required to be licensed pursuant to existing law governing real estate salespersons.

Existing law provides for the registration and regulation of a representative, defined as a person who, on behalf of a developer, induces other persons to attend a sales presentation. (NRS 119A.120, 119A.240, 119A.260) Section 18 of this bill maintains the existing law requiring a representative to register with the Division, but provides that a representative is not required to be licensed pursuant to existing law governing real estate salespersons. Section 19 of this bill amends provisions setting forth the prohibited acts of representatives.

Existing law requires a developer of a time-share plan to obtain certain permits from the Administrator of the Division before selling or offering for sale any time shares in this State. Existing law requires an applicant for a public offering statement and permit to sell time shares to submit an application containing certain information. (NRS 119A.300) Section 23 of this bill ~~[- (1)]~~ requires the applicant to include with the application a public offering statement ~~[- and (2)]~~ and certain information concerning points, if applicable. Section 4.4 of this bill provides that in lieu of the information required to be included with the application, a developer of a time-share plan in which some or all of the units are located outside of this State may file an abbreviated registration. Section 3 of this bill requires a developer to file an amended statement of record with the Division under certain circumstances. Section 25 of this bill amends the grounds for denial of an application for a permit to sell time shares. Section 26 of this bill amends provisions relating to the procedure for approving or denying an application for a permit to sell

time shares. Section 27 of this bill provides for a hearing on the denial of an amendment to the statement of record or a renewal of a permit to sell time shares. Section 28 of this bill revises the information to be provided in a public offering statement if a time-share project is not completed before the issuance of a permit to sell time shares.

Section 29 of this bill authorizes instead of requires the Division to complete an investigation before issuing any permit or license issued pursuant to the provisions of existing law governing time shares.

Section 30 of this bill provides that a renewal of a permit to sell time shares in this State is deemed approved if the Division does not take certain actions within the prescribed period.

Existing law governs the fees that the Division is required to collect relating to time shares. (NRS 119A.360) Section 32 of this bill increases certain fees and revises the fee based on the number of time shares sold by a developer to provide for a fee based on the number of time shares in a time-share plan. Section 32 also establishes a fee for an amendment to a statement of record, the initial registration of a time-share resale broker and the renewal of the registration of a time-share resale broker.

Existing law governs the contents of a time-share instrument. (NRS 119A.380) Section 33 of this bill enacts provisions relating to the governing instrument of a time-share plan or units governed by the laws of another state or jurisdiction.

Existing law requires a developer to provide each prospective purchaser with a copy of the developer's public offering statement. (NRS 119A.400) Section 35 of this bill provides that, upon the request of a prospective purchaser for an electronic copy of the public offering statement, the developer must provide an electronic copy of the public offering statement.

Existing law requires money, negotiable instruments or other deposits pertaining to the sale of a time share to be placed in escrow. (NRS 119A.420) Section 36 of this bill requires money, negotiable instruments or other deposits pertaining to the sale of a time share received from a purchaser to be placed in an escrow account or requires the developer to establish a surety bond.

Existing law provides for the licensing and regulation of a time-share resale broker. (NRS 119A.4771) Section 41 of this bill amends provisions relating to the registration of a time-share resale broker. Sections 42 and 43 of this bill provide for a right to cancel certain contracts or agreements relating to the resale of a time share.

Existing law governs the charging or collection of an advance fee by a time-share resale broker. (NRS 119A.4779) Section 44 of this bill requires a contract for an advance fee listing to include certain information. Section 44 also prohibits a time-share resale broker from engaging in certain acts with respect to an advance fee and provides penalties for engaging in those acts.

Section 48 of this bill removes the authority of the Administrator to require an association or developer to provide an opinion of an independent professional consultant regarding the budget.

Existing law prohibits certain unfair methods of competition or deceptive or unfair acts in the offer to sell or sale of a time share. (NRS 119A.710) Section 4 of this bill prohibits ~~for a person~~ certain persons from knowingly participating in a plan or scheme to transfer a time share to a person who does not have the ability, means or intent to pay the assessments ~~for~~ and taxes for that time share and provides a penalty for a violation of this provision.

Section 4.2 of this bill exempts certain developers from provisions governing permits to sell and the sale of certain time shares.

Section 52 of this bill repeals provisions of existing law governing advertisements for time shares, and section 13 of this bill authorizes the Division to adopt regulations regarding advertisements relating to time shares.

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

Section 1. Chapter 119A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2 to ~~4.3~~ 4.4, inclusive, of this act.

Sec. 1.2. *"Branch office" means an office operated by a real estate broker who is licensed pursuant to chapter 645 of NRS, separate from the principal location of the real estate broker, for the purpose of engaging in the business of selling or reselling time shares.*

Sec. 1.4. *"Component site" means the specific geographic location where units that are part of a time-share plan are located ~~, including, without limitation, new~~. The term includes units added to a single project in the same specific geographic location and under common management.*

Sec. 1.6. *1. "Material change" means a change in any information or document that is part of the statement of record which renders the statement of record inaccurate, incomplete or misleading in such a way as to adversely affect the rights or obligations of a purchaser.*

2. The term does not include a change:

(a) In the real estate tax assessment or rate, utility charges or deposits, maintenance fees, association dues, assessments, special assessments or any recurring time-share expense item, if the change is made known immediately to the prospective purchaser by a written addendum to the public offering statement;

(b) Which is an aspect or result of the orderly development of the time-share plan in accordance with the time-share instrument, if the change is made known immediately to the prospective purchaser by a written addendum to the public offering statement;

(c) Which corrects spelling, grammar, omissions or other similar errors and which does not affect the substance of the information or document; or

(d) Which occurs in the issuance of the updated annual report or disclosure document of an exchange company.

Sec. 1.8. "Sales and marketing entity" means an entity hired by a developer to manage the sale or marketing of a time-share plan.

Sec. 2. "Statement of record" means the information provided to the Administrator pursuant to ~~paragraph (a) of~~ subsection 1 of NRS 119A.300 or ~~subsection 2 of NRS 119A.300,~~ section 4.4 of this act, as applicable.

Sec. 2.5. 1. Every branch office must be operated under the supervision of a real estate broker or real estate broker-salesperson who is licensed pursuant to chapter 645 of NRS and who has had at least 2 years of experience as an active real estate broker ~~or~~ or real estate broker-salesperson ~~for real estate salesperson~~ in the United States.

2. The project broker or time-share resale broker is responsible for each branch office which he or she operates.

3. If the location of the branch office does not permit a project broker or a time-share resale broker to exercise direct supervision of a branch office, a real estate broker-salesperson shall directly supervise the branch office.

4. A supervisor of a branch office may not supervise more than one branch office.

Sec. 3. 1. If there is a material change to the time-share plan, ~~which is not caused by or under the control of the developer, the developer shall file with the Division an amended statement of record not later than 10 days before the material change occurs or within 10 days after the developer knows or reasonably should have known of the material change. For any material change to the time share plan,~~ the developer shall file an amended statement of record, and such ~~an~~ amended statement of record is effective on the 60th day after the filing or, in the event that ~~additional~~ units are added to the time-share plan which are in a component site which has not previously been registered with the Division, on the 120th day after the filing, unless the Administrator:

(a) Issues a denial of the amended statement of record pursuant to NRS 119A.654 in a notice of deficiency describing the reasons for the denial in sufficient detail to allow the developer to correct the deficiencies in the amended statement of record; or

(b) Approves the amended statement of record on an earlier date.

2. The developer may submit evidence that the deficiencies in the amended statement of record described in the notice of deficiency issued pursuant to paragraph (a) of subsection 1 have been corrected within 90 days after the developer receives the notice of deficiency or within such extended time period as approved by the Division in writing.

3. The Administrator shall, within 30 days after receiving evidence that the deficiencies in the amended statement of record are ~~found~~ corrected, approve ~~for deny~~ the amended statement of record or issue a denial of the amended statement of record ~~and list the specific~~ pursuant to NRS 119A.654 in a notice of deficiency describing the reasons for denial.

If the Division fails to take any of the actions described in this subsection within the 30-day period, the amended statement of record shall be deemed approved by the Division.

~~{3.}~~ 4. If the developer fails to correct all the deficiencies in the amended statement of record after receipt of a second notice of deficiency pursuant to subsection 3, the Administrator may deny the amended statement of record and require the developer to pay a filing fee equal to one-half of the filing fee for an amendment to a statement of record as set forth in subsection 1 of NRS 119A.360.

5. Any amendment proposed by the developer to the provisions of a time-share instrument must be filed with the Division. Unless the Division notifies the developer of its disapproval within 15 days after the developer files the proposed amendment to the time-share instrument, the amendment shall be deemed to be approved by the Division.

Sec. 4. 1. Except as otherwise provided in subsection 3, ~~for~~ any person other than a person described in paragraph (a) of subsection 3 of NRS 119A.4771 or a developer or an association that is offering time shares in a time-share plan which is registered by such a developer or an association or which is exempt from registration in this State, who knowingly participates, for consideration or with the expectation of consideration, in any plan or scheme, a purpose of which is to transfer a previously sold time share to a transferee who does not have the ability, means or intent to pay for provide payment for all assessments and taxes for that time share commits a false, misleading or deceptive act or practice for the purposes of NRS 207.170, 207.171, 598.0915 to 598.0925, inclusive, and chapters 598A and 599A of NRS.

2. The failure of a transferee to pay assessments or taxes that come due after the acquisition of a previously sold time share by a person who acquires the time share for commercial purposes ~~is prima facie evidence of~~ creates a rebuttable presumption of a violation of this section.

3. An association or manager does not violate the provisions of this section by performing such administrative acts and collecting such fees or expenses as are customary or required by law or a time-share instrument during the transfer.

Sec. 4.2. The provisions of NRS 119A.290 to 119A.470, inclusive, and sections 3 and 4 of this act, and NRS 119A.480 do not apply to a developer who has a valid permit issued pursuant to this chapter concerning the offer or disposition in this State of a time share in a time-share plan which includes units which are:

1. Located outside of this State;
2. Not registered pursuant to the provisions of this chapter; and
3. Offered or sold to an existing owner of a time-share plan offered by that developer or an affiliate of that developer if the developer or the affiliate:

(a) Authorizes the purchaser to cancel the purchase contract until midnight of the fifth calendar day after the date of the execution of the contract; and

(b) Provides the purchaser with all of the time share disclosure documents required by law in the jurisdiction in which the time share is located.

Sec. 4.4. 1. In lieu of the statement of record required pursuant to NRS 119A.300, the Division may accept an abbreviated registration from a developer of a time-share plan in which some or all of the units are located outside of this State if:

(a) The developer provides evidence that the time-share plan is registered with the applicable regulatory agency in the state or jurisdiction where the time-share plan is offered or sold and that the time-share plan is in compliance with the laws and regulations of the state or jurisdiction in which some or all of the units are located; and

(b) The disclosure requirements of the other state or jurisdiction are substantially equivalent to or greater than the information required to be disclosed to purchasers in this State pursuant to this chapter.

2. A developer who files an abbreviated registration pursuant to subsection 1 shall, in addition to paying the fee for an initial permit required by NRS 119A.360, provide to the Division:

(a) The developer's legal name, any assumed names used by the developer and the developer's principal office location, mailing address, primary contact person and telephone number;

(b) The name, location, mailing address, primary contact person and telephone number of the time-share plan;

(c) The name and principal address of the developer's authorized project broker who must be a real estate broker licensed to maintain offices within this State;

(d) The name and principal address of all sales and marketing entities and the manager of the time-share plan;

(e) Evidence of registration and compliance with the laws and regulations of the state or jurisdiction in which the time-share plan is located, approved or accepted;

(f) A brief description as to whether the time-share plan contains one or more component sites and a brief description of the types of time shares offered in the time-share plan;

(g) Disclosure of each jurisdiction in which the developer has applied for registration of the time-share plan and whether the time-share plan or its developer was denied registration or was the subject of any disciplinary proceeding;

(h) Copies of any disclosure documents required to be given to purchasers or required to be filed with the state or jurisdiction in which the time-share plan is located, approved or accepted;

(i) A copy of the current annual or projected budget for the association if not otherwise included in the disclosure documents; and

(j) Any other information regarding the developer, time-share plan, project broker, manager or sales and marketing entities as established by the Division by regulation.

3. A developer of a time-share plan with units located solely in this State may not file an abbreviated application.

4. Upon acceptance of the abbreviated registration by the Division, the developer shall provide to each purchaser, in lieu of the public offering statement required to be provided pursuant to the provisions of NRS 119A.400, a copy of the public report, public offering statement or other disclosure document which complies with paragraph (b) of subsection 1, including a cover page which states that such disclosure document has been approved for use by the Real Estate Division of the Department of Business and Industry.

Sec. 5. NRS 119A.010 is hereby amended to read as follows:

119A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 119A.020 to 119A.160, inclusive, and sections 1.2 ~~f, 1.4 and~~ to 2, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 119A.090 is hereby amended to read as follows:

119A.090 "Project broker" means any person who coordinates the sale of time shares for ~~[a] one or more time-share [plan and to whom sales agents and representatives are responsible.] plans on behalf of one or more developers and who is licensed as a real estate broker pursuant to the provisions of chapter 645 of NRS.~~

Sec. 8. NRS 119A.100 is hereby amended to read as follows:

119A.100 "Public offering statement" means a ~~[report, issued by the Administrator]~~ disclosure document prepared and signed by the developer and approved or deemed approved for use by the Division pursuant to the provisions of this chapter, which ~~[authorizes a developer to offer to sell or sell time shares in the time share plan which is the subject of the report.]~~ contains the information required by this chapter and any regulations adopted pursuant thereto.

Sec. 9. NRS 119A.130 is hereby amended to read as follows:

119A.130 "Sales agent" means a person who, on behalf of a developer ~~[,]~~ and under the direct supervision of a real estate broker licensed pursuant to the provisions of chapter 645 of NRS, sells or offers to sell a time share to a purchaser or who, if he or she is not registered as a representative, may act to induce other persons to attend a sales presentation on the behalf of a developer.

Sec. 10. NRS 119A.156 is hereby amended to read as follows:

119A.156 "Time-share resale broker" means a person who is licensed pursuant to the provisions of chapter 645 of NRS and is registered as a time-share resale broker pursuant to the provisions of this chapter ~~[,]~~ and who, for compensation, lists, advertises, transfers, assists in transferring,

promotes for resale or solicits prospective purchasers for previously sold time shares on behalf of an owner other than a developer.

Sec. 11. NRS 119A.170 is hereby amended to read as follows:

119A.170 1. ~~[The]~~ *Unless the method of disposition is adopted to evade the provisions of this chapter or chapter 645 of NRS, the provisions of this chapter, except subsection 4, ~~5,~~ do not apply to:*

(a) The sale ~~for resale~~ of 12 or fewer time shares in a *time-share [project] plan; [or the sale of 12 or fewer time shares in the same subdivision;]*

(b) The sale or transfer of a time share by an owner who is not the developer, unless the time share is sold in the ordinary course of business of that owner;

(c) Any transfer of a time share:

(1) By deed in lieu of foreclosure;

(2) At a foreclosure sale; or

(3) By the resale of a time share *by an association* that has been acquired by ~~an~~ *that association*; ~~[by] [as a result of nonpayment of association assessments;]~~

(I) *By termination of a contractual right of occupancy;*

(II) *By deed [or other transfer] in lieu of foreclosure, other transfer or termination; or [at]*

(III) *At a foreclosure sale [;],*

↪ provided that the association or its agent delivers to the purchaser the disclosures required by subsections 2 and 3 of NRS 119A.4775 [to the purchaser;] and gives the purchaser the statement of the right of cancellation required by NRS 119A.410;

(d) A gratuitous transfer of a time share;

(e) A transfer by devise or descent or a transfer to an inter vivos trust; or

(f) The sale or transfer of the right to use and occupy a unit on a periodic basis which recurs over a period of less than 5 years. ~~[;]~~

↪ unless the method of disposition is adopted to evade the provisions of this chapter or chapter 645 of NRS.]

2. ~~[The provisions of NRS 119A.290 to 119A.470, inclusive, and sections 3 and 4 of this act and 119A.480 do not apply to the offer or disposition in this State of a time share in a time share plan that includes units which are located outside of this State, which are not registered under this chapter and which are offered or sold to an existing owner of a time share in a time share plan offered by the same developer or an affiliate of the same developer who has a valid permit under this chapter, if the developer or its affiliate:~~

~~—(a) Authorizes the purchaser to cancel the purchase contract until midnight of the fifth calendar day after the date of execution of the contract; and~~

~~—(b) Provides the purchaser with all the time share disclosure documents required by law in the jurisdiction where the unit is located.~~

~~3.7~~ Any campground or developer who is subject to the requirements of chapter 119B of NRS and complies with those provisions is not required to comply with the provisions of this chapter.

3. ~~4.7~~ The Division may waive any provision of this chapter if it finds that the enforcement of that provision is not necessary in the public interest or for the protection of purchasers.

4. ~~5.7~~ The provisions of chapter 645 of NRS apply to the sale of time shares, except any sale of a time share to which this chapter applies ~~and except any provisions of this chapter expressly excluding the applicability of the provisions of chapter 645 of NRS, and for that the purpose of applying the provisions of chapter 645 of NRS,~~ the terms "real property" and "real estate" as used in chapter 645 of NRS shall be deemed to include a time share, whether it is an interest in real property or merely a contractual right to occupancy.

~~6. The provisions of NRS 119A.520 to 119A.580, inclusive, only apply to the management of time share projects located in this State.~~

Sec. 12. NRS 119A.172 is hereby amended to read as follows:

119A.172 The provisions of this chapter and chapter 645 of NRS relating to real estate brokers and sales agents do not apply to an owner, other than a developer, who, for compensation, refers prospective purchasers to a developer *or an association* or an employee or agent of the developer ~~or association~~, if the owner:

1. Refers to ~~the~~ *a developer or an association* or an employee or agent of the developer ~~or association~~, or any combination thereof, not more than 20 prospective purchasers within any 1 calendar year; and

2. Does not ~~show a unit to the prospective purchaser,~~ discuss with the prospective purchaser the terms and conditions of the purchase or otherwise participate in negotiations relating to the sale of the time share.

Sec. 13. NRS 119A.190 is hereby amended to read as follows:

119A.190 1. The Division may:

~~1.1~~ (a) Adopt regulations ~~which~~ :

~~(a)~~ (1) Which are necessary to carry out the provisions of this chapter.

~~(b)~~ (2) Regarding the content of advertisements relating to time shares.

~~2. Publish on its official Internet website, or otherwise make public for at least 30 days before the adoption by the Division, any form proposed to be used by the Division under this chapter. The Division shall consider comments on any such proposed form before its adoption.~~

~~3.7~~ (b) Employ such legal counsel, investigators and other professional consultants as are necessary to carry out the provisions of this chapter ~~or~~ , including, without limitation, for the review of a statement of record filed pursuant to NRS 119A.300 ~~or~~ section 4.4 of this act.

2. The Division shall publish on its official Internet website, or otherwise make public for at least 30 days before the adoption by the Division, any form proposed to be used by the Division under this chapter. The Division shall consider comments on any such proposed form before its adoption.

Sec. 14. NRS 119A.210 is hereby amended to read as follows:

119A.210 1. The Administrator shall issue a sales agent's license to each applicant who submits an application to the Division, in the manner provided by the Division, which includes:

(a) Satisfactory evidence, affirmed by the project broker or another acceptable source, that the applicant has completed 14 hours of instruction in:

- (1) Ethics.
- (2) The applicable laws and regulations relating to time shares.
- (3) Principles and practices of selling time shares.

(b) Satisfactory evidence that the applicant has a reputation for honesty, trustworthiness and competence.

(c) A designation of the ~~{developer for whom the applicant proposes to sell time shares.}~~ *project broker who will supervise the sales agent.*

(d) The social security number of the applicant.

(e) Any further information required by the Division, including the submission by the applicant to any investigation by the police or the Division.

2. In addition to or in lieu of the 14 hours of instruction required by paragraph (a) of subsection 1, the applicant may be required to pass an examination which may be adopted by the Division to examine satisfactorily the knowledge of the applicant in those areas of instruction listed in paragraph (a) of subsection 1.

3. Each applicant must submit the statement required pursuant to NRS 119A.263 and pay the fees provided for in this chapter.

4. Each applicant must, as part of his or her application and at the applicant's own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary.

5. The Division may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints

to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.

6. A person who is licensed as a real estate salesperson pursuant to chapter 645 of NRS is not required to obtain a license pursuant to the provisions of this section.

7. *A sales agent is not required to be licensed pursuant to the provisions of chapter 645 of NRS.*

8. Each sales agent's license issued pursuant to this section expires 2 years after the last day of the calendar month in which it was issued and must be renewed on or before that date. Each licensee who submits the statement required pursuant to NRS 119A.263 and meets the requirements for renewal may renew his or her license upon the payment of the renewal fee before his or her license expires.

~~{8.}~~ 9. If a licensee fails to renew his or her license before it expires, the license may be reinstated if the licensee submits the statement and pays the renewal fee and the penalty specified in NRS 119A.360 within 1 year after the license expires.

~~{9.}~~ 10. The Administrator may adopt regulations establishing and governing requirements for the continuing education of sales agents.

Sec. 15. NRS 119A.220 is hereby amended to read as follows:

119A.220 1. A sales agent may work for only one project broker at any one time at the location designated in the license.

2. A project broker shall give written notice to the Division of a change of association of any sales agent associated with the project broker within 10 days after that change.

3. The project broker, upon the termination of the employment of any sales agent associated with the project broker, shall submit that agent's license to the Division.

4. If a sales agent changes his or her association with any project broker or changes his or her location ~~[with the same project broker,]~~ *designated in the license*, the sales agent must apply to the Division for the reissuance of his or her license for its unexpired term. The application must be accompanied by a fee of \$10.

5. A sales agent may only become associated with a project broker who certifies to the sales agent's honesty, trustworthiness and good reputation.

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. NRS 119A.240 is hereby amended to read as follows:

119A.240 1. The Administrator shall register as a representative each applicant who:

(a) Submits proof satisfactory to the Division that the applicant has a reputation for honesty, trustworthiness and competence;

- (b) Applies for registration in the manner provided by the Division;
- (c) Submits the statement required pursuant to NRS 119A.263; and
- (d) Pays the fees provided for in this chapter.

2. An application for registration as a representative must include the social security number of the applicant.

3. *A representative is not required to be licensed pursuant to the provisions of chapter 645 of NRS.*

Sec. 19. NRS 119A.260 is hereby amended to read as follows:

119A.260 1. A representative shall not negotiate ~~for—make~~ ~~representations concerning the merits or value of a time share plan or a project.~~ *the sale of, or discuss prices of, a time share.* A representative may only induce and solicit persons to attend promotional meetings for the sale of time shares and distribute information on behalf of a developer.

2. The representative's activities must strictly conform to the methods for the procurement of prospective purchasers which have been approved by the Division.

3. The representative shall comply with ~~[the same]~~ *any applicable* standards for conducting business as are applied to real estate brokers and salespersons pursuant to chapter 645 of NRS and the regulations adopted pursuant thereto.

4. A representative shall not make targeted solicitations of purchasers or prospective purchasers of time shares in another project ~~[.]~~ *with which the representative is not associated.* A developer or project broker shall not pay or offer to pay a representative a bonus or other type of special compensation to engage in such activity.

Sec. 20. NRS 119A.270 is hereby amended to read as follows:

119A.270 A developer shall not:

1. Offer to sell any time shares in this state unless the developer holds either a preliminary permit to sell time shares or a permit to sell time shares issued by the Administrator ~~[.]~~ *pursuant to the provisions of this chapter.*

2. Sell any time shares in this state unless the developer holds a permit to sell time shares issued by the Administrator ~~[.]~~ *pursuant to the provisions of this chapter.*

3. Offer to sell or sell a time share in this state unless the developer has named a person to act as a project broker.

4. Offer to sell or sell a time share in this state except through a project broker.

Sec. 21. NRS 119A.280 is hereby amended to read as follows:

119A.280 1. The Administrator may issue an order directing a developer to cease engaging in activities for which the developer has not received *or been deemed to have received* a permit under this chapter or conducting activities in a manner not in compliance with the provisions of this chapter or the regulations adopted pursuant thereto.

2. The order to cease must be in writing and must ~~state that, in the opinion of the Administrator, the developer has not been issued a permit for~~

~~the activity or the terms of the permit do not allow the developer to conduct the activity in that manner.] describe the violation in sufficient detail to inform the developer of the aspect in which it has failed to comply with the provisions of this chapter.~~ The developer shall not engage in any activity regulated by this chapter after the developer receives such an order.

3. Within 30 days after receiving such an order, a developer may file a verified petition with the Administrator for a hearing. The Administrator shall hold a hearing within 30 days after the petition has been filed. If the Administrator fails to hold a hearing within 30 days, or does not render a written decision within 45 days after the final hearing, the cease and desist order is rescinded.

4. If the decision of the Administrator after a hearing is against the person ordered to cease and desist, the person may appeal that decision by filing, within 30 days after the date on which the decision was issued, a petition in the district court for the county in which the person conducted the activity. The burden of proof in the appeal is on the appellant. The court shall consider the decision of the Administrator for which the appeal is taken and is limited solely to a consideration and determination of the question of whether there has been an abuse of discretion on the part of the Administrator in making the decision.

5. In lieu of the issuance of an order to cease such activities, the Administrator may enter into an agreement with the developer in which the developer agrees to:

- (a) Discontinue the activities that are not in compliance with this chapter;
- (b) Pay all costs incurred by the Division in investigating the developer's activities and conducting any necessary hearings; and
- (c) Return to the purchasers any money or property which the developer acquired through such violations.

➤ Except as otherwise provided in NRS 239.0115, the terms of such an agreement are confidential unless violated by the developer.

Sec. 22. NRS 119A.290 is hereby amended to read as follows:

119A.290 1. The Administrator shall issue a preliminary permit to sell time shares to each applicant who:

- (a) Submits proof satisfactory to the ~~{Division}~~ Administrator that all of the requirements for a permit to sell time shares will be met;
- (b) Applies for the preliminary permit in the manner provided by the Division; and
- (c) Pays the fee provided for in this chapter.

2. A preliminary permit entitles the developer to solicit and accept reservations to purchase time shares.

Sec. 23. NRS 119A.300 is hereby amended to read as follows:

119A.300 ~~1. Except as otherwise provided in NRS 119A.310, the Administrator shall issue [a] [public offering statement and a] an initial~~ permit to sell time shares to each applicant who:

- 1. ~~{Submits an application,}~~

~~[(a)]~~ Files by electronic means or in ~~[the]~~ any other manner ~~[provided]~~ prescribed by the ~~[Division, which includes:~~

~~—(a)] Administrator, a statement of record which includes:~~

~~[(1)]~~ (a) The name and address of the project broker;

~~(b) [(2)]~~ A copy of each time-share instrument that relates to the time-share plan;

~~(c) [(3)]~~ A preliminary title report for the project *issued within 30 days before submission of the application* and copies of the documents listed as exceptions in the report;

~~(d) [(4)]~~ Copies of any other documents which relate to the time-share plan or the project, including any contract, agreement or other document to be used to establish and maintain an association and to provide for the management of the time-share plan or the project, or both;

~~(e) [(5)]~~ Copies of instructions for escrow, deeds, sales contracts and any other documents that will be used in the sale of the time shares;

~~(f) [(6)]~~ A copy of any proposed trust agreement which establishes a trust for the time-share plan or the project, or both;

~~(g) [(7)]~~ Documents which show the current assessments for property taxes on the project;

~~(h) [(8)]~~ Documents which show compliance with local zoning laws;

~~(i) [(9)]~~ If the units which are the subject of the time-share plan are in a condominium project, or other form of common-interest ownership of property, documents which show that use of the units is in compliance with the documents which created the common-interest ownership;

~~(j) [(10)]~~ Copies of all documents which will be given to a purchaser who is interested in participating in a program for the exchange of occupancy rights among owners and copies of the documents which show acceptance of the time-share plan in such a program;

~~(k) [(11)]~~ A copy of the budget or a projection of the operating expenses of the association, if applicable;

~~(l) [(12)]~~ *For a points-based time-share plan, a copy of the current point-value use directory and the rules and procedures for changes by the developer or the association to the manner in which point values may be used;*

~~(m)~~ A financial statement of the developer; and

~~[(m)] Such other information as the Division;~~

~~[(13)]~~ ~~(n)~~ A public offering statement in a form prescribed by regulation ~~[, requires;] of the Division; [and]~~

~~2. [(b)]~~ Pays the fee *for an initial permit* provided for in ~~[this chapter.~~

~~2. In lieu of the statement of record required pursuant to subsection 1, the Division may accept an abbreviated registration from a developer of a time share plan in which some or all the units are located outside of this State if:~~

~~—(a) The developer provides evidence that the time share plan is registered with the applicable regulatory agency in the state or jurisdiction where the~~

~~time share plan is offered or sold or that the time share plan is in compliance with the laws and regulations of the state or jurisdiction in which some or all of the units are located; and~~

~~— (b) The disclosure requirements of the other state or jurisdiction are substantially equivalent to or greater than the information required to be disclosed to purchasers in this State pursuant to paragraph (a) of subsection 1.~~

~~— 3. A developer who files an abbreviated registration pursuant to subsection 2 shall, in addition to paying the fee required by paragraph (b) of subsection 1, provide:~~

~~— (a) The developer's legal name, any assumed names used by the developer and the developer's principal office location, mailing address, primary contact person and telephone number;~~

~~— (b) The name, location, mailing address, primary contact person and telephone number of the time share plan;~~

~~— (c) The name and principal address of the developer's authorized project broker who must be a real estate broker licensed to maintain offices within this State;~~

~~— (d) The name and principal address of all entities who act as the manager of the time share plan;~~

~~— (e) Evidence of registration or compliance with the laws and regulations of the jurisdiction in which the time share plan is located, approved or accepted;~~

~~— (f) A brief description as to whether the time share plan is a single site time share plan or a time share plan with more than one location and a brief description of the types of time shares offered in the time share plan;~~

~~— (g) Disclosure of each jurisdiction in which the developer has applied for registration of the time share plan and whether the time share plan or its developer was denied registration or was the subject of any disciplinary proceedings;~~

~~— (h) Copies of any disclosure documents required to be given to purchasers or required to be filed with the state or jurisdiction in which the time share plan is located, approved or accepted;~~

~~— (i) A copy of the current annual or projected budget for the association if not otherwise included in the disclosure documents; and~~

~~— (j) Any other information regarding the developer, time share plan, project broker or managing entities as established by the Division by regulation;~~

~~— 4. A developer of a time share plan with units located solely in this State may not file an abbreviated application. } NRS 119A.360; and~~

3. Corrects any deficiencies in the application, including, without limitation, any deficiencies in the public offering statement.

Sec. 24. NRS 119A.305 is hereby amended to read as follows:

119A.305 The terms and conditions of the documents and agreements submitted pursuant to NRS 119A.300 which relate to the creation and

management of the time-share plan and to the sale of time shares and to which the applicant or an affiliate of the applicant is a party must be described in the public offering statement and constitute ~~[additional]~~ the terms and conditions of the applicant's permit to sell time shares.

Sec. 25. NRS 119A.310 is hereby amended to read as follows:

119A.310 1. The Administrator shall deny an application for a permit to sell time shares if the Administrator finds that:

(a) The developer failed to comply with any of the provisions of this chapter or the regulations adopted by the Division; or

(b) The developer, any affiliate of the developer or any officer of the developer or an affiliate of the developer, has:

(1) Been convicted of or pleaded nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or other crime involving moral turpitude;

(2) Been the subject of a judgment in any civil or administrative action, including a proceeding to revoke or suspend a license, involving fraud or dishonesty;

(3) Been permanently enjoined by a court of competent jurisdiction from selling real estate, time shares or securities in an unlawful manner;

(4) Had a registration as a broker-dealer in securities or a license to act as a real estate broker or salesperson, project broker or sales agent revoked;

(5) Been convicted of or pleaded nolo contendere to selling time shares without a license; or

(6) Had a permit to sell time shares, securities or real estate revoked.

2. The Administrator may deny an application for a permit to sell time shares if the Administrator finds that the developer ~~[, or any affiliate of the developer,]~~ has failed to offer satisfactory proof that it has a good reputation for honesty, trustworthiness, integrity and competence ~~and the developer is competent~~ to transact the business of a developer in a manner which safeguards the interests of the public.

3. The burden of proof is on the developer to establish to the satisfaction of the ~~[Division]~~ Administrator that the developer is ~~[qualified to receive a license,]~~ competent to transact the business of the developer in a manner which safeguards the interests of the public.

4. *If a developer has substantially complied with the provisions of this chapter in good faith, a nonmaterial error or omission is not sufficient grounds to deny a permit.*

Sec. 26. NRS 119A.320 is hereby amended to read as follows:

119A.320 1. The ~~[Division]~~ Administrator shall, ~~[issue an order,]~~ within ~~[30]~~ 60 days after the receipt of an initial application for a permit to sell time shares ~~[, notifying]~~ in a time-share plan containing only one component site, regardless of whether additional component sites may be added later by an amendment to the filing, notify the applicant of its decision to:

(a) *Issue a permit to sell time shares;*

(b) Issue a preliminary permit to sell time shares, including a list of all deficiencies, if any, which must be corrected before a permit is issued; or

~~[(b)]~~ (c) Deny the application and in a notice of deficiency list all the reasons for denial ~~[-]~~ in sufficient detail to allow the developer to ~~fourer] correct~~ correct the deficiencies.

2. The Administrator shall, within 120 days after the receipt of an initial application for a permit to sell time shares in a time-share plan containing more than one component site, notify the applicant of its decision to:

(a) Issue a permit to sell time shares;

(b) Issue a preliminary permit to sell time shares, including a list of all deficiencies, if any, which must be corrected before a permit is issued; or

(c) Deny the application and in a notice of deficiency list all the reasons for denial in sufficient detail to allow the developer to ~~fourer] correct~~ correct the deficiencies.

3. The developer may submit evidence that the deficiencies in the application described in the notice of deficiency issued pursuant to paragraph (c) of subsection 1 or paragraph (c) of subsection 2, as applicable, have been corrected within 90 days after the developer receives the notice of deficiency or within such extended time period as approved by the Division in writing.

4. The ~~Division]~~ Administrator shall, within ~~45]~~ 30 days after:

(a) The receipt of evidence that the deficiencies in the application for a permit to sell time shares are ~~fourer] corrected~~, issue a permit to sell time shares or deny the application and list the *specific* reasons for denial; or

(b) The issuance of a preliminary permit ~~[-]~~ and receipt of evidence that all the requirements for the issuance of a permit to sell time shares have been met, issue ~~[-]~~ the permit to sell time shares.

~~4.]~~ 5. If it is in the public interest that the Administrator issue a second notice regarding the inadequate ~~fourer] correction~~ of any deficiencies in the application for a permit to sell time shares, then the Administrator shall issue such a second notice within ~~15 business]~~ 30 days after the developer submits evidence to ~~fourer] correct~~ correct the deficiencies identified pursuant to paragraph (c) of subsection 1 ~~, for]~~ paragraph (c) of subsection 2 or subsection 3, as applicable.

~~5.]~~ 6. If the developer fails to ~~fourer] correct~~ correct all the deficiencies after a second notice of deficiency is issued pursuant to subsection ~~3.]~~ 5, the Administrator may deny the application and require the developer to pay a ~~new]~~ filing fee ~~pursuant to]~~ equal to one-half of the filing fee for an initial permit set forth in subsection 1 of NRS 119A.360.

Sec. 27. NRS 119A.330 is hereby amended to read as follows:

119A.330 1. If the Administrator denies an application for a permit to sell time shares, *an amendment to the statement of record or the renewal of a permit to sell time shares*, the applicant may, within 30 days, file a written request for a hearing. The Administrator shall set the matter for hearing to be conducted within 90 days after receipt of the applicant's request, unless the

applicant requests a postponement of the hearing at least 3 working days before the date set for hearing. If such a request is made by the applicant, the date of the hearing must be agreed upon between the Division and the applicant.

2. If the Division fails to:

(a) Hold the hearing within 90 days or within the extended time if a postponement is requested;

(b) Render its decision within 60 days after the hearing; or

(c) Notify the applicant in writing, by its order, within 15 days after its decision was made,

➡ the order of denial expires and the Division shall issue, within 15 days, a permit to sell time shares to the developer.

Sec. 28. NRS 119A.340 is hereby amended to read as follows:

119A.340 If a project has not been completed before the issuance of a permit to sell time shares, the ~~permit~~ *public offering statement* must state the estimated date of completion and:

1. The developer shall ~~deliver to the agency~~ *establish to the satisfaction of the Administrator that* a bond ~~has been issued~~ in an amount ~~and upon terms approved by the division~~ *necessary* to assure completion of the project free of any liens, ~~which is payable to the Division for the benefit of the purchasers of the time share property and~~ which remains in effect until the project is completed free of all liens;

2. A cash deposit to cover the estimated costs of completing the project must be deposited with an escrow agent under an agreement which is approved by the ~~Division;~~ *Administrator;* or

3. The developer shall make any other arrangement which is approved by the ~~Division;~~ *Administrator and necessary to safeguard the interests of the public.*

Sec. 29. NRS 119A.350 is hereby amended to read as follows:

119A.350 1. The Division ~~shall,~~ *may,* before issuing any permit or license pursuant to the provisions of this chapter, fully investigate all information submitted to it as required by this chapter and , ~~may,~~ if necessary, inspect the property which is the subject of any application. All reasonable expenses incurred by the Division in carrying out the investigation or inspection must be paid by the applicant and no license or permit may be issued until those expenses have been paid.

2. Payments received by the Division pursuant to this section must be deposited in the State Treasury for credit to the Real Estate Investigative Account. The Administrator shall use the money in the Account to pay the expenses of agents and employees of the Division making the investigations pursuant to this section. The Administrator may advance money to them for those expenses when appropriate.

Sec. 30. NRS 119A.355 is hereby amended to read as follows:

119A.355 1. A permit must be renewed annually by the developer by filing an application with and paying the fee for renewal to the

Administrator. The application must be filed and the fee paid not later than 30 days before the date on which the permit expires. The application must include the budget of the association and any *material* change that has occurred in the information previously provided to the Administrator or in a *public offering* statement ~~[of disclosure]~~ provided to a prospective purchaser pursuant to the provisions of NRS 119A.400.

2. The renewal of a permit with no material changes to the public offering statement is effective on the 30th day after the filing of the application unless the Administrator:

(a) ~~[Denies]~~ *Issues a written denial of the renewal pursuant to NRS 119A.654 [or for any other reason:] describing the reasons for denial in sufficient detail to allow the developer to ~~fix~~ correct the deficiencies; or*

(b) Approves the renewal on an earlier date.

3. *The Division shall, within 30 days after the receipt of evidence that the deficiencies in the application for renewal of a permit to sell time shares are ~~fixed,~~ corrected, renew the permit to sell time shares or deny the renewal and list the specific reasons for denial.*

4. *If the Administrator fails to take any action described in subsection 3, the renewal of the permit to sell time shares shall be deemed issued by the Division.*

Sec. 31. ~~[NRS 119A.357 is hereby amended to read as follows:~~

~~119A.357 1. A sales agent, representative, manager, developer, [or] project broker or time share resale broker shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to, a felony or any crime involving moral turpitude.~~

~~2. A sales agent, representative, manager, developer, [or] project broker or time share resale broker shall submit the notification required by subsection 1:~~

~~(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and~~

~~(b) When submitting an application to renew a license, registration or permit issued pursuant to this chapter.] (Deleted by amendment.)~~

Sec. 32. NRS 119A.360 is hereby amended to read as follows:

119A.360 1. The Division shall collect the following fees at ~~[such times and upon such conditions as it may provide by regulation:] the time of filing:~~

For each application for the registration of a representative ...~~[\$85]~~ \$100

For each renewal of the registration of a representative~~[85]~~ 100

For each transfer of the registration of a representative to a different developer~~[20]~~ 25

For each penalty for a late renewal of the registration of a representative~~[40]~~ 75

For each preliminary permit to sell time shares~~[275]~~ 400

For each *initial* permit to sell time shares ~~[, per subdivision .. 500]~~ 1,500

- For each amendment to a ~~[public offering]~~ statement of record after the issuance of the ~~[report]~~ permit to sell time shares, where no new component sites are added~~[150]~~ 200
- For each amendment to a statement of record after the issuance of the permit to sell time shares, where one or more new component sites are added, not including the addition of units to a component site previously permitted 500
- For each annual renewal of a permit to sell time shares with only one component site 750
- For each annual renewal of a permit to sell time shares with more than one component site~~[500]~~ 1,500
- For each initial registration of a time-share resale broker 300
- For each renewal of the registration of a time-share resale broker 150
- For each original and annual registration of a manager~~[75]~~ 100
- For each application for an original license as a sales agent.....~~[175]~~ 200
- For each renewal of a license as a sales agent~~[175]~~ 200
- For each penalty for a late renewal of a license as a sales agent.....~~[75]~~ 100
- For each change of name or address of a licensee or status of a license.....~~[20]~~ 25
- For each duplicate license, permit or registration where the original is lost or destroyed, and an affidavit is made thereof~~[20]~~ 25
- For each annual approval of a course of instruction offered in preparation for an original license or permit~~[100]~~ 150
- For each original accreditation of a course of continuing education~~[100]~~ 150
- For each renewal of accreditation of a course of continuing education~~[50]~~ 75
2. ~~[Each developer shall pay an additional fee for each time share the developer sells in a time share plan over 50 pursuant to the following schedule:~~

		Amount to be
Number of time shares		paid per time share
51	250	\$5.00
251	500	4.00
501	750	3.00
751	1500	2.50
over 1500		1.00]

Within 10 days after receipt of written notification from the Administrator of the approval of the application for a permit to sell time shares and before the issuance of the permit to sell time shares, or within 10 days after an amendment that adds time shares to the time-share plan is approved or

deemed approved, each developer shall, for each time share that the developer includes in the initial time-share plan or adds to the time-share plan by amendment, pay a one-time fee of:

(a) For each such time share up to and including 1,499 time shares, \$3.

(b) For each such time share over 1,499 time shares, \$1.50.

➔ For the purposes of calculating the amount of the fee payable under this subsection, "time share" means the right to use and occupy a unit for 7 days or more per calendar year.

3. Except for the fees relating to the registration of a representative, the Administrator may reduce the fees established by this section if the reduction is equitable in relation to the costs of carrying out the provisions of this chapter.

4. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a license, including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

Sec. 33. NRS 119A.380 is hereby amended to read as follows:

119A.380 1. Each time-share plan must be created by one or more time-share instruments.

2. A time-share instrument must provide:

(a) A legal description and the physical address of the project;

(b) The name of the time-share plan;

(c) A system for establishing ~~the permanent~~ and identifying ~~numbers of~~ the time shares ~~in the time-share plan;~~

(d) For assessment of the expenses of the time-share plan and an allocation of those expenses among the time shares;

(e) The voting rights which are assigned to each time share;

(f) If applicable, the procedure to add units and other real estate to, and to withdraw units and other real estate from, the time-share plan, and the method of reallocating expenses among the time shares after any such addition or withdrawal;

(g) The maximum number of time shares that may be created under the time-share plan;

(h) For selection of the trustee for insurance which is required to be maintained by the association or the developer;

(i) For maintenance of the units;

(j) For management of the time-share plan;

(k) A procedure to amend the time-share instrument; and

(l) The rights of the purchaser relating to the occupancy of the unit.

3. A time-share instrument may provide for:

(a) The developer's reserved rights;

(b) Cumulative voting, but only for the purpose of electing the members of the board; and

(c) The establishment of:

(1) Separate voting classes based on the size or type of unit to which the votes are allocated; and

(2) A separate voting class for the developer during the period in which the developer is in control.

4. The provisions of a time-share instrument are severable.

5. The rule against perpetuities and NRS 111.103 to 111.1039, inclusive, do not apply to defeat any provisions of a time-share instrument.

6. *With respect to time-share plans governed by the law of another state or ~~units~~ component sites of a time-share plan located outside of this State, the instrument creating and governing the time-share plans or ~~units~~ such component sites must be in compliance with the applicable laws of the state or jurisdiction under which the time-share plan is formed or in which the ~~units~~ component sites are located. If the ~~standards set forth in the~~ laws of the state or jurisdiction under which the time-share plan is formed or in which the ~~units~~ component sites of such time-share plan are located conflict with the requirements of this chapter, the laws of the other state or jurisdiction control. If the ~~association and the~~ time-share instrument ~~comply with~~ provides for the matters set forth in subsections 1 and 2, the association and the developer shall be deemed to be in compliance with the requirements of this section and are not required to revise a time-share instrument to comply with this chapter.*

Sec. 34. ~~[NRS 119A.390 is hereby amended to read as follows:~~

~~119A.390 — A reservation to purchase a time share must:~~

~~1. Be on a form approved by the Division;~~

~~2. Include a provision which grants the prospective purchaser the right to cancel the reservation at any time before the execution of the contract of sale with the full refund of any deposit;~~

~~3. Provide for the placement of any deposit in escrow until the statement of record is approved and a permit is issued by the Administrator pursuant to NRS 119A.300;~~

~~4. Guarantee the purchase price for the time share for a certain period after the [issuance of] statement of record is approved and the permit to sell time shares [.] is issued by the Administrator; and~~

~~5. Require that any interest earned on the deposit for the reservation be paid to the prospective purchaser.} (Deleted by amendment.)~~

Sec. 35. NRS 119A.400 is hereby amended to read as follows:

119A.400 1. Each developer, through his or her project broker and sales agents, shall provide each prospective purchaser with a copy of the developer's public offering statement ~~[which must contain a copy of the developer's permit to sell time shares.]~~ and an addendum to the public offering statement summarizing any pending amendments to the public offering statement that have been submitted to the Division but have not yet been approved, along with a statement to the purchaser that the amendment has been submitted to the Division for approval. The public offering statement must contain the date the permit was originally issued and its

~~[annual expiration]~~ effective date. A prospective purchaser may request to receive the public offering statement in electronic format or paper format. If the prospective purchaser requests the public offering statement in electronic format, the developer shall provide to the purchaser the statement of the right of cancellation pursuant to NRS 119A.410 in a single separate document.

2. The project broker or sales agent shall review the public offering statement with each prospective purchaser before the execution of any contract for the sale of a time share and obtain a receipt signed by the purchaser for a copy of the public offering statement.

3. If a contract is signed by the purchaser, the signed receipt for a copy of the public offering statement must be kept by the project broker for 3 years and is subject to such inspections and audits as may be prescribed by regulations adopted by the Division.

Sec. 36. NRS 119A.420 is hereby amended to read as follows:

119A.420 All money, negotiable instruments or other deposits pertaining to the sale of a time share *which are received from a purchaser* must be placed in *an escrow* ~~[, pursuant to an agreement approved by the Division, with an escrow agent or a trustee.]~~ *account established to the satisfaction of the Division and held until such time as the right to cancel the contract of sale pursuant to NRS 119A.410 has expired and the purchaser has failed to cancel the contract of sale. In lieu of placing such deposits in an escrow account, the developer or project broker may establish to the satisfaction of the Division that a surety bond has been posted for the benefit of purchasers in the project in the amount of:*

1. *Twenty-five thousand dollars; or*
 2. *The highest monthly total amount of deposits received by a project broker,*
- ➔ *whichever is greater.*

Sec. 37. NRS 119A.430 is hereby amended to read as follows:

119A.430 ~~[Escrow]~~ *The sale of a time share to a purchaser may not be closed unless the developer has provided satisfactory evidence to the Administrator that:*

1. *The project is free and clear of any blanket encumbrance;*
2. *Each person who holds an interest in the blanket encumbrance has executed an agreement, approved by the Administrator, to subordinate his or her rights to the rights of the purchaser;*
3. *Title to the project has been conveyed to a trustee;*
4. *All holders of a lien recorded against the project have recorded an instrument providing for the release and reconveyance of each time share from the lien upon the payment of a specified sum or the performance of a specified act;*
5. *The developer has obtained and recorded one or more binding nondisturbance agreements acceptable to the Administrator, that:*

(a) Are executed by the developer, all holders of a lien recorded against the project and any other person whose interest in the project could defeat the rights or interests of any purchaser under the time-share instrument or contract of sale; and

(b) Provide that any person whose interest in the project could defeat the rights or interests of any purchaser under the time-share instrument or contract of sale takes title to the project subject to the rights of the purchasers; or

6. Alternative arrangements have been made which are adequate to protect the rights of the purchasers of the time shares and approved by the Administrator.

Sec. 38. NRS 119A.460 is hereby amended to read as follows:

119A.460 If a trust is created pursuant to ~~{a requirement of this chapter,}~~ *subsection 3 of NRS 119A.430*, the:

1. Trustee must be approved by the Administrator.
2. Trust must be irrevocable, unless otherwise provided by the ~~{Division.}~~ *Administrator*.
3. Trustee must not be permitted to encumber the property unless permission to do so has been given by the ~~{Division.}~~ *Administrator*.
4. Association or each owner must be made a third-party beneficiary.
5. Trustee must be required to give at least 30 days' notice in writing of his or her intention to resign to the association, if it has been formed, and to the ~~{Division.}~~ *Administrator*, and the ~~{Division.}~~ *Administrator* must approve a substitute trustee before the resignation of the trustee may be accepted.

Sec. 39. NRS 119A.470 is hereby amended to read as follows:

119A.470 1. If title to a project is conveyed to a trustee pursuant to subsection 3 of NRS 119A.430, before escrow closes for the sale of the first time share, the developer must provide the ~~{Division.}~~ *Administrator* with satisfactory evidence that:

- (a) Title to the project has been conveyed to the trustee.
- (b) All proceeds received by the developer from the sales of time shares are being delivered to the trustee and deposited in a fund which has been established to provide for the payment of any taxes, costs of insurance or the discharge of any lien recorded against the project.

2. The trustee shall pay the charges against the trust in the following order:

- (a) Trustee's fees and costs.
 - (b) Payment of taxes.
 - (c) Payments due any holder of a lien recorded against the project.
 - (d) Any other payments authorized by the document creating the trust.
3. The Administrator may inspect the records relating to the trust at any reasonable time.

Sec. 40. NRS 119A.475 is hereby amended to read as follows:

119A.475 1. Where any part of the statement of record, when that part became effective, contained an untrue statement of a material fact or omitted

to state a material fact required to be stated therein, the Administrator or any person acquiring a time share from the developer or his or her agent during the period the public offering statement remained uncorrected (unless it is proved that at the time of the acquisition the Administrator or purchaser knew of the untruth or omission) may sue the developer in any court of competent jurisdiction.

2. Any developer or agent who sells a time share:

- (a) In violation of this chapter; or
 - (b) By means of a public offering statement which contained an untrue statement of a material fact required to be stated therein,
- ➔ may be sued by the Administrator or purchaser of the time share.

3. If a suit authorized under subsection 1 or 2 is brought by the purchaser, the purchaser is entitled to recover such damages as represent the difference between the amount paid for the time share and the reasonable cost of any permanent improvements thereto, and the lesser of:

- (a) The value thereof as of the time the suit was brought;
 - (b) The price at which the time share has been disposed of in a bona fide market transaction before suit; or
 - (c) The price at which the time share has been disposed of after suit in a bona fide market transaction but before judgment,
- ➔ or to rescission of the contract of sale and the refund of any consideration paid by the purchaser.

4. If a suit authorized under subsection 1 or 2 is brought by the Administrator, the Administrator may seek a declaration of the court that any person entitled to sue the developer or his or her agent under this section is entitled to the right of rescission and the refund of any consideration paid by him or her.

5. Every person who becomes liable to make any payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.

6. Reasonable attorney's fees may be awarded to the prevailing party in any action brought under this section. Any action to rescind a contract of sale under this section must be brought within 1 year after the date of purchase or within 1 year after the date of the discovery of the misrepresentation giving rise to the action for rescission.

7. The provisions of this section are in addition to and not a substitute for any other right of a person to bring an action in any court for any act involved in the offering or sale of time shares or the right of the state to punish any person for any violation of any law.

~~[8. For the purposes of this section, "statement of record" means the information submitted to the Administrator by the developer in its application for a permit to offer to sell or sell time shares.]~~

Sec. 41. NRS 119A.4771 is hereby amended to read as follows:

119A.4771 1. A person who, on behalf of an owner other than a developer ~~[, wishes]~~ and for compensation, undertakes to list, advertise ,

transfer, assist in transferring or promote for resale, or solicit prospective purchasers of, more than 12 ~~for more~~ time shares in any 12-month period that were previously sold must:

(a) Be licensed as a real estate broker pursuant to the provisions of chapter 645 of NRS; ~~and~~

(b) Register as a time-share resale broker with the Division by completing a form for registration provided by the Division ~~[-]~~; and

(c) Pay any applicable fees.

2. A time-share resale broker shall renew his or her registration with the Division annually on a form provided by the Division ~~[-]~~ and pay any applicable fees.

3. Unless the method of resales of time shares is made to evade the provisions of this chapter, a person is not required to register pursuant to this section or to be licensed under chapter 645 of NRS as a time-share resale broker if the person:

(a) ~~Has acquired fewer than 12 time shares and~~ *Is a purchaser who acquires time shares for his or her own use and occupancy and who later ~~resells or~~ offers to resell ~~one or more~~ 12 or less of those time shares ~~[- or]~~ in any one calendar year;*

(b) Is a project broker who resells or offers to resell a time share in a project as an agent for a developer who holds a permit for the project ~~[-]~~; or

(c) *Is an owner, operator or publisher of a newspaper, periodical or Internet website, unless the owner, operator or publisher, alone or in combination with its affiliate, parent, subsidiary or agent, derives more than 10 percent of its gross revenue from providing advance fee listings. For the purposes of this paragraph, the calculation of gross revenue derived from providing advance fee listings includes the revenue of any affiliate, parent, agent and subsidiary of the owner, operator or publisher of the newspaper, periodical or Internet website. As used in this paragraph, "advance fee listings" has the meaning ascribed to it in NRS 645.004.*

Sec. 42. NRS 119A.4775 is hereby amended to read as follows:

119A.4775 1. ~~Before~~ *If the purchaser of a previously sold time share purchases the time share through a time-share resale broker, the contract of sale must provide, in not less than 12-point boldface type, that the purchaser may cancel, by written notice, the contract of sale until midnight of the fifth calendar day after the date of execution of the contract.*

2. *Regardless of whether a time-share resale broker charges or collects an advance fee, before a purchaser signs any contract to purchase a time share that is offered for resale ~~[-]~~ through a time-share resale broker, the ~~person who is reselling the time share,~~ time-share resale broker, other than a developer, shall disclose ~~by a written document separate from~~ in the contract to purchase ~~a~~ the time share:*

(a) The period during which the purchaser may use the time share;

(b) A legal description of the interest in the time share;

(c) The earliest date that the prospective purchaser may use the time share;

(d) The name, address and telephone number of the agent managing the time-share plan and the project;

(e) The place where the documents of formation of the association and documents governing the time-share plan and the project may be obtained;

(f) The amount of the annual assessment of the association of the time share for the current fiscal year, if any;

(g) Whether all assessments against the time share are paid in full, and the consequences of failure to pay any assessment;

(h) Whether participation in any program for the exchange of occupancy rights among owners or with the owners of time shares in other time-share plans is mandatory; ~~and~~

(i) Any other information required to be disclosed pursuant to the regulations adopted by the Administrator pursuant to subsection ~~2-~~

~~2-~~ 4; and

(j) *The right to cancel the contract in subsection 1.*

3. ~~If the time share plan includes more than one component site, the~~
The purchaser must be provided, in either paper or electronic form, at the time the contract to purchase the previously sold time share is signed, copies of the time-share ~~instrument~~ instruments governing the time-share plan.

4. The Administrator shall adopt regulations prescribing the form and contents of the ~~disclosure statement~~ disclosures described in this section.

Sec. 43. NRS 119A.4777 is hereby amended to read as follows:

119A.4777 1. An agreement for ~~a time share~~ the resale of a time share entered into by an owner of that time share and a ~~person~~ time-share resale broker who ~~resells a~~ lists or offers to resell that time share must:

(a) Be in writing; ~~and~~

(b) *Contain a provision in not less than 12-point boldface type that the owner may cancel, by written notice, the agreement with the time-share resale broker until midnight of the fifth calendar day after the date of execution of the agreement; and*

(c) Contain a written disclosure that sets forth:

(1) Whether any person other than the purchaser may use the time share during the period before the time share is resold;

(2) Whether any person other than the purchaser may rent the use of the time share during the period before the time share is resold;

(3) The name of any person who will receive any rents or profits generated from the use of the time share during the period before the time share is resold; ~~and~~

(4) A detailed description of any relationship between the person who resells the time share and any other person who receives any benefit from the use of the time share ~~;~~ ; and

(5) *The right to cancel the agreement provided pursuant to paragraph (b).*

2. ~~[A person]~~ *The time-share resale broker* who resells a time share shall provide a fully executed copy of the written agreement described in subsection 1 to the owner on the date that the owner signs the agreement.

3. ~~[A person]~~ *The time-share resale broker* who resells a time share shall make the disclosures required pursuant to paragraph ~~[(b)]~~ (c) of subsection 1 before accepting anything of value from the owner.

Sec. 44. NRS 119A.4779 is hereby amended to read as follows:

119A.4779 1. In addition to the provisions of NRS 645.322, 645.323 and 645.324, a time-share resale broker who charges or collects an advance fee shall place 80 percent of that fee into his or her trust account. If the time-share resale broker closes escrow on the time-share resale, the time-share resale broker shall be deemed to have earned the advance fee. If the listing of the time share expires before the time-share resale broker closes escrow on the time-share resale, the time-share resale broker must return the money held in the trust account to the owner of the time share within 10 days after the date of the expiration of the listing.

2. *The contract for an advance fee listing must include the following disclosures to the owner of any previously sold time share:*

(a) *A description of any fees or costs related to the services that the owner or any other person is required to pay to the time-share resale broker or to any third party;*

(b) *A description of when any fees or costs are due; and*

(c) *The disclosures required by paragraph (c) of subsection 1 of NRS 119A.4777.*

3. *A time-share resale broker who charges or collects an advance fee shall not:*

(a) *State or imply to an owner that the time-share resale broker has identified a person interested in buying or renting the time share without providing the name, address and telephone number of such person;*

(b) *State or imply to an owner that the time share has a specific resale value;*

(c) *Fail to honor any cancellation notice sent by the owner by midnight of the fifth day after the date of execution of the contract; or*

(d) *Fail to provide a full refund of all money paid by an owner within 20 days after receipt of a notice of cancellation.*

4. *If a time-share resale broker executes a contract that fails to comply with the provisions of subsection 2, such contract is voidable at the option of the owner for a period of 1 year after the date of execution.*

5. *Notwithstanding the obligations placed upon any other person by this section, the time-share resale broker shall supervise, manage and control all aspects of the resale offering. Any violation of the provisions of this section that occurs during such offering shall be deemed a violation by the time-share resale broker and by the person who actually committed the violation.*

6. *The use of any unfair or deceptive act or practice by any person in connection with the offering of a time share for resale is a violation of this section.*

7. *A violation of this section is an unfair or deceptive act or practice pursuant to NRS 207.170, 207.171, 598.0915 to 598.0925, inclusive, and chapters 598A and 599A of NRS.*

8. *Notwithstanding any other penalty provided for in this chapter or chapter 645 of NRS, a person who violates any provision of NRS 119A.4771 to 119A.4779, inclusive, is subject to a civil penalty of not more than \$1,000 for each violation.*

Sec. 45. NRS 119A.480 is hereby amended to read as follows:

119A.480 1. If the interest of the developer is a leasehold interest, the lease, unless otherwise determined by the ~~{Division,}~~ *Administrator*, must provide that:

(a) The lessee must give notice of termination of the lease for any default by the lessor to the association.

(b) The lessor, upon any default of the lessee including bankruptcy of the lessee, shall enter into a new lease with the association upon the same terms and conditions as the lease with the developer.

2. The ~~{Division,}~~ *Administrator* may require the developer to execute a bond or other type of security for the payment of the rental obligation.

Sec. 46. NRS 119A.530 is hereby amended to read as follows:

119A.530 1. ~~{A,}~~ *During any period in which the developer holds a valid permit and the developer or an affiliate of the developer is the manager, the developer or an affiliate of the developer shall provide for the management of the time-share plan and the project, by a written agreement with the association or, if there is no association, with the owners. The initial term of the agreement must expire upon the first annual meeting of the members of the association or at the end of 5 years, whichever comes first. All succeeding terms of the agreement must be renewed annually unless the manager refuses to renew the agreement or a majority of the members of the association who are entitled to vote, excluding the developer, notifies the manager of its refusal to renew the agreement.*

2. The agreement must provide that:

(a) The manager or a majority of the owners may terminate the agreement for cause.

(b) The resignation of the manager will not be accepted until 90 days after receipt by the association, or if there is no association, by the owners, of the written resignation.

(c) A fidelity bond must be delivered by the manager to the association.

3. An agreement entered into or renewed on or after October 1, 2001, must contain a detailed, itemized schedule of all fees, compensation or other property that the manager is entitled to receive for services rendered to the association or any member of the association or otherwise derived from the manager's affiliation with the time-share plan or the project, or both, unless

the manager is the developer or an affiliate of the developer. Upon the request of the association, the manager shall disclose to the association annual revenue received by the manager from the manager's affiliation with the time-share plan or the project, or both.

4. Except as otherwise provided in this subsection, if the developer retains a property interest in the project, the parties to such an agreement must include the developer, the manager and the association. In addition to the provisions required in subsections 1 and 2, the agreement must provide:

(a) That the project will be maintained in good condition. Except as otherwise provided in this paragraph, any defect which is not ~~fixed~~ corrected within 10 days after notification by the developer may be ~~fixed~~ corrected by the developer. In an emergency situation, notice is not required. The association must repay the developer for any cost of the repairs plus the legal rate of interest. Each owner must be assessed for his or her share of the cost of repairs.

(b) That, if any dispute arises between the developer and the manager or association, either party may request from the American Arbitration Association or the Nevada Arbitration Association a list of seven potential fact finders from which one must be chosen to settle the dispute. The agreement must provide for the method of selecting one fact finder from this list.

(c) For the collection of assessments from the owners to pay obligations which may be due to the developer for breach of the covenant to maintain the premises in good condition and repair.

➡ If the developer is not made a party to this agreement, the developer shall be considered to be a third-party beneficiary of such an agreement.

5. *The provisions of this section and NRS 119A.532 and 119A.534 do not apply to the management of a project located outside of this State.*

Sec. 47. NRS 119A.532 is hereby amended to read as follows:

119A.532 1. A person who wishes to engage in the business of, act in the capacity of, advertise or assume to act as a manager *of a project located in this State* shall register with the Division on a form prescribed by the Division.

2. The form for registration must include, without limitation:

(a) The registered name of ~~the~~ *each* time-share plan or ~~the~~ project, or both, that the manager will manage;

(b) The address and telephone number of the manager's principal place of business;

(c) The social security number of the manager; and

(d) The name of the manager's responsible managing employee.

3. The form for registration must be accompanied by:

(a) Satisfactory evidence, acceptable to the Division, that the manager and his or her employees have obtained fidelity bonds in accordance with regulations adopted by the Division; and

(b) The statement required pursuant to NRS 119A.263.

4. The Division shall collect the fee specified in NRS 119A.360 upon registering the manager and annually thereafter to maintain the registration.

5. As used in this section, "responsible managing employee" means the person designated by the manager to:

(a) Make technical and administrative decisions in connection with the manager's business; and

(b) Hire, superintend, promote, transfer, lay off, discipline or discharge other employees or recommend such action on behalf of the manager.

Sec. 48. NRS 119A.540 is hereby amended to read as follows:

119A.540 1. The association or, if there is no association, the developer shall adopt an annual budget for revenues, expenditures and reserves and collect assessments for the expenses of the time-share plan and the project from the owners. The annual budgets of ~~the~~ *an* association *governing a project within this State* must be submitted to ~~and approved by~~ the Division until such time as the association is controlled by members other than the developer.

2. ~~[The Administrator may require that the association or, if there is no association, the developer provide, at the association's or the developer's expense, an opinion from an independent professional consultant as to the sufficiency of the budget to sustain the time share plan offered by the association or the developer.]~~ The association or the developer shall place any money collected for assessments and any other revenues received by or on behalf of the association in an account established by the association.

3. The developer shall pay assessments for any time shares which are unsold or enter into an agreement with the association, in a form approved by the Division, to pay the difference between the actual expenses incurred by the association and the sum of the amounts payable to the association as assessments by owners, other than the developer, and other revenues received by the association. The Division may require the developer to provide a surety bond or other form of security which is satisfactory to the Division, to guarantee payment of the developer's obligation.

Sec. 49. NRS 119A.670 is hereby amended to read as follows:

119A.670 The Real Estate Commission may take action pursuant to NRS 645.630 against any project broker or ~~time share resale broker~~ person who is licensed pursuant to chapter 645 of NRS and who is subject to the provisions of this chapter who fails to adequately supervise the conduct of any sales agent or representative ~~if, as applicable,~~ with whom the project broker or ~~time share resale broker~~ person is associated.

Sec. 50. NRS 119A.680 is hereby amended to read as follows:

119A.680 1. It is unlawful for any person to engage in the business of, act in the capacity of, advertise or assume to act as a:

(a) Project broker a person who is licensed pursuant to chapter 645 of NRS or ~~sales agent~~ a time-share resale broker within the State of Nevada without first obtaining a license from the Division pursuant to chapter 645 of NRS. ~~for NRS 119A.210.~~

(b) *Sales agent for a project broker within this State without first obtaining a license from the Division pursuant to NRS 119A.210, unless he or she is licensed as a real estate salesperson pursuant to chapter 645 of NRS.*

(c) Representative, manager or time-share resale broker within the State of Nevada without first registering with the Division.

2. Any person who violates subsection 1 is guilty of a gross misdemeanor.

Sec. 51. (Deleted by amendment.)

Sec. 52. NRS 119A.370, 119A.4773 and 119A.490 are hereby repealed.

Sec. 53. This act becomes effective on July 1, 2013.

TEXT OF REPEALED SECTIONS

119A.370 Filing of advertisement or offering.

1. A time share must not be advertised or offered for sale within this state until the advertisement or offering is filed with the Division.

2. Each such filing must:

(a) Include the form and content of advertising to be used;

(b) Include the nature of the offer of gifts or other free benefits to be extended;

(c) Include the nature of promotional meetings involving any person or act described in NRS 119A.300; and

(d) Be accompanied by a filing fee of not more than \$200, to be established by the Division.

119A.4773 Filing of advertisement or offering required.

1. A time share must not be advertised or offered for resale within this state until the advertisement or offering is filed with the Division.

2. Each such filing must include:

(a) The form and content of advertising to be used;

(b) The nature of the offer of gifts or other free benefits to be extended; and

(c) The nature of promotional meetings involving any person or act described in NRS 119A.300.

119A.490 Filing of amendment of time-share instrument required.

1. Any proposed amendment by the developer of the provisions of a time-share instrument must be filed with the Division.

2. Unless the Division notifies the developer of its disapproval within 15 days, the amendments shall be deemed to be approved by the Division.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Thank you, Mr. President. Amendment No. 957 to Assembly Bill No. 404 streamlines the process for sales of timeshares and alleviates staffing and processing issues in the Real Estate Division. We heard testimony that many people, including Disney, want to come in and do time-shares in Nevada, but we do not have the ability to handle them.

Amendment adopted.

Bill read third time.

Remarks by Senator Hardy.

Thank you, Mr. President. Assembly Bill No. 404 allows the State to hire staff in the Real Estate Division for more efficient processing of necessary permits. The Real Estate asked for the fees so they could make this outside of the General Fund. I suggest we support it and get those into the State who are interested in doing timeshares.

Roll call on Assembly Bill No. 404:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 404 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Senate Bill No. 200.

Bill read third time.

Remarks by Senator Parks.

Thank you, Mr. President. Senate Bill No. 200 increases the maximum number of probation violators, who may be remanded to a pilot diversion program operated by the Department of Corrections, from 50 to 100 probation violators. The bill also extends the expiration for the diversion pilot program from July 1, 2015, to July 1, 2017. The bill becomes effective upon passage and approval.

Roll call on Senate Bill No. 200:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Senate Bill No. 200 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 325.

Bill read third time.

Remarks by Senators Ford and Brower.

SENATOR FORD:

Thank you, Mr. President. Assembly Bill No. 325 authorizes a court, before sentencing a defendant who has been convicted of a felony and has never been sentenced to prison as an adult for more than six months, to commit the defendant to the Department of Corrections for a complete evaluation. The commitment may not exceed 90 days, but may be extended once for an additional 60 days at the request of the Department.

The bill requires the Department to evaluate the defendant's previous delinquency or criminal record; social background and capability; and emotional, mental, and physical health; as well as suitable programs and resources that are available to him or her for rehabilitation. Not later than the end of the period of commitment, the Department must report the results of its evaluation to the court, including any recommendations that may help the court determine the proper sentence. Upon receiving the report, the bill requires the court to sentence the defendant to probation or an appropriate term of imprisonment. I urge your support.

SENATOR BROWER:

Thank you, Mr. President. I rise in opposition to Assembly Bill No. 325. The testimony in Committee made it clear that the Department of Corrections has experimented with this concept in the past. It did not work. They do not want it to return. As a result, I urge a "no" vote on this bill.

SENATOR FORD:

Thank you, Mr. President. The public defenders and the district attorneys both support this legislation.

SENATOR BROWER:

Thank you, Mr. President. As the Body knows, I do not always agree with the district attorneys. I again urge a "no" vote.

Roll call on Assembly Bill No. 325:

YEAS—10.

NAYS—Brower, Cegavske, Goicoechea, Gustavson, Hammond, Hardy, Hutchison, Kieckhefer, Roberson, Settlemeyer—10.

EXCUSED—Woodhouse.

Assembly Bill No. 325 having failed to receive a constitutional majority, Mr. President declared it lost.

Assembly Bill No. 335.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 335 creates the University of Nevada, Las Vegas Campus Improvement Authority. The duties of the Authority include studying the need for, feasibility of, and financing alternatives for a large events center and other required infrastructure and supporting improvements in the Authority area. The bill describes the makeup of the 11 member Board of Directors.

Roll call on Assembly Bill No. 335:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 335 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 360.

Bill read third time.

Remarks by Senator Jones.

Thank you, Mr. President. Assembly Bill No. 360 authorizes the Governor, upon the recommendation of the Nevada Gaming Commission, to enter into agreements with other governments allowing persons physically located in those jurisdictions to participate in interactive gaming conducted by one or more licensed operators of the signatory governments. The bill prohibits the Governor from entering into an agreement unless it provides for any potential arrangement for revenue sharing, permits effective regulation of interactive gaming, and meets other requirements. As used in the bill, "government" means any governmental unit other than the United States Government.

This measure also requires the Legislative Commission to conduct an interim study concerning the impact of technology on the regulation of gaming and the distinction between restricted and non-restricted gaming licensees. The bill revises the dates on which the

amendatory provisions of Senate Bill 416 of this Legislative Session apply to certain gaming licensees. Finally, the bill repeals a provision in Senate Bill No. 9 of this Session that amended the definition of “gross revenue.” I urge your support.

Roll call on Assembly Bill No. 360:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 360 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Assembly Bill No. 367 be taken from the General File and placed on the Secretary’s Desk.

Mr. President declared the motion carried on a division of the house as he would exercise his Constitutional right and vote to break the tie.

GENERAL FILE AND THIRD READING

Assembly Bill No. 461.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Assembly Bill No. 461 puts into statute the provisions of the Sagebrush Ecosystem Council that the Governor has established by executive order. This helps us fend off the listing of the Greater Sage Grouse and is good for the State of Nevada.

Roll call on Assembly Bill No. 461:

YEAS—19.

NAYS—None.

NOT VOTING—Goicoechea.

EXCUSED—Woodhouse.

Assembly Bill No. 461 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 463.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 463 expands Section 97 of Chapter 353 of *Nevada Revised Statutes* 353.097 to provide State agencies with authority to pay a stale claim.

Roll call on Assembly Bill No. 463:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 463 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 466.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Assembly Bill No. 466 requires new fiscal reporting requirements which should provide some transparency about the effectiveness of our tax abatements and tax exemptions. It should provide more citizen insight into the structure of the Nevada tax code.

Roll call on Assembly Bill No. 466:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 466 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 501.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Assembly Bill No. 501 authorizes the Board of Regents of the University of Nevada to issue not more than \$85 million in general obligation bonds of the State of Nevada to finance the planning, improvement, refurbishing and renovation of the Thomas and Mack Center at the University of Nevada, Las Vegas, and certain capital improvements at the University of Nevada, Reno.

Roll call on Assembly Bill No. 501:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 501 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 512.

Bill read third time.

Remarks by Senator Hutchison.

Thank you, Mr. President. Assembly Bill No. 512 makes technical corrections to bills previously passed during the 77th Legislative Session. The corrections are necessary to avoid conflicts between bills and to adjust effective dates as necessary and appropriate.

Roll call on Assembly Bill No. 512:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 512 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 3.

The following Assembly Amendment was read:

Amendment No. 950.

"SUMMARY—~~[Provides the maximum amount of money that a county may be required to pay]~~ Revises provisions relating to payments by counties for certain medical assistance to indigent persons. (BDR 38-263)"

"AN ACT relating to indigent persons; ~~[providing the maximum amount that a county may be required to pay]~~ revising provisions relating to payments by certain smaller counties for certain medical assistance to indigent persons; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the board of county commissioners of each county is required to establish a tax rate of at least 6 cents and not more than 10 cents on each \$100 of assessed valuation for deposit into a fund for medical assistance to indigent persons. Existing law designates the equivalent of 1 cent of the amount collected to be credited to the Supplemental Account for Medical Assistance to Indigent Persons. (NRS 428.275, 428.285) This bill requires ~~[each]~~ a board of county commissioners in a county whose population is less than 100,000 (currently all counties other than Clark County and Washoe County) to remit money ~~[from its fund for medical assistance to indigent persons]~~ to the State Controller in an amount determined by the Director of the Department of Health and Human Services to be adequate to include in the State Plan for Medicaid the payment of the nonfederal share of certain expenditures relating to long-term care. In addition, this bill limits the amount that such counties may be required to remit to not more than the equivalent of the amount collected from 8 cents on each \$100 of assessed valuation of all taxable property in the county.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. (Deleted by amendment.)

Sec. 2. NRS 428.285 is hereby amended to read as follows:

428.285 1. The board of county commissioners of each county shall establish a tax rate of at least 6 cents on each \$100 of assessed valuation for the purposes of the tax imposed pursuant to subsection 2. A board of county commissioners may increase the rate to not more than 10 cents on each \$100 of assessed valuation.

2. In addition to the levies provided in NRS 428.050 and 428.185 and any tax levied pursuant to NRS 450.425, the board of county commissioners shall levy a tax ad valorem at a rate necessary to produce revenue in an amount equal to an amount calculated by multiplying the assessed valuation of all taxable property in the county by the tax rate established pursuant to subsection 1, and subtracting from the product the amount of unencumbered money remaining in the fund on May 1 of the current fiscal year.

3. For each fiscal year beginning on or after July 1, 1989, the board of county commissioners of each county shall remit to the State Controller from the money in the fund an amount of money equivalent to *the amount collected from* 1 cent on each \$100 of assessed valuation of all taxable property in the county for credit to the Supplemental Account.

4. *For each fiscal year beginning on or after July 1, 2013, in a county whose population is less than 100,000, the board of county commissioners ~~of each county~~ shall, pursuant to an interlocal agreement with the State, remit to the State Controller ~~from the money in the fund~~ an amount of money determined by the Director of the Department of Health and Human Services to be adequate for the State Plan for Medicaid to include the payment of the nonfederal share of expenditures set forth in NRS 422.272. ~~The~~ In such a county, the amount of money that ~~for~~ the board of county commissioners may be required to remit, as determined by the Director pursuant to this subsection, must not exceed an amount of money equivalent to the amount collected from 8 cents on each \$100 of assessed valuation of all taxable property in the county.*

5. The tax so levied and its proceeds must be excluded in computing the maximum amount of money which the county is permitted to receive from taxes ad valorem and the highest permissible rate of such taxes.

Sec. 3. This act becomes effective on July 1, 2013.

Senator Smith moved that the Senate concur in the Assembly Amendment No. 950 to Senate Bill No. 3.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 109.

The following Assembly Amendment was read:

Amendment No. 632.

"SUMMARY—Revises provisions relating to off-highway vehicles. (BDR 43-467)"

"AN ACT relating to off-highway vehicles; authorizing the operation of an off-highway vehicle for the purposes of display, demonstration, maintenance, sale or exchange under certain circumstances; requiring the Department of Motor Vehicles to furnish special plates for an off-highway vehicle under certain circumstances; specifying the required dimensions of a registration sticker or decal provided by the Department for an off-highway vehicle; revising provisions governing the registration and operation of an off-highway vehicle and the licensing of an off-highway dealer, long-term lessor, short-term lessor and manufacturer; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a manufacturer, distributor, dealer or rebuilder of motor vehicles to operate vehicles for the purposes of display, demonstration, maintenance, sale or exchange if the person attaches special plates to the

motor vehicle. (NRS 482.320) The Department of Motor Vehicles provides those special plates to the person upon issuance of a license certificate. (NRS 482.330) Sections 2 and 3 of this bill set forth similar provisions applicable to dealers, lessors and manufacturers of off-highway vehicles.

Existing law exempts certain off-highway vehicles from registration requirements. (NRS 490.082) Section 4 of this bill exempts from registration any off-highway vehicle: (1) operated solely in an organized race, festival or other event conducted under the auspices of a sanctioning body or by permit; (2) operated or stored on privately owned or leased land; (3) operated while engaged in an approved search-and-rescue operation; or (4) that has a displacement of not more than 70 cubic centimeters. Under existing law, an off-highway vehicle that is registered or certified in another state and is located in this State for not more than 60 days is exempt from the requirement to register in this State. (NRS 490.082) Section 4 reduces the period of exemption from 60 to 15 days.

Section 4.5 of this bill revises the dimensions of the registration sticker or decal for an off-highway vehicle, providing that the sticker or decal must be at least 3 inches high by 3 1/2 inches wide.

Existing law requires that any off-highway vehicle operated on a highway must have at least one headlamp that illuminates objects at least 500 feet ahead of the vehicle and at least one tail lamp that is visible from at least 500 feet behind the vehicle. (NRS 490.120) Section 5 of this bill exempts an off-highway vehicle from this requirement when operated during daylight hours on a highway designated by a county for the operation of the off-highway vehicle without having the headlamp or tail lamp.

Existing law requires that, in order to obtain a license as a dealer, long-term or short-term lessor or manufacturer of off-highway vehicles, an applicant must: (1) furnish a processing fee, a complete set of the applicant's 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; and (2) file with the Department a bond of \$50,000 or make a deposit with the Department of \$50,000. (NRS 490.210, 490.270, 490.280) Section 7 of this bill exempts from the fingerprinting requirement any applicant who has previously met the same requirement as part of an application for a license to operate as a transporter, manufacturer, distributor, dealer, rebuilder, broker or salesperson of motor vehicles. (NRS 482.3163, 482.325, 482.333, 482.362) Section 8 of this bill exempts from the bond or deposit requirement any applicant who has previously filed a bond of \$50,000 or more covering certain activities involving off-highway vehicles or made a deposit of \$50,000 or more with the Department as part of an application for a license to operate as a broker, manufacturer, distributor, dealer or rebuilder of motor vehicles. (NRS 482.3333, 482.345, 482.346)

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

Section 1. Chapter 490 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 NRS 490.160, an off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has an established place of business in this State and who owns or controls any new or used off-highway vehicle that is otherwise required to be registered pursuant to NRS 490.082, may operate that vehicle or allow it to be operated for purposes of display, demonstration, maintenance, sale or exchange if there is displayed thereon a special plate issued to the off-highway vehicle dealer, long-term or short-term lessor or manufacturer as provided in section 3 of this act. Owners or officers of the corporation, managers, heads of departments and salespersons may be temporarily assigned and operate an off-highway vehicle displaying the special plate.*

2. *A special plate which is issued to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer pursuant to section 3 of this act may be attached to an off-highway vehicle specified in subsection 1 by a secure means. The plate must not be displayed loosely in the window or by any other unsecured method in or on an off-highway vehicle.*

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

(a) *Work or service off-highway vehicles owned or controlled by an off-highway vehicle dealer, long-term or short-term lessor or manufacturer.*

(b) *Off-highway vehicles leased by off-highway vehicle dealers, long-term or short-term lessors or manufacturers, except off-highway vehicles rented or leased to off-highway vehicle salespersons in the course of their employment.*

(c) *Off-highway vehicles which are privately owned by the owners, officers or employees of the off-highway vehicle dealer, long-term or short-term lessor or manufacturer.*

(d) *Off-highway vehicles which are being used for personal reasons by a person who is not licensed by the Department or otherwise exempted in subsection 1.*

(e) *Off-highway vehicles which have been given or assigned to persons who work for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for services performed.*

(f) *Off-highway vehicles purchased by an off-highway vehicle dealer, long-term or short-term lessor or manufacturer for personal use which the off-highway vehicle dealer, long-term or short-term lessor or manufacturer is not licensed or authorized to resell.*

Sec. 3. 1. *Upon issuance of an off-highway vehicle dealer's, long-term or short-term lessor's or manufacturer's license certificate pursuant to NRS 490.200 or upon the renewal of the license pursuant to NRS 490.210, the Department shall furnish to the off-highway vehicle dealer, long-term or short-term lessor or manufacturer one or more special plates for use on an off-highway vehicle specified in subsection 1 of section 2 of this act. Each plate must have displayed upon it the identification number assigned by the*

Department to the off-highway vehicle dealer, long-term or short-term lessor or manufacturer, and may include a different letter or symbol on the plate. The off-highway vehicle dealer's, long-term or short-term lessor's or manufacturer's special plates may be used interchangeably on that off-highway vehicle.

2. The Department shall issue to each off-highway vehicle dealer, long-term or short-term lessor or manufacturer a reasonable number of special plates.

Sec. 4. NRS 490.082 is hereby amended to read as follows:

490.082 1. An owner of an off-highway vehicle that is acquired:

(a) Before the effective date of this section:

(1) May apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, shall, within 1 year after the effective date of this section, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

(b) On or after the effective date of this section, shall, within 30 days after acquiring ownership of the off-highway vehicle:

(1) Apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, a certificate of title for the off-highway vehicle.

(2) Except as otherwise provided in subsection 3, apply for, to the Department by mail or to an authorized dealer, and obtain from the Department, the registration of the off-highway vehicle.

2. If an owner of an off-highway vehicle applies to the Department or to an authorized dealer for:

(a) A certificate of title for the off-highway vehicle, the owner shall submit to the Department or to the authorized dealer proof prescribed by the Department that he or she is the owner of the off-highway vehicle.

(b) The registration of the off-highway vehicle, the owner shall submit:

(1) If ownership of the off-highway vehicle was obtained before the effective date of this section, proof prescribed by the Department:

(I) That he or she is the owner of the off-highway vehicle; and

(II) Of the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle; or

(2) If ownership of the off-highway vehicle was obtained on or after the effective date of this section:

(I) Evidence satisfactory to the Department that he or she has paid all taxes applicable in this State relating to the purchase of the off-highway vehicle, or submit an affidavit indicating that he or she purchased the vehicle through a private party sale and no tax is due relating to the purchase of the off-highway vehicle; and

(II) Proof prescribed by the Department that he or she is the owner of the off-highway vehicle and of the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle.

3. Registration of an off-highway vehicle is not required if the off-highway vehicle:

(a) Is owned and operated by:

- (1) A federal agency;
- (2) An agency of this State; or
- (3) A county, incorporated city or unincorporated town in this State;

(b) Is part of the inventory of a dealer of off-highway vehicles ~~{-}~~ and is affixed with a special plate provided to the off-highway vehicle dealer pursuant to section 3 of this act;

(c) Is registered or certified in another state and is located in this State for not more than ~~{60}~~ 15 days;

(d) Is used solely for husbandry on private land or on public land that is leased to or used under a permit issued to the owner or operator of the off-highway vehicle;

(e) Is used for work conducted by or at the direction of a public or private utility; ~~{or}~~

(f) Was manufactured before January 1, 1976 ~~{-}~~ ;

(g) *Is operated solely in an organized race, festival or other event that is conducted:*

- (1) Under the auspices of a sanctioning body; or*
- (2) By permit issued by a governmental entity having jurisdiction;*

(h) Except as otherwise provided in paragraph (d), is operated or stored on private land or on public land that is leased to the owner or operator of the off-highway vehicle, including when operated in an organized race, festival or other event;

(i) Is used in a search and rescue operation conducted by a governmental entity having jurisdiction; or

(j) Has a displacement of not more than 70 cubic centimeters.

➡ *As used in this subsection, "sanctioning body" means an organization that establishes a schedule of racing events, grants rights to conduct those events and establishes and administers rules and regulations governing the persons who conduct or participate in those events.*

4. The registration of an off-highway vehicle expires 1 year after its issuance. If an owner of an off-highway vehicle fails to renew the registration of the off-highway vehicle before it expires, the registration may be reinstated upon the payment to the Department of the annual renewal fee and a late fee of \$25. Any late fee collected by the Department must be deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

5. If a certificate of title or registration for an off-highway vehicle is lost or destroyed, the owner of the off-highway vehicle may apply to the Department by mail, or to an authorized dealer, for a duplicate certificate of title or registration. The Department may collect a fee to replace a certificate of title or registration certificate, sticker or decal that is lost, damaged or destroyed. Any such fee collected by the Department must be:

- (a) Set forth by the Department by regulation; and
- (b) Deposited with the State Treasurer for credit to the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

6. The provisions of subsections 1 to 5, inclusive, do not apply to an owner of an off-highway vehicle who is not a resident of this State.

Sec. 4.5. NRS 490.083 is hereby amended to read as follows:

490.083 Each registration of an off-highway vehicle must:

1. Be in the form of a sticker or decal, as prescribed by the ~~{Department}~~ Commission.

2. Be ~~{approximately the size of a license plate for a motorcycle, as set forth by the Department}~~ at least 3 inches high by 3 1/2 inches wide and display not more than four characters that are at least 1 1/4 inches high.

3. Include the unique vehicle identification number, serial number or distinguishing number obtained pursuant to NRS 490.0835 for the off-highway vehicle.

4. Be displayed on the off-highway vehicle in the manner set forth by the Commission.

Sec. 5. NRS 490.120 is hereby amended to read as follows:

490.120 ~~{In}~~

1. *Except as otherwise provided in subsection 2 and in addition to the requirements set forth in NRS 490.070, a person shall not operate an off-highway vehicle on a highway pursuant to NRS 490.090 to 490.130, inclusive, unless the off-highway vehicle has:*

~~{1.}~~ (a) At least one headlamp that illuminates objects at least 500 feet ahead of the vehicle;

~~{2.}~~ (b) At least one tail lamp that is visible from at least 500 feet behind the vehicle;

~~{3.}~~ (c) At least one red reflector on the rear of the vehicle, unless the tail lamp is red and reflective;

~~{4.}~~ (d) A stop lamp on the rear of the vehicle; and

~~{5.}~~ (e) A muffler which is in working order and which is in constant operation when the vehicle is running.

2. *The provisions of paragraphs (a) and (b) of subsection 1 do not apply to an off-highway vehicle which is operated during daylight hours on a highway designated by a county pursuant to NRS 490.100 for the operation of the off-highway vehicle without at least one headlamp specified in paragraph (a) of subsection 1 or without at least one tail lamp specified in paragraph (b) of that subsection.*

Sec. 6. NRS 490.130 is hereby amended to read as follows:

490.130 The operator of an off-highway vehicle that is being driven on a highway in this State in accordance with NRS 490.090 to 490.130, inclusive, shall:

1. Comply with all traffic laws of this State;
2. Ensure that the registration of the off-highway vehicle is attached to the vehicle in accordance with NRS 490.083 ~~or~~ *or a special plate issued pursuant to section 3 of this act is attached to the vehicle;* and
3. Wear a helmet.

Sec. 7. NRS 490.210 is hereby amended to read as follows:

490.210 1. An application for a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer must be filed upon forms supplied by the Department and include the social security number of the applicant. The forms must designate the persons whose names are required to appear thereon. The applicant must furnish:

(a) Such proof as the Department may deem necessary that the applicant is an off-highway vehicle dealer, long-term or short-term lessor or manufacturer.

(b) A fee of \$125.

(c) *Unless the applicant has previously met the requirements of subsection 3 of NRS 482.3163, paragraphs (c) and (d) of subsection 1 of NRS 482.325, paragraph (d) of subsection 1 of NRS 482.333 or paragraph (e) of subsection 1 of NRS 482.362:*

(1) A fee for the processing of fingerprints. The Department shall establish by regulation the fee for processing fingerprints. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

~~((d))~~ (2) For initial licensure, a complete set of the applicant's 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.

~~((e))~~ (d) If the applicant is a natural person, the statement required pursuant to NRS 490.330.

~~((f))~~ (e) A certificate of insurance for liability.

2. Upon receipt of the application and when satisfied that the applicant is entitled thereto, the Department shall issue to the applicant a license for an off-highway vehicle dealer, long-term or short-term lessor or manufacturer containing the name of the licensee and the address of his or her established place of business or the address of the main office of a manufacturer without an established place of business in this State.

3. Licenses issued pursuant to this section expire on December 31 of each year. Before December 31 of each year, a licensee must furnish the Department with an application for renewal of his or her license accompanied by an annual fee of \$50. If the applicant is a natural person, the

application for renewal also must be accompanied by the statement required pursuant to NRS 490.330. The additional fee for the processing of fingerprints, established by regulation pursuant to paragraph (c) of subsection 1, must be submitted for each applicant whose name does not appear on the original application for the license. The renewal application must be provided by the Department and contain information required by the Department.

Sec. 8. NRS 490.270 is hereby amended to read as follows:

490.270 1. Except as otherwise provided in *subsection 9 and* NRS 490.280, before any off-highway vehicle dealer, long-term or short-term lessor or manufacturer is issued a license pursuant to this chapter, the Department shall require that the applicant procure and file with the Department a good and sufficient bond with a corporate surety thereon, duly licensed to do business within the State of Nevada, approved as to form by the Attorney General and conditioned that the applicant or any employee who acts on the applicant's behalf within the scope of his or her employment shall conduct his or her business as an off-highway vehicle dealer, *long-term or short-term* lessor or manufacturer without breaching a consumer contract or engaging in a deceptive trade practice, fraud or fraudulent representation and without violation of the provisions of this chapter. The bond must be in the amount of \$50,000.

2. The Department may, pursuant to a written agreement with any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has been licensed to do business in this State for at least 5 years, allow a reduction in the amount of the bond of the off-highway vehicle dealer, lessor or manufacturer if such business has been conducted in a manner satisfactory to the Department for the preceding 5 years. No bond may be reduced to less than 50 percent of the bond required pursuant to subsection 1.

3. The bond must be continuous in form, and the total aggregate liability on the bond must be limited to the payment of the total amount of the bond.

4. The undertaking on the bond includes any breach of a consumer contract, deceptive trade practice, fraud, fraudulent representation or violation of any of the provisions of this chapter by the representative or off-highway vehicle salesperson of any licensed off-highway vehicle dealer, long-term or short-term lessor or manufacturer who acts on behalf of the off-highway vehicle dealer, lessor or manufacturer and within the scope of the employment of the representative or off-highway vehicle salesperson.

5. The bond must provide that any person injured by the action of the off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesperson in violation of any provision of this chapter may apply to the Director, for good cause shown, for compensation from the bond. The surety issuing the bond shall appoint the Secretary of State as its agent to accept service of notice or process for the surety in any action upon the bond brought in a court of competent jurisdiction or brought before the Director.

6. If a person is injured by the actions of an off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesperson, the person may:

(a) Bring and maintain an action in any court of competent jurisdiction. If the court enters:

(1) A judgment on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson, the judgment is binding on the surety.

(2) A judgment other than on the merits against the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson, including, without limitation, a default judgment, the judgment is binding on the surety only if the surety was given notice and an opportunity to defend at least 20 days before the date on which the judgment was entered against the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson.

(b) Apply to the Director, for good cause shown, for compensation from the bond. The Director may determine the amount of compensation and the person to whom it is to be paid. The surety shall then make the payment.

(c) Settle the matter with the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson. If such a settlement is made, the settlement must be reduced to writing, signed by both parties and acknowledged before any person authorized to take acknowledgments in this State and submitted to the Director with a request for compensation from the bond. If the Director determines that the settlement was reached in good faith and there is no evidence of collusion or fraud between the parties in reaching the settlement, the surety shall make the payment to the injured person in the amount agreed upon in the settlement.

7. Any judgment entered by a court against an off-highway vehicle dealer, long-term or short-term lessor, manufacturer, representative or off-highway vehicle salesperson may be executed through a writ of attachment, garnishment, execution or other legal process, or the person in whose favor the judgment was entered may apply to the Director for compensation from the bond of the off-highway vehicle dealer, lessor, manufacturer, representative or off-highway vehicle salesperson.

8. The Department shall not issue a license pursuant to subsection 1 to an off-highway vehicle dealer, long-term or short-term lessor or manufacturer who does not have and maintain an established place of business in this State.

9. *The provisions of this section do not apply to any off-highway vehicle dealer, long-term or short-term lessor or manufacturer who has met the requirements of NRS 482.3333, 482.345 or 482.346 with respect to:*

(a) *A bond greater than or equal to the amount prescribed in subsection 1 if the undertaking on the bond includes the activities described in subsection 4; or*

(b) *A deposit greater than or equal to the amount of the bond that would otherwise be required by subsection 1.*

Sec. 9. NRS 490.510 is hereby amended to read as follows:

490.510 1. The Department may impose an administrative fine, not to exceed \$2,500, for a violation of any provision of NRS 490.150 to 490.520, inclusive, *and sections 2 and 3 of this act* or any rule, regulation or order adopted or issued pursuant thereto. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration created by NRS 490.085.

3. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any rule, regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 9.5. Notwithstanding the amendatory provisions of section 4.5 of this act, a sticker or decal issued before July 1, 2013, for the registration of an off-highway vehicle remains valid for the period for which the sticker or decal is issued.

Sec. 10. This act becomes effective on July 1, 2013.

Senator Manendo moved that the Senate concur in the Assembly Amendment No. 632 to Senate Bill No. 109.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 374.

The following Assembly Amendment was read:

Amendment No. 961.

"SUMMARY—Provides for the registration of medical marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible marijuana products ~~containing marijuana~~ or marijuana-infused products for sale to persons authorized to engage in the medical use of marijuana. (BDR 15-89)"

"AN ACT relating to medical marijuana; making it a crime to counterfeit or forge, or attempt to counterfeit or forge, a registry identification card for the medical use of marijuana; making it a crime for a person to grow, harvest or process more than 12 marijuana plants; providing for the registration of medical marijuana establishments authorized to cultivate or dispense marijuana or manufacture edible marijuana products ~~containing marijuana~~ or marijuana-infused products for sale to persons authorized to engage in the medical use of marijuana; providing for the registration of agents who are employed by or volunteer at medical marijuana establishments; setting forth the manner in which such establishments must register and operate; creating the Subcommittee on the Medical Use of Marijuana of the Advisory

Commission on the Administration of Justice; requiring the Health Division of the Department of Health and Human Services to adopt regulations; imposing an excise tax on each sale of marijuana, edible marijuana products and marijuana-infused products; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State of Nevada provides immunity from state and local prosecution for possessing, delivering and producing marijuana in certain limited amounts for patients with qualifying medical conditions, and their designated primary caregivers, who apply to and receive from the Health Division of the Department of Health and Human Services a registry identification card. Existing law does not specify the manner in which qualifying patients and their designated primary caregivers are to obtain marijuana. (Chapter 453A of NRS)

~~f. This bill: (1) states that it is an unlawful act, punishable as a category E felony, to forge, counterfeit or attempt to forge or counterfeit a registry identification card; (2) provides for the registration of medical marijuana establishments, the three types of which are cultivation facilities, facilities for the production of edible marijuana products and medical marijuana dispensaries; (3) provides for the registration of medical marijuana establishment agents; (4) sets forth the crimes and acts which disqualify a person from serving as the owner, officer, board member or agent of such an establishment; (5) enumerates the acts for which a medical marijuana establishment registration certificate and a medical marijuana establishment agent registration card are immediately revocable; (6) establishes that it is a privilege and not a right to hold a medical marijuana establishment registration certificate or a medical marijuana establishment agent registration card; (7) sets forth the maximum fees which may be charged by the Health Division for the initial issuance and renewal of such certificates and cards; (8) sets forth the basic requirements for operating a medical marijuana establishment; and (9) directs the Health Division to adopt necessary regulations. This bill also increases the amounts of usable marijuana and live marijuana plants that a holder of a registry identification card and his or her designated primary caregiver are allowed to possess at any one time, matching the amounts allowed under the laws of the State of Arizona. This bill further authorizes the Director of the Department of Health and Human Services to request a temporary advance from the State General Fund to pay the costs of carrying out the registration requirements of this bill until sufficient revenues from registration fees are collected.]~~

Section 1 of this bill makes it a crime, punishable as a category E felony, for a person to counterfeit or forge or attempt to counterfeit or forge a registry identification card, which is the instrument that indicates a bearer is entitled to engage in the medical use of marijuana. Section 1.7 of this bill makes it a crime, punishable as a category E felony, for a person to grow,

harvest or process more than 12 marijuana plants, and also makes such a person liable for costs of cleanup and disposal.

Sections 3.5, 7.3, 7.5, 8 and 8.3 of this bill define what is meant by a "medical marijuana establishment," which includes: (1) cultivation facilities; (2) facilities for the production of edible marijuana products or marijuana-infused products; (3) independent testing laboratories; and (4) medical marijuana dispensaries.

Section 1.4 of this bill creates the Subcommittee on the Medical Use of Marijuana of the Advisory Commission on the Administration of Justice. The Subcommittee is tasked with considering, evaluating, reviewing and reporting on the medical use of marijuana, the dispensation of marijuana for medical use and laws providing for the dispensation of marijuana for medical use.

Sections 10-11.7 of this bill set forth the manner in which a person may apply to obtain a registration certificate to operate a medical marijuana establishment. Section 10 mandates background checks for persons proposed to be owners, officers or board members of medical marijuana establishments, and requires such establishments to be sited at least 1,000 feet from existing schools and at least 300 feet from certain existing community facilities. Section 10.5 requires that medical marijuana establishments be located in accordance with local governmental ordinances on zoning and land use, and be professional in appearance. Section 11 limits, by the size of the population of each county, the number of medical marijuana establishments that may be certified in each county, and also limits the Division to accepting applications for the certification of the establishments to not more than 10 business days in any one calendar year. Section 11.5 imposes limits to prevent the overconcentration of medical marijuana establishments in one part of a county and to prevent situations of ownership that are geographically monopolistic. Section 11.7 sets forth the merit-based criteria to be used by the Health Division of the Department of Health and Human Services in determining whether to issue a registration certificate for the operation of a medical marijuana establishment, including such criteria as financial solvency, experience in running businesses, knowledge of medical marijuana and financial contributions by way of the payment of taxes or otherwise to the State of Nevada and its political subdivisions.

Section 13 of this bill sets forth the procedure to apply for a medical marijuana establishment agent registration card, including background checks, and specifies that the application shall be deemed conditionally approved if the Division does not act upon the application within 30 days, but the conditional approval is limited to the period until such time as the Division acts upon the application.

Section 12 of this bill provides the maximum fees to be charged by the Division for the initial issuance and renewal of medical marijuana establishment registration certificates and medical marijuana establishment

agent registration cards. Section 12 also imposes, in the case of applications to operate a medical marijuana establishment, a nonrefundable application fee of \$5,000. Section 13.5 states that the registration certificates and registration cards are nontransferable.

Sections 14 and 15 of this bill, in accordance with federal law, outline the procedure for the suspension of medical marijuana establishment registration certificates and medical marijuana establishment agent registration cards in the event that the holder fails to comply with certain requirements pertaining to the payment of child support. Sections 16 and 17 of this bill set forth the acts that are immediate grounds for the Division to revoke a registration certificate or registration card. Section 18 of this bill provides that it is a privilege to hold a registration certificate or registration card and holding such an instrument conveys no vested rights.

Section 19 of this bill sets forth requirements for the secure and lawful operation of medical marijuana establishments. Sections 19.1 and 19.2 of this bill, respectively, require medical marijuana establishments to maintain an electronic verification system and an inventory control system. Both systems are intended to work together to ensure that marijuana cultivated for medical use is dispensed only in accordance with chapter 453A of NRS and only to persons authorized to engage in the medical use of marijuana.

Sections 19.3 and 20 of this bill require medical marijuana dispensaries to use an independent testing laboratory to ensure that the products sold to end users are tested for content, quality and potency. Section 19.4 of this bill sets forth that medical marijuana establishments are to use certain security protocols.

Sections 19.5 and 24.9 of this bill provide for the dispensation of marijuana and related products to persons who are not residents of this State. From April 1, 2014, through March 31, 2016, a nonresident purchaser must sign an affidavit attesting to the fact that he or she is entitled to engage in the medical use of marijuana in his or her state or jurisdiction of residency. On and after April 1, 2016, the requirement for such an affidavit is replaced by computer cross-checking between the State of Nevada and other jurisdictions.

Sections 19.6, 22.35, 22.4 and 22.45 of this bill allow a registry identification cardholder and his or her designated primary caregiver, if any, to choose a particular medical marijuana dispensary to be his or her designated medical marijuana dispensary. The designation of a medical marijuana dispensary may be changed not more than once every 30 days.

Section 19.7 of this bill requires that marijuana, edible marijuana products and marijuana-infused products be labeled and packaged in a safe manner.

Section 19.8 of this bill allows the seizure of certain property possessed by a medical marijuana establishment under certain strictly prescribed circumstances.

Section 19.9 of this bill requires the Division to prescribe standards for the operation of independent testing laboratories.

Section 20 of this bill authorizes the Division to adopt any regulations the Division determines to be necessary or advisable to carry out the program of dispensing marijuana and related products to persons authorized by law to engage in the medical use of marijuana.

Sections 22 and 22.3 of this bill increase the amounts of marijuana, edible marijuana products and marijuana-infused products that may be possessed collectively by a registry identification cardholder and his or her designated primary caregiver, if any. The increased amounts are derived, in substantial part, from the limits established by the State of Arizona. Sections 22 and 22.3 also provide a 2-year period, beginning on April 1, 2014, and ending on March 31, 2016, during which persons who are authorized to engage in the medical use of marijuana and who were cultivating, growing or producing marijuana on or before July 1, 2013, are "grandfathered" to continue such activity until March 31, 2016. On and after April 1, 2016, self-cultivation, self-growing and self-production is prohibited unless the person engaging in such activity qualifies for one of the compassionate exceptions from the prohibition, including illness that precludes travel to a medical marijuana dispensary, and the lack of a medical marijuana dispensary within 25 miles of the person's residence.

Section 22.4 of this bill stipulates that a registry identification card must indicate whether or not the holder is authorized to engage in the self-cultivation, self-growing or self-production of marijuana for medical purposes.

Section 24 of this bill reduces by 50 percent the fees currently charged by the Division to provide an applicant with an application for a registry identification card, and to process the application and issue the card.

Section 24.4 of this bill: (1) imposes an excise tax of 2 percent on each wholesale sale of marijuana, edible marijuana products and marijuana-infused products between medical marijuana establishments; (2) imposes an excise tax of 2 percent on the retail sale of marijuana and such products from a medical marijuana dispensary to an end user; and (3) makes clear that the 2 percent excise tax on retail sales is in addition to the state and local sales and use taxes that are otherwise imposed on the sale of tangible personal property.

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

Section 1. Chapter 207 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *It is unlawful for any person to counterfeit or forge or attempt to counterfeit or forge a registry identification card.*

2. *Any person who violates the provisions of subsection 1 is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

3. *As used in this section, "registry identification card" has the meaning ascribed to it in NRS 453A.140.*

Sec. 1.3. NRS 207.360 is hereby amended to read as follows:

207.360 "Crime related to racketeering" means the commission of, attempt to commit or conspiracy to commit any of the following crimes:

1. Murder;
2. Manslaughter, except vehicular manslaughter as described in NRS 484B.657;
3. Mayhem;
4. Battery which is punished as a felony;
5. Kidnapping;
6. Sexual assault;
7. Arson;
8. Robbery;
9. Taking property from another under circumstances not amounting to robbery;
10. Extortion;
11. Statutory sexual seduction;
12. Extortionate collection of debt in violation of NRS 205.322;
13. Forgery;
14. Any violation of NRS 199.280 which is punished as a felony;
15. Burglary;
16. Grand larceny;
17. Bribery or asking for or receiving a bribe in violation of chapter 197 or 199 of NRS which is punished as a felony;
18. Battery with intent to commit a crime in violation of NRS 200.400;
19. Assault with a deadly weapon;
20. Any violation of NRS 453.232, 453.316 to 453.3395, inclusive, except a violation of section 1.7 of this act, or NRS 453.375 to 453.401, inclusive;
21. Receiving or transferring a stolen vehicle;
22. Any violation of NRS 202.260, 202.275 or 202.350 which is punished as a felony;
23. Any violation of subsection 2 or 3 of NRS 463.360 or chapter 465 of NRS;
24. Receiving, possessing or withholding stolen goods valued at \$650 or more;
25. Embezzlement of money or property valued at \$650 or more;
26. Obtaining possession of money or property valued at \$650 or more, or obtaining a signature by means of false pretenses;
27. Perjury or subornation of perjury;
28. Offering false evidence;
29. Any violation of NRS 201.300 or 201.360;
30. Any violation of NRS 90.570, 91.230 or 686A.290, or insurance fraud pursuant to NRS 686A.291;
31. Any violation of NRS 205.506, 205.920 or 205.930;
32. Any violation of NRS 202.445 or 202.446; or
33. Any violation of NRS 205.377.

Sec. 1.4. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created the Subcommittee on the Medical Use of Marijuana of the Commission.

2. The Chair of the Commission shall appoint the members of the Subcommittee. The Subcommittee must consist of legislative and nonlegislative members, including, without limitation:

(a) At least four Legislators, who may or may not be members of the Commission.

(b) A representative of the Health Division of the Department of Health and Human Services.

(c) A patient who holds a valid registry identification card to engage in the medical use of marijuana pursuant to chapter 453A of NRS.

(d) An owner or operator of a cultivation facility that is certified to operate pursuant to chapter 453A of NRS.

(e) An owner or operator of a facility for the production of edible marijuana products or marijuana-infused products that is certified to operate pursuant to chapter 453A of NRS.

(f) An owner or operator of a medical marijuana dispensary that is certified to operate pursuant to chapter 453A of NRS.

(g) A representative of the Attorney General.

(h) A representative of a civil liberties organization.

(i) A representative of an organization which advocates for persons who use marijuana for medicinal purposes.

(j) A representative of a law enforcement agency located within the jurisdiction of Clark County.

(k) A representative of a law enforcement agency located within the jurisdiction of Washoe County.

(l) A representative of local government.

3. The Chair of the Commission shall designate one of the legislative members of the Commission as Chair of the Subcommittee.

4. The Subcommittee shall meet at the times and places specified by a call of the Chair. A majority of the members of the Subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the Subcommittee.

5. The Subcommittee shall:

(a) Consider issues concerning the medical use of marijuana, the dispensation of marijuana for medical use and the implementation of provisions of law providing for the dispensation of marijuana for medical use; and

(b) Evaluate, review and submit a report to the Commission with recommendations concerning such issues.

6. Any Legislators who are members of the Subcommittee are entitled to receive the salary provided for a majority of the members of the Legislature

during the first 60 days of the preceding session for each day's attendance at a meeting of the Subcommittee.

7. While engaged in the business of the Subcommittee, to the extent of legislative appropriation, each member of the Subcommittee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 1.45. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, and section 1.4 of this act, "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 1.5. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, except an act forbidden by section 1.7 of this act, NRS 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment. The term does not include a person who is deemed to be a probationary employee pursuant to NRS 391.3129.

6. "Probationary employee" means:

(a) An administrator or a teacher who is employed for the period set forth in NRS 391.3197; and

(b) A person who is deemed to be a probationary employee pursuant to NRS 391.3129.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

Sec. 1.7. Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not knowingly or intentionally manufacture, grow, plant, cultivate, harvest, dry, propagate or process marijuana, except as specifically authorized by the provisions of this chapter or chapter 453A of NRS.

2. Unless a greater penalty is provided in NRS 453.339, a person who violates subsection 1, if the quantity involved is more than 12 marijuana plants, irrespective of whether the marijuana plants are mature or immature, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. In addition to any punishment imposed pursuant to subsection 2, the court shall order a person convicted of a violation of subsection 1 to pay all costs associated with any necessary cleanup and disposal related to the manufacturing, growing, planting, cultivation, harvesting, drying, propagation or processing of the marijuana.

Sec. 2. Chapter 453A of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 20, inclusive, of this act.

Sec. 3. "Crime of violence" means any felony:

1. Involving the use or threatened use of force or violence against the person or property of another; or

2. For which there is a substantial risk that force or violence may be used against the person or property of another in the commission of the felony.

Sec. 3.5. "Cultivation facility" means a business that:

1. Is registered with the Division pursuant to section 10 of this act; and

2. Acquires, possesses, cultivates, delivers, transfers, transports, supplies or sells marijuana and related supplies to:

(a) Medical marijuana dispensaries;

(b) Facilities for the production of edible marijuana products ~~and~~ or marijuana-infused products; or

(c) Other cultivation facilities.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 5.3. "Edible marijuana products" means products that:

1. Contain marijuana or an extract thereof;

2. Are intended for human consumption ~~and~~ by oral ingestion; and

3. Are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.

Sec. 5.5. "Electronic verification system" means an electronic database that:

1. Keeps track of data in real time; and

2. Is accessible by the Division and by registered medical marijuana establishments.

Sec. 6. "Enclosed, locked facility" means a closet, display case, room, greenhouse or other enclosed area that meets the requirements of section 19.4 of this act and is equipped with locks or other security devices which allow access only by a medical marijuana establishment agent and the holder of a valid registry identification card.

Sec. 7. 1. "Excluded felony offense" means:

(a) A crime of violence; or
(b) A violation of a state or federal law pertaining to controlled substances, if the law was punishable as a felony in the jurisdiction where the person was convicted.

2. The term does not include:

(a) A criminal offense for which the sentence, including any term of probation, incarceration or supervised release, was completed ~~within the~~ more than 10 ~~previous~~ years ~~of~~ before; or

(b) An offense involving conduct that would be immune from arrest, prosecution or penalty pursuant to sections 10 to 20, inclusive, of this act, except that the conduct occurred before ~~January~~ April 1, 2014, or was prosecuted by an authority other than the State of Nevada.

Sec. 7.3. "Facility for the production of edible marijuana products ~~or~~ or marijuana-infused products" means a business that:

1. Is registered with the Division pursuant to section 10 of this act; and
2. Acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries.

Sec. 7.5. "Independent testing laboratory" means a facility described in section 19.9 of this act.

Sec. 7.7. "Inventory control system" means a process, device or other contrivance that may be used to monitor the chain of custody of marijuana used for medical purposes from the point of cultivation to the end consumer.

Sec. 7.9. 1. "Marijuana-infused products" means products that:

(a) Are infused with marijuana or an extract thereof; and
(b) Are intended for use or consumption by humans through means other than inhalation or oral ingestion.

2. The term includes, without limitation, topical products, ointments, oils and tinctures.

Sec. 8. "Medical marijuana dispensary" means a business that:

1. Is registered with the Division pursuant to section 10 of this act; and
2. Acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card.

Sec. 8.3. "Medical marijuana establishment" means:

1. An independent testing laboratory;
2. A cultivation facility;

~~2.3.~~ *A facility for the production of edible marijuana products ~~or~~ or marijuana-infused products;*

4. A medical marijuana dispensary; or

~~4.5.~~ *A business that has registered with the Division and paid the requisite fees to act as more than one of the types of businesses listed in subsections ~~1.1~~ 2, ~~and~~ 3 ~~and~~ 4.*

Sec. 8.5. "Medical marijuana establishment agent" means an owner, officer, board member, employee or volunteer of a medical marijuana establishment.

Sec. 8.6. "Medical marijuana establishment agent registration card" means a registration card that is issued by the Division pursuant to section 13 of this act to authorize a person to volunteer or work at a medical marijuana establishment.

Sec. 8.7. "Medical marijuana establishment registration certificate" means a registration certificate that is issued by the Division pursuant to section 10 of this act to authorize the operation of a medical marijuana establishment.

Sec. 8.8. "THC" means delta-9-tetrahydrocannabinol, which is the primary active ingredient in marijuana.

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. Each medical marijuana establishment must register with the Division.

2. A person who wishes to operate a medical marijuana establishment ~~is~~ ~~(a) Must~~ must submit to the Division an application on a form prescribed by the Division ~~is~~ and

~~(b) Must have been a resident of the State of Nevada for at least 3 years immediately preceding the date on which he or she submits the application.~~

3. Except as otherwise provided in sections 11, 11.5, 11.7 and 16 of this act, not later than 90 days after receiving an application to operate a medical marijuana establishment, the Division shall register the medical marijuana establishment and issue a medical marijuana establishment registration certificate and a random 20-digit alphanumeric identification number if:

(a) The person who wishes to operate the proposed medical marijuana establishment has submitted to the Division all of the following:

(1) The application fee, as set forth in section 12 of this act;

(2) An application, which must include:

(I) The legal name of the proposed medical marijuana establishment;

(II) The physical address where the proposed medical marijuana establishment will be located and the physical address of any co-owned additional or otherwise associated medical marijuana establishments, the locations of which may not be within 1,000 feet of a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12 ~~is~~ and that existed on the date on which the application for the proposed medical marijuana establishment was submitted

to the Division, or within 300 feet of a community facility that existed on the date on which the application for the proposed medical marijuana establishment was submitted to the Division;

(III) Evidence that the applicant controls not less than ~~[\$150,000]~~ \$250,000 in liquid assets to cover the initial expenses of opening the proposed medical marijuana establishment and complying with the provisions of sections 10 to 20, inclusive, of this act;

(IV) Evidence that the applicant owns the property on which the proposed medical marijuana establishment will be located or has the written permission of the property owner to operate the proposed medical marijuana establishment on that property;

(V) For the applicant and each person who ~~is~~ is proposed to be an owner, officer or board member of the proposed medical marijuana establishment, a complete set of the person's fingerprints and written permission of the person authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(VI) The name, address and date of birth of each person who ~~is~~ is proposed to be an owner, officer or board member of the proposed medical marijuana establishment; and

(VII) The name, address and date of birth of each person who ~~is~~ is proposed to be employed by or otherwise provide labor at the proposed medical marijuana establishment as a medical marijuana establishment agent;

(3) Operating procedures consistent with rules of the Division for oversight of the proposed medical marijuana establishment, including, without limitation:

(I) Procedures to ensure the use of adequate security measures; and

(II) The use of an electronic verification system and an inventory control system, pursuant to sections 19.1 and 19.2 of this act;

(4) If the proposed medical marijuana establishment will sell or deliver edible marijuana products ~~or~~ or marijuana-infused products, proposed operating procedures for handling such products which must be preapproved by the Division;

(5) If the city, town or county in which the proposed medical marijuana establishment will be located has enacted zoning restrictions, ~~a sworn statement,~~ proof of licensure with the applicable local governmental authority or a letter from the applicable local governmental authority certifying that the proposed medical marijuana establishment is in compliance with those restrictions ~~or~~ and satisfies all applicable building requirements; and

(6) Such other information as the Division may require by regulation;

(b) None of the persons who ~~would~~ are proposed to be owners, officers or board members of the proposed medical marijuana establishment have been convicted of an excluded felony offense;

(c) None of the persons who ~~would~~ are proposed to be owners, officers or board members of the proposed medical marijuana establishment have:

(1) Served as an owner, officer or board member for a medical marijuana establishment that has had its medical marijuana establishment registration certificate revoked; or

(2) Previously had a medical marijuana establishment agent registration card revoked; and

(d) None of the persons who ~~would~~ are proposed to be owners, officers or board members of the proposed medical marijuana establishment are under 21 years of age.

4. For each person who submits an application pursuant to this section, and each person who ~~would~~ is proposed to be an owner, officer or board member of a proposed medical marijuana establishment, the Division shall submit the fingerprints of the person to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of that person.

5. ~~But~~ Except as otherwise provided in subsection 6, if an application for registration as a medical marijuana establishment satisfies the requirements of this section and the establishment is not disqualified from being registered as a medical marijuana establishment pursuant to this section or other applicable law, the Division shall issue to the establishment a medical marijuana establishment registration certificate. A medical marijuana establishment registration certificate expires 1 year after the date of issuance and may be renewed upon:

(a) Resubmission of the information set forth in this section; and

(b) Payment of the renewal fee set forth in section 12 of this act.

6. In determining whether to issue a medical marijuana establishment registration certificate pursuant to this section, the Division shall consider the criteria of merit set forth in section 11.7 of this act.

7. As used in this section, "community facility" means:

(a) A facility that provides day care to children.

(b) A public park.

(c) A playground.

(d) A public swimming pool.

(e) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.

(f) A church, synagogue or other building, structure or place used for religious worship or other religious purpose.

Sec. 10.5. Each medical marijuana establishment must:

1. Be located in a separate building or facility ~~that~~ that is located in a commercial or industrial zone or overlay;

2. Comply with all local ~~zoning~~ ordinances and rules ~~that~~ pertaining to zoning, land use and signage;

3. Have an appearance, both as to the interior and exterior, that is professional, orderly, dignified and consistent with the traditional style of pharmacies and medical offices; and

4. Have discreet and professional signage that is consistent with the traditional style of signage for pharmacies and medical offices.

Sec. 11. 1. Except as otherwise provided in this section ~~11~~ and section 11.5 of this act, the Division shall issue medical marijuana establishment registration certificates for medical marijuana dispensaries in the following quantities for applicants who qualify pursuant to section 10 of this act:

(a) In a county whose population is 700,000 or more, 40 certificates;

(b) In a county whose population is 100,000 or more but less than 700,000, 10 certificates;

(c) In a county whose population is 55,000 or more but less than 100,000, 2 certificates; and

(d) In each other county, 1 certificate.

2. Notwithstanding the provisions of subsection 1, the Division shall not issue medical marijuana establishment registration certificates for medical marijuana dispensaries in such a quantity as to cause the existence within the applicable county of more than one medical marijuana dispensary for every 10 pharmacies that have been licensed in the county pursuant to chapter 639 of NRS. The Division may issue medical marijuana establishment registration certificates for medical marijuana dispensaries in excess of the ratio otherwise allowed pursuant to this subsection if to do so is necessary to ensure that the Division issues at least one medical marijuana establishment registration certificate in each county of this State in which the Division has approved an application for such an establishment to operate.

3. With respect to medical marijuana establishments that are not medical marijuana dispensaries, the Division shall determine the appropriate number of such establishments as are necessary to serve and supply the medical marijuana dispensaries to which the Division has granted medical marijuana establishment registration certificates.

4. The Division shall not, for more than a total of 10 business days in any 1 calendar year, accept applications to operate medical marijuana establishments.

Sec. 11.5. 1. Except as otherwise provided in this subsection, in a county whose population is 100,000 or more, the Division shall ensure that not more than 25 percent of the total number of medical marijuana dispensaries that may be certified in the county, as set forth in section 11 of this act, are located in any one local governmental jurisdiction within the county. The board of county commissioners of the county may increase the percentage described in this subsection if it determines that to do so is necessary to ensure that the more populous areas of the county have access to sufficient distribution of marijuana for medical use.

2. To prevent monopolistic practices, the Division shall ensure, in a county whose population is 400,000 or more, that it does not issue, to any one person, group of persons or entity, the greater of:

(a) One medical marijuana establishment registration certificate; or
(b) More than 10 percent of the medical marijuana establishment registration certificates otherwise allocable in the county.

3. In a local governmental jurisdiction that issues business licenses, the issuance by the Division of a medical marijuana establishment registration certificate shall be deemed to be provisional until such time as:

(a) The establishment is in compliance with all applicable local governmental ordinances or rules; and

(b) The local government has issued a business license for the operation of the establishment.

4. As used in this section, "local governmental jurisdiction" means a city, town, township or unincorporated area within a county.

Sec. 11.7. In determining whether to issue a medical marijuana establishment registration certificate pursuant to section 10 of this act, the Division shall, in addition to the factors set forth in that section, consider the following criteria of merit:

1. The total financial resources of the applicant, both liquid and illiquid;

2. The previous experience of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment at operating other businesses or nonprofit organizations;

3. The educational achievements of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment;

4. Any demonstrated knowledge or expertise on the part of the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment with respect to the compassionate use of marijuana to treat medical conditions;

5. Whether the proposed location of the proposed medical marijuana establishment would be convenient to serve the needs of persons who are authorized to engage in the medical use of marijuana;

6. The likely impact of the proposed medical marijuana establishment on the community in which it is proposed to be located;

7. The adequacy of the size of the proposed medical marijuana establishment to serve the needs of persons who are authorized to engage in the medical use of marijuana;

8. Whether the applicant has an integrated plan for the care, quality and safekeeping of medical marijuana from seed to sale;

9. The amount of taxes paid to, or other beneficial financial contributions made to, the State of Nevada or its political subdivisions by the applicant or the persons who are proposed to be owners, officers or board members of the proposed medical marijuana establishment; and

10. Any other criteria of merit that the Division determines to be relevant.

Sec. 12. 1. Except as otherwise provided in subsection 2, the Division shall collect not more than the following maximum fees:

For the initial issuance of a medical marijuana establishment registration certificate for a medical marijuana dispensary.....~~[\$20,000]~~ \$30,000

For the renewal of a medical marijuana establishment registration certificate for a medical marijuana dispensary..... 5,000

For the initial issuance of a medical marijuana establishment registration certificate for a cultivation facility..... 3,000

For the renewal of a medical marijuana establishment registration certificate for a cultivation facility..... 1,000

For the initial issuance of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products~~[\$2,000]~~ 3,000

For the renewal of a medical marijuana establishment registration certificate for a facility for the production of edible marijuana products or marijuana-infused products~~[\$750]~~ 1,000

For the initial issuance of a medical marijuana establishment agent registration card~~[\$500]~~ 75

For the renewal of a medical marijuana establishment agent registration card~~[\$500]~~ 75

For the initial issuance of a medical marijuana establishment registration certificate for an independent testing laboratory...... 5,000

For the renewal of a medical marijuana establishment registration certificate for an independent testing laboratory...... 3,000

2. In addition to the fees described in subsection 1, each applicant for a medical marijuana establishment registration certificate must pay to the Division:

(a) A one-time, nonrefundable application fee of \$5,000; and

(b) The actual costs incurred by the Division in processing the application, including, without limitation, conducting background checks.

3. Any revenue generated from the fees imposed pursuant to this section:

(a) Must be expended first to pay the costs of the Division in carrying out the provisions of sections 10 to 20, inclusive of this act; and

(b) If any excess revenue remains after paying the costs described in paragraph (a), such excess revenue must be paid over to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

Sec. 13. 1. ~~44~~ Except as otherwise provided in this section, a person shall not volunteer or work at a medical marijuana establishment as a medical marijuana establishment agent unless the person is registered with the Division pursuant to this section.

2. A medical marijuana establishment that wishes to retain as a volunteer or employ a medical marijuana establishment agent shall submit to the Division an application on a form prescribed by the Division. The application must be accompanied by:

(a) The name, address and date of birth of the prospective medical marijuana establishment agent;

(b) A statement signed by the prospective medical marijuana establishment agent pledging not to dispense or otherwise divert marijuana to any person who is not authorized to possess marijuana in accordance with the provisions of this chapter;

(c) A statement signed by the prospective medical marijuana establishment agent asserting that he or she has not previously had a medical marijuana establishment agent registration card revoked;

(d) A complete set of the fingerprints and written permission of the prospective medical marijuana establishment agent authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(e) The application fee, as set forth in section 12 of this act; and

(f) Such other information as the Division may require by regulation.

3. A medical marijuana establishment shall notify the Division within 10 days after a medical marijuana establishment agent ceases to be employed by or volunteer at the medical marijuana establishment.

4. A person who:

(a) Has been convicted of an excluded felony offense; or

(b) Is less than 21 years of age,

➤ shall not serve as a medical marijuana establishment agent.

5. The Division shall submit the fingerprints of an applicant for registration as a medical marijuana establishment agent to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to determine the criminal history of the applicant.

6. The provisions of this section do not require a person who is an owner, officer or board member of a medical marijuana establishment to resubmit information already furnished to the Division at the time the establishment was registered with the Division.

7. If an applicant for registration as a medical marijuana establishment agent satisfies the requirements of this section and is not disqualified from serving as such an agent pursuant to this section or any other applicable law, the Division shall issue to the person a medical marijuana establishment agent registration card. If the Division does not act upon an application for a medical marijuana establishment agent registration card within 30 days after the date on which the application is received, the application shall be deemed conditionally approved until such time as the Division acts upon the application. A medical marijuana establishment agent registration card expires 1 year after the date of issuance and may be renewed upon:

- (a) Resubmission of the information set forth in this section; and
- (b) Payment of the renewal fee set forth in section 12 of this act.

Sec. 13.5. The following are nontransferable:

1. A medical marijuana establishment agent registration card.

2. A medical marijuana establishment registration certificate.

Sec. 14. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate shall:

- (a) Include the social security number of the applicant in the application submitted to the Division.
- (b) Submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

- (a) The application or any other forms that must be submitted for the issuance or renewal of the medical marijuana establishment agent registration card or medical marijuana establishment registration certificate; or

- (b) A separate form prescribed by the Division.

3. A medical marijuana establishment agent registration card or medical marijuana establishment registration certificate may not be issued or renewed by the Division if the applicant:

- (a) Fails to submit the statement required pursuant to subsection 1; or
- (b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the

repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 15. 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate, the Division shall deem the card or certificate issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the card or certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the card or certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a medical marijuana establishment agent registration card or medical marijuana establishment registration certificate that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose card or certificate was suspended stating that the person whose card or certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 16. The following acts constitute grounds for immediate revocation of a medical marijuana establishment registration certificate:

1. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

2. Acquiring usable marijuana or mature marijuana plants from any person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

3. Violating a regulation of the Division, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment registration certificate.

Sec. 17. The following acts constitute grounds for the immediate revocation of the medical marijuana establishment agent registration card of a medical marijuana establishment agent:

1. Having committed or committing any excluded felony offense.

2. Dispensing, delivering or otherwise transferring marijuana to a person other than a medical marijuana establishment agent, another medical marijuana establishment, a patient who holds a valid registry identification card or the designated primary caregiver of such a patient.

3. Violating a regulation of the Division, the violation of which is stated to be grounds for immediate revocation of a medical marijuana establishment agent registration card.

Sec. 18. The purpose for registering medical marijuana establishments and medical marijuana establishment agents is to protect the public health and safety and the general welfare of the people of this State. Any medical marijuana establishment registration certificate issued pursuant to section 10 of this act and any medical marijuana establishment agent registration card issued pursuant to section 13 of this act is a revocable privilege and the holder of such a certificate or card, as applicable, does not acquire thereby any vested right.

Sec. 19. 1. The operating documents of a medical marijuana establishment must include procedures:

(a) For the oversight of the medical marijuana ~~[dispensary]~~ establishment; and

(b) To ensure accurate recordkeeping, including, without limitation, the provisions of sections 19.1 and 19.2 of this act.

2. ~~For~~ Except as otherwise provided in this subsection, a medical marijuana establishment:

(a) That is a medical marijuana dispensary must have a single entrance for patrons, which must be secure, and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(b) That is not a medical marijuana dispensary must have a single secure entrance and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

↪ The provisions of this subsection do not supersede any state or local requirements relating to minimum numbers of points of entry or exit, or any state or local requirements relating to fire safety.

3. A medical marijuana establishment is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any purpose except to:

(a) Directly or indirectly assist patients who possess valid registry identification cards; and

(b) Assist patients who possess valid registry identification cards by way of those patients' designated primary caregivers.

↪ For the purposes of this subsection, a person shall be deemed to be a patient who possesses a valid registry identification card if he or she qualifies for nonresident reciprocity pursuant to section 19.5 of this act.

4. All cultivation or production of marijuana that a cultivation facility carries out or causes to be carried out must take place in an enclosed, locked facility at the physical address provided to the Division during the registration process for the cultivation facility. Such an enclosed, locked facility must be accessible only by medical marijuana establishment agents

who are lawfully associated with the cultivation facility, except that limited access by persons necessary to perform construction or repairs or provide other labor is permissible if such persons are supervised by a medical marijuana establishment agent.

5. A medical marijuana dispensary and a cultivation facility may acquire usable marijuana or marijuana plants from a patient who holds a valid registry identification card, or the designated primary caregiver of such a patient. Except as otherwise provided in this subsection, the patient or caregiver, as applicable, must receive no compensation for the marijuana. A patient who holds a valid registry identification card, and the designated primary caregiver of such a patient, may sell usable marijuana to a medical marijuana dispensary one time and may sell marijuana plants to a cultivation facility one time.

6. A medical marijuana establishment shall not allow any person to consume marijuana on the property or premises of the establishment.

7. Medical marijuana establishments are subject to reasonable inspection by the Division at any time, and a person who holds a medical marijuana establishment registration certificate must make himself or herself, or a designee thereof, available and present for any inspection by the Division of the establishment.

Sec. 19.1. 1. Each medical marijuana establishment, in consultation with the Division, shall maintain an electronic verification system.

2. The electronic verification system required pursuant to subsection 1 must be able to monitor and report information, including, without limitation:

(a) ~~Whether a~~ In the case of a medical marijuana dispensary, for each person who holds a valid registry identification card ~~f, including, without limitation,~~ and who purchased marijuana from the dispensary in the immediately preceding 60-day period:

(1) The number of the card;

(2) The date on which the card was issued; and

~~f(2)~~ (3) The date on which the card will expire ~~f, and~~

~~(3) The name and contact information of the attending physician who advised the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;~~

~~(b) Whether a~~

(b) For each medical marijuana establishment agent ~~holds a valid~~ who is employed by or volunteers at the medical marijuana establishment, the number of the person's medical marijuana establishment agent registration card ~~f,~~

~~(c) Whether another medical marijuana establishment is registered validly in accordance with sections 10 to 20, inclusive, of this act;~~

~~(d) Whether the registry identification card, or equivalent thereof, possessed or presented by a person who is not a resident of Nevada, is genuine and valid; and~~

~~(e)~~ (c) In the case of a medical marijuana dispensary, such information as may be required by the Division by regulation regarding persons who are not residents of this State and who have purchased marijuana from the dispensary.

(d) Verification of the identity of a person to whom marijuana, edible marijuana products or marijuana-infused products are sold or otherwise distributed.

(e) Such other information as the Division may require.

3. Nothing in this section prohibits more than one medical marijuana establishment from co-owning an electronic verification system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards which is contained in an electronic verification system is encrypted, protected and not divulged for any purpose not specifically authorized by law.

Sec. 19.2. 1. Each medical marijuana establishment, in consultation with the Division, shall maintain an inventory control system.

2. The inventory control system required pursuant to subsection 1 must be able to monitor and report information, including, without limitation:

(a) Insofar as is practicable, the chain of custody and current whereabouts, in real time, of medical marijuana from the point that it is harvested at a cultivation facility until it is sold at a medical marijuana dispensary and, if applicable, if it is processed at a facility for the production of edible marijuana products ~~and~~ or marijuana-infused products;

(b) The name of each person or other medical marijuana establishment, or both, to which the establishment sold marijuana;

(c) In the case of a medical marijuana dispensary, the date on which it sold marijuana to a person who holds a registry identification card and, if any, the quantity of edible marijuana products or marijuana-infused products sold, measured both by weight and potency; and

(d) Such other information as the Division may require.

3. Nothing in this section prohibits more than one medical marijuana establishment from co-owning an inventory control system in cooperation with other medical marijuana establishments, or sharing the information obtained therefrom.

4. A medical marijuana establishment must exercise reasonable care to ensure that the personal identifying information of persons who hold registry identification cards which is contained in an inventory control system is encrypted, protected and not divulged for any purpose not specifically authorized by law.

Sec. 19.3. Each medical marijuana dispensary shall ensure all of the following:

1. *The weight, concentration and content of THC in all marijuana, ~~and~~ edible marijuana products and marijuana-infused products that the dispensary sells is clearly and accurately stated on the product sold.*

2. *That the dispensary does not sell to a person, in any one 14-day period, an amount of marijuana for medical purposes that exceeds the limits set forth in NRS 453A.200.*

3. *That, posted clearly and conspicuously within the dispensary, are the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200.*

4. *That, posted clearly and conspicuously within the dispensary, is a sign stating unambiguously the legal limits on the possession of marijuana for medical purposes, as set forth in NRS 453A.200.*

Sec. 19.4. 1. *At each medical marijuana establishment, medical marijuana must be stored only in an enclosed, locked facility.*

2. *Except as otherwise provided in subsection 3, at each medical marijuana dispensary, medical marijuana must be stored in a secure, locked device, display case, cabinet or room within the enclosed, locked facility. The secure, locked device, display case, cabinet or room must be protected by a lock or locking mechanism that meets at least the security rating established by Underwriters Laboratories for key locks.*

3. *At a medical marijuana dispensary, medical marijuana may be removed from the secure setting described in subsection 2:*

(a) Only for the purpose of dispensing the marijuana;

(b) Only immediately before the marijuana is dispensed; and

(c) Only by a medical marijuana establishment agent who is employed by or volunteers at the dispensary.

Sec. 19.5. 1. *The State of Nevada and the medical marijuana dispensaries in this State which hold valid medical marijuana establishment registration certificates will recognize a nonresident card only under the following circumstances:*

(a) The state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of marijuana;

(b) The state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of such a card, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;

(c) The nonresident card has an expiration date and has not yet expired;

~~*(d) The state or jurisdiction from which the holder or bearer obtained the nonresident card maintains a database which preserves such information as may be necessary to verify the authenticity and validity of the nonresident card;*~~

~~*(e) The state or jurisdiction from which the holder or bearer obtained the nonresident card allows the Division and medical marijuana dispensaries in this State to access the database described in paragraph (d);*~~

~~(f) The Division determines that the database described in paragraph (d) is able to provide to medical marijuana dispensaries in this State information that is sufficiently accurate, current and specific as to allow those dispensaries to verify that a person who holds or bears a nonresident card is entitled lawfully to do so; and~~

~~(g) holder or bearer of the nonresident card signs an affidavit in a form prescribed by the Division which sets forth that the holder or bearer is entitled to engage in the medical use of marijuana in his or her state or jurisdiction of residence; and~~

(e) The holder or bearer of the nonresident card agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes in this State, as set forth in NRS 453A.200.

2. For the purposes of the reciprocity described in this section:

(a) The amount of medical marijuana that the holder or bearer of a nonresident card is entitled to possess in his or her state or jurisdiction of residence is not relevant; and

(b) Under no circumstances, while in this State, may the holder or bearer of a nonresident card possess marijuana for medical purposes in excess of the limits set forth in NRS 453A.200.

3. As used in this section, "nonresident card" means a card or other identification that:

(a) Is issued by a state or jurisdiction other than Nevada; and

(b) Is the functional equivalent of a registry identification card, as determined by the Division.

Sec. 19.6. 1. ~~[Each] A patient who holds a valid registry identification card and his or her designated primary caregiver, if any, may select one medical marijuana dispensary [shall, at the time of making a sale of marijuana or edible marijuana products, or both, collect a flat fee of \$10 for deposit in the State General Fund]~~

~~2. The fee described in subsection 1 is to be applied in addition to any overhead or administrative costs of the medical marijuana dispensary in making the sale, and in addition to any profit made by the] to serve as his or her designated medical marijuana dispensary [on the sale.]~~

~~3. As used in this section, "sale" means a single completed purchase, regardless of the number of individual items included in the purchase.] at any one time.~~

2. A patient who designates a medical marijuana dispensary as described in subsection 1:

(a) Shall communicate the designation to the Division within the time specified by the Division.

(b) May change his or her designation not more than once in a 30-day period.

Sec. 19.7. Each medical marijuana dispensary and facility for the production of edible marijuana products or marijuana-infused products

shall, in consultation with the Division, cooperate to ensure that all edible marijuana products and marijuana-infused products offered for sale:

1. Are labeled clearly and unambiguously as medical marijuana.
2. Are not presented in packaging that is appealing to children.
3. Are regulated and sold on the basis of the concentration of THC in the products and not by weight.
4. Are packaged and labeled in such a manner as to allow tracking by way of an inventory control system.

Sec. 19.8. 1. If a law enforcement agency legally and justly seizes evidence from a medical marijuana establishment on a basis that, in consideration of due process and viewed in the manner most favorable to the establishment, would lead a reasonable person to believe that a crime has been committed, the relevant provisions of NRS 179.1156 to 179.121, inclusive, apply insofar as they do not conflict with the provisions of this chapter.

2. As used in this section, "law enforcement agency" has the meaning ascribed to it in NRS 239C.065.

Sec. 19.9. 1. The Division shall establish ~~for cause to be established~~ and standards for and certify one or more private and independent testing laboratories to test marijuana, edible marijuana products and marijuana-infused products that are to be sold in this State.

2. ~~The~~ Such an independent testing laboratory must be able to determine ~~it~~ accurately, with respect to marijuana, ~~and~~ edible marijuana products and marijuana-infused products that are sold or will be sold at medical marijuana dispensaries in this State:

- (a) The concentration therein of THC and cannabidiol.
- (b) Whether the tested material is organic or non-organic.
- (c) The presence and identification of molds and fungus.
- (d) The presence and concentration of fertilizers and other nutrients.

3. ~~The cost of establishing the~~ To obtain certification by the Division on behalf of an independent testing laboratory, an applicant must ~~be paid from the revenues described in paragraph (a) of subsection 3 of~~

- (a) Apply successfully as required pursuant to section 10 of this act.
- (b) Pay the fees required pursuant to section 12 of this act.

Sec. 20. The Division shall adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 10 to 20, inclusive, of this act. Such regulations are in addition to any requirements set forth in statute and must, without limitation:

1. Prescribe the form and any additional required content of registration and renewal applications submitted pursuant to sections 10 and 13 of this act.
2. Set forth rules pertaining to the safe and healthful operation of medical marijuana establishments, including, without limitation:

(a) *The manner of protecting against diversion and theft without imposing an undue burden on medical marijuana establishments or compromising the confidentiality of the holders of registry identification cards.*

(b) *Minimum requirements for the oversight of medical marijuana establishments.*

(c) *Minimum requirements for the keeping of records by medical marijuana establishments.*

(d) *Provisions for the security of medical marijuana establishments, including, without limitation, requirements for the protection by a fully operational security alarm system of each medical marijuana establishment.*

(e) *Procedures pursuant to which medical marijuana dispensaries must use the services of an independent testing laboratory to ensure that any marijuana, edible marijuana products and marijuana-infused products sold by the dispensaries to end users are tested for content, quality and potency in accordance with standards established by the Division.*

(f) *Procedures pursuant to which a medical marijuana dispensary will be notified by the Division if a patient who holds a valid registry identification card has chosen the dispensary as his or her designated medical marijuana dispensary, as described in section 19.6 of this act.*

3. *Establish circumstances and procedures pursuant to which the maximum fees set forth in section 12 of this act may be reduced over time:*

(a) *To ensure that the fees imposed pursuant to section 12 of this act are, insofar as may be practicable, revenue neutral; and*

(b) *To reflect gifts and grants received by the Division pursuant to NRS 453A.720.*

4. *Set forth the amount of usable marijuana that a medical marijuana dispensary may dispense to a person who holds a valid registry identification card, or the designated primary caregiver of such a person, in any one 14-day period. Such an amount must not exceed the limits set forth in NRS 453A.200.*

5. *As far as possible while maintaining accountability, protect the identity and personal identifying information of each person who receives, facilitates or delivers services in accordance with this chapter.*

6. *In cooperation with the Board of Medical Examiners and the State Board of Osteopathic Medicine, establish a system to:*

(a) *Register and track attending physicians who advise their patients that the medical use of marijuana may mitigate the symptoms or effects of the patient's medical condition;*

(b) *Insofar as is possible, track and quantify the number of times an attending physician described in paragraph (a) makes such an advisement; and*

(c) *Provide for the progressive discipline of attending physicians who advise the medical use of marijuana at a rate at which the Division and Board determine and agree to be unreasonably high.*

7. *Establish different categories of medical marijuana establishment agent registration cards, including, without limitation, criteria for training and certification, for each of the different types of medical marijuana establishments at which such an agent may be employed or volunteer.*

8. *Provide for the maintenance of a log by the Division of each person who is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.220. The Division shall ensure that the contents of the log are available for verification by law enforcement personnel 24 hours a day.*

9. *Address such other matters as may assist in implementing the program of dispensation contemplated by sections 10 to 20, inclusive, of this act.*

Sec. 21. NRS 453A.010 is hereby amended to read as follows:

453A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 453A.020 to 453A.170, inclusive, and sections 3 to 9, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 21.5. NRS 453A.100 is hereby amended to read as follows:

453A.100 ~~["Drug paraphernalia" has the meaning ascribed to it in NRS 453.554.]~~ "Paraphernalia" means accessories, devices and other equipment that is necessary or useful for a person to engage in the medical use of marijuana.

Sec. 22. NRS 453A.200 is hereby amended to read as follows:

453A.200 1. Except as otherwise provided in this section and NRS 453A.300, a person who holds a valid registry identification card issued to the person pursuant to NRS 453A.220 or 453A.250 is exempt from state prosecution for:

- (a) Possession, delivery or production of marijuana;
- (b) Possession or delivery of ~~[drug]~~ paraphernalia;
- (c) Aiding and abetting another in the possession, delivery or production of marijuana;
- (d) Aiding and abetting another in the possession or delivery of ~~[drug]~~ paraphernalia;
- (e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and
- (f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of ~~[drug]~~ paraphernalia is an element.

2. In addition to the provisions of ~~[subsection]~~ subsections 1 ~~[,]~~ and 5, no person may be subject to state prosecution for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the medical use of marijuana in accordance with the provisions of this chapter.

3. The exemption from state prosecution set forth in subsection 1 applies only to the extent that a person who holds a registry identification card issued

to the person pursuant to paragraph (a) of subsection 1 of NRS 453A.220 and the designated primary caregiver, if any, of such a person:

(a) Engage in or assist in, as applicable, the medical use of marijuana in accordance with the provisions of this chapter as justified to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; and

(b) Do not, at any one time, collectively possess, deliver or produce more than:

(1) ~~One ounce~~ Two and one-half ounces of usable marijuana ~~in any one 14-day period; and~~

(2) ~~Three mature~~ Twelve marijuana plants ~~and~~

(3) ~~Four immature marijuana plants~~, irrespective of whether the marijuana plants are mature or immature ~~and~~; and

(3) A maximum allowable quantity of edible marijuana products and marijuana-infused products as established by regulation of the Division.

~~↪ The persons described in this subsection must ensure that the usable marijuana and marijuana plants described in this subsection are safeguarded in an enclosed, locked facility pursuant to the requirements of section 19.4 of this act, secure location.~~

4. If the persons described in subsection 3 possess, deliver or produce marijuana in an amount which exceeds the amount described in paragraph (b) of that subsection, those persons:

(a) Are not exempt from state prosecution for possession, delivery or production of marijuana.

(b) May establish an affirmative defense to charges of possession, delivery or production of marijuana, or any combination of those acts, in the manner set forth in NRS 453A.310.

5. *A person who holds a valid medical marijuana establishment registration certificate issued to the person pursuant to section 10 of this act or a valid medical marijuana establishment agent registration card issued to the person pursuant to section 13 of this act, and who confines his or her activities to those authorized by sections 10 to 20, inclusive, of this act and the regulations adopted by the Division pursuant thereto, is exempt from state prosecution for:*

(a) Possession, delivery or production of marijuana;

(b) Possession or delivery of paraphernalia;

(c) Aiding and abetting another in the possession, delivery or production of marijuana;

(d) Aiding and abetting another in the possession or delivery of paraphernalia;

(e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

6. Notwithstanding any other provision of law and except as otherwise provided in this subsection, after a medical marijuana dispensary opens in the county of residence of a person who holds a registry identification card or his or her designated primary caregiver, if any, such persons are not authorized to cultivate, grow or produce marijuana. The provisions of this subsection do not apply if:

(a) The person who holds the registry identification card or his or her designated primary caregiver, if any, was cultivating, growing or producing marijuana in accordance with this chapter on or before July 1, 2013;

(b) All the medical marijuana dispensaries in the county of residence of the person who holds the registry identification card or his or her designated primary caregiver, if any, close or are unable to supply the quantity or strain of marijuana necessary for the medical use ~~of~~

~~(b) of the person to treat his or her specific medical condition;~~

(c) Because of illness or lack of transportation, the person who holds the registry identification card and his or her designated primary caregiver, if any, are unable reasonably to travel to a medical marijuana dispensary ~~for~~;
or

(d) No medical marijuana dispensary was operating within 25 miles of the residence of the person who holds the registry identification card at the time the person first applied for his or her registry identification card.

7. As used in this section, "marijuana" includes, without limitation, edible marijuana products ~~and~~ and marijuana-infused products.

Sec. 22.3. NRS 453A.200 is hereby amended to read as follows:

453A.200 1. Except as otherwise provided in this section and NRS 453A.300, a person who holds a valid registry identification card issued to the person pursuant to NRS 453A.220 or 453A.250 is exempt from state prosecution for:

- (a) Possession, delivery or production of marijuana;
- (b) Possession or delivery of paraphernalia;
- (c) Aiding and abetting another in the possession, delivery or production of marijuana;
- (d) Aiding and abetting another in the possession or delivery of paraphernalia;
- (e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and
- (f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

2. In addition to the provisions of subsections 1 and 5, no person may be subject to state prosecution for constructive possession, conspiracy or any other criminal offense solely for being in the presence or vicinity of the medical use of marijuana in accordance with the provisions of this chapter.

3. The exemption from state prosecution set forth in subsection 1 applies only to the extent that a person who holds a registry identification card issued

to the person pursuant to paragraph (a) of subsection 1 of NRS 453A.220 and the designated primary caregiver, if any, of such a person:

(a) Engage in or assist in, as applicable, the medical use of marijuana in accordance with the provisions of this chapter as justified to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; and

(b) Do not, at any one time, collectively possess, deliver or produce more than:

(1) Two and one-half ounces of usable marijuana in any one 14-day period;

(2) Twelve marijuana plants, irrespective of whether the marijuana plants are mature or immature; and

(3) A maximum allowable quantity of edible marijuana products and marijuana-infused products as established by regulation of the Division.

↪ The persons described in this subsection must ensure that the usable marijuana and marijuana plants described in this subsection are safeguarded in an enclosed, secure location.

4. If the persons described in subsection 3 possess, deliver or produce marijuana in an amount which exceeds the amount described in paragraph (b) of that subsection, those persons:

(a) Are not exempt from state prosecution for possession, delivery or production of marijuana.

(b) May establish an affirmative defense to charges of possession, delivery or production of marijuana, or any combination of those acts, in the manner set forth in NRS 453A.310.

5. A person who holds a valid medical marijuana establishment registration certificate issued to the person pursuant to section 10 of this act or a valid medical marijuana establishment agent registration card issued to the person pursuant to section 13 of this act, and who confines his or her activities to those authorized by sections 10 to 20, inclusive, of this act and the regulations adopted by the Division pursuant thereto, is exempt from state prosecution for:

(a) Possession, delivery or production of marijuana;

(b) Possession or delivery of paraphernalia;

(c) Aiding and abetting another in the possession, delivery or production of marijuana;

(d) Aiding and abetting another in the possession or delivery of paraphernalia;

(e) Any combination of the acts described in paragraphs (a) to (d), inclusive; and

(f) Any other criminal offense in which the possession, delivery or production of marijuana or the possession or delivery of paraphernalia is an element.

6. Notwithstanding any other provision of law and except as otherwise provided in this subsection, after a medical marijuana dispensary opens in the

county of residence of a person who holds a registry identification card or his or her designated primary caregiver, if any, such persons are not authorized to cultivate, grow or produce marijuana. The provisions of this subsection do not apply if:

(a) ~~[(a)]~~ ~~The person who holds the registry identification card or his or her designated primary caregiver, if any, was cultivating, growing or producing marijuana in accordance with this chapter on or before July 1, 2013;~~

~~[(b)]~~ All the medical marijuana dispensaries in the county of residence of the person who holds the registry identification card or his or her designated primary caregiver, if any, close or are unable to supply the quantity or strain of marijuana necessary for the medical use of the person to treat his or her specific medical condition;

~~[(c)]~~ ~~(b)~~ Because of illness or lack of transportation, the person who holds the registry identification card and his or her designated primary caregiver, if any, are unable reasonably to travel to a medical marijuana dispensary; or

~~[(d)]~~ ~~(c)~~ No medical marijuana dispensary was operating within 25 miles of the residence of the person who holds the registry identification card at the time the person first applied for his or her registry identification card.

7. As used in this section, "marijuana" includes, without limitation, edible marijuana products and marijuana-infused products.

Sec. 22.35. NRS 453A.210 is hereby amended to read as follows:

453A.210 1. The Division shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this section.

2. Except as otherwise provided in subsections 3 and 5 and NRS 453A.225, the Division or its designee shall issue a registry identification card to a person who is a resident of this State and who submits an application on a form prescribed by the Division accompanied by the following:

(a) Valid, written documentation from the person's attending physician stating that:

(1) The person has been diagnosed with a chronic or debilitating medical condition;

(2) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

(3) The attending physician has explained the possible risks and benefits of the medical use of marijuana;

(b) The name, address, telephone number, social security number and date of birth of the person;

(c) Proof satisfactory to the Division that the person is a resident of this State;

(d) The name, address and telephone number of the person's attending physician; ~~and~~

(e) If the person elects to designate a primary caregiver at the time of application:

(1) The name, address, telephone number and social security number of the designated primary caregiver; and

(2) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver ~~to~~; and

(f) If the person elects to designate a medical marijuana dispensary at the time of application, the name of the medical marijuana dispensary.

3. The Division or its designee shall issue a registry identification card to a person who is under 18 years of age if:

(a) The person submits the materials required pursuant to subsection 2; and

(b) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age signs a written statement setting forth that:

(1) The attending physician of the person under 18 years of age has explained to that person and to the custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age the possible risks and benefits of the medical use of marijuana;

(2) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age consents to the use of marijuana by the person under 18 years of age for medical purposes;

(3) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to serve as the designated primary caregiver for the person under 18 years of age; and

(4) The custodial parent or legal guardian with responsibility for health care decisions for the person under 18 years of age agrees to control the acquisition of marijuana and the dosage and frequency of use by the person under 18 years of age.

4. The form prescribed by the Division to be used by a person applying for a registry identification card pursuant to this section must be a form that is in quintuplicate. Upon receipt of an application that is completed and submitted pursuant to this section, the Division shall:

(a) Record on the application the date on which it was received;

(b) Retain one copy of the application for the records of the Division; and

(c) Distribute the other four copies of the application in the following manner:

(1) One copy to the person who submitted the application;

(2) One copy to the applicant's designated primary caregiver, if any;

(3) One copy to the Central Repository for Nevada Records of Criminal History; and

(4) One copy to:

(I) If the attending physician of the applicant is licensed to practice medicine pursuant to the provisions of chapter 630 of NRS, the Board of Medical Examiners; or

(II) If the attending physician of the applicant is licensed to practice osteopathic medicine pursuant to the provisions of chapter 633 of NRS, the State Board of Osteopathic Medicine.

➡ The Central Repository for Nevada Records of Criminal History shall report to the Division its findings as to the criminal history, if any, of an applicant within 15 days after receiving a copy of an application pursuant to subparagraph (3) of paragraph (c). The Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, shall report to the Division its findings as to the licensure and standing of the applicant's attending physician within 15 days after receiving a copy of an application pursuant to subparagraph (4) of paragraph (c).

5. The Division shall verify the information contained in an application submitted pursuant to this section and shall approve or deny an application within 30 days after receiving the application. The Division may contact an applicant, the applicant's attending physician and designated primary caregiver, if any, by telephone to determine that the information provided on or accompanying the application is accurate. The Division may deny an application only on the following grounds:

(a) The applicant failed to provide the information required pursuant to subsections 2 and 3 to:

(1) Establish the applicant's chronic or debilitating medical condition;
or

(2) Document the applicant's consultation with an attending physician regarding the medical use of marijuana in connection with that condition;

(b) The applicant failed to comply with regulations adopted by the Division, including, without limitation, the regulations adopted by the Administrator pursuant to NRS 453A.740;

(c) The Division determines that the information provided by the applicant was falsified;

(d) The Division determines that the attending physician of the applicant is not licensed to practice medicine or osteopathic medicine in this State or is not in good standing, as reported by the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable;

(e) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has been convicted of knowingly or intentionally selling a controlled substance;

(f) The Division has prohibited the applicant from obtaining or using a registry identification card pursuant to subsection 2 of NRS 453A.300;

(g) The Division determines that the applicant, or the applicant's designated primary caregiver, if applicable, has had a registry identification card revoked pursuant to NRS 453A.225; or

(h) In the case of a person under 18 years of age, the custodial parent or legal guardian with responsibility for health care decisions for the person has not signed the written statement required pursuant to paragraph (b) of subsection 3.

6. The decision of the Division to deny an application for a registry identification card is a final decision for the purposes of judicial review. Only the person whose application has been denied or, in the case of a person under 18 years of age whose application has been denied, the person's parent or legal guardian, has standing to contest the determination of the Division. A judicial review authorized pursuant to this subsection must be limited to a determination of whether the denial was arbitrary, capricious or otherwise characterized by an abuse of discretion and must be conducted in accordance with the procedures set forth in chapter 233B of NRS for reviewing a final decision of an agency.

7. A person whose application has been denied may not reapply for 6 months after the date of the denial, unless the Division or a court of competent jurisdiction authorizes reapplication in a shorter time.

8. Except as otherwise provided in this subsection, if a person has applied for a registry identification card pursuant to this section and the Division has not yet approved or denied the application, the person, and the person's designated primary caregiver, if any, shall be deemed to hold a registry identification card upon the presentation to a law enforcement officer of the copy of the application provided to him or her pursuant to subsection 4. ~~[A person may not be deemed to hold a registry identification card for a period of more than 30 days after the date on which the Division received the application.]~~

9. As used in this section, "resident" has the meaning ascribed to it in NRS 483.141.

Sec. 22.4. NRS 453A.220 is hereby amended to read as follows:

453A.220 1. If the Division approves an application pursuant to subsection 5 of NRS 453A.210, the Division or its designee shall, as soon as practicable after the Division approves the application:

(a) Issue a serially numbered registry identification card to the applicant; and

(b) If the applicant has designated a primary caregiver, issue a serially numbered registry identification card to the designated primary caregiver.

2. A registry identification card issued pursuant to paragraph (a) of subsection 1 must set forth:

(a) The name, address, photograph and date of birth of the applicant;

(b) The date of issuance and date of expiration of the registry identification card;

(c) The name and address of the applicant's designated primary caregiver, if any; ~~and~~

(d) The name of the applicant's designated medical marijuana dispensary, if any;

(e) Whether the applicant is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200; and

(f) Any other information prescribed by regulation of the Division.

3. A registry identification card issued pursuant to paragraph (b) of subsection 1 must set forth:

(a) The name, address and photograph of the designated primary caregiver;

(b) The date of issuance and date of expiration of the registry identification card;

(c) The name and address of the applicant for whom the person is the designated primary caregiver; ~~and~~

(d) The name of the designated primary caregiver's designated medical marijuana dispensary, if any;

(e) Whether the designated primary caregiver is authorized to cultivate, grow or produce marijuana pursuant to subsection 6 of NRS 453A.200; and

(f) Any other information prescribed by regulation of the Division.

4. Except as otherwise provided in NRS 453A.225, subsection 3 of NRS 453A.230 and subsection 2 of NRS 453A.300, a registry identification card issued pursuant to this section is valid for a period of 1 year and may be renewed in accordance with regulations adopted by the Division.

Sec. 22.45. NRS 453A.230 is hereby amended to read as follows:

453A.230 1. A person to whom the Division or its designee has issued a registry identification card pursuant to paragraph (a) of subsection 1 of NRS 453A.220 shall, in accordance with regulations adopted by the Division:

(a) Notify the Division of any change in the person's name, address, telephone number, designated medical marijuana dispensary, attending physician or designated primary caregiver, if any; and

(b) Submit annually to the Division:

(1) Updated written documentation from the person's attending physician in which the attending physician sets forth that:

(I) The person continues to suffer from a chronic or debilitating medical condition;

(II) The medical use of marijuana may mitigate the symptoms or effects of that condition; and

(III) The attending physician has explained to the person the possible risks and benefits of the medical use of marijuana; and

(2) If the person elects to designate a primary caregiver for the subsequent year and the primary caregiver so designated was not the person's designated primary caregiver during the previous year:

(I) The name, address, telephone number and social security number of the designated primary caregiver; and

(II) A written, signed statement from the person's attending physician in which the attending physician approves of the designation of the primary caregiver.

2. A person to whom the Division or its designee has issued a registry identification card pursuant to paragraph (b) of subsection 1 of NRS 453A.220 or pursuant to NRS 453A.250 shall, in accordance with

regulations adopted by the Division, notify the Division of any change in the person's name, address, telephone number, designated medical marijuana dispensary or the identity of the person for whom he or she acts as designated primary caregiver.

3. If a person fails to comply with the provisions of subsection 1 or 2, the registry identification card issued to the person shall be deemed expired. If the registry identification card of a person to whom the Division or its designee issued the card pursuant to paragraph (a) of subsection 1 of NRS 453A.220 is deemed expired pursuant to this subsection, a registry identification card issued to the person's designated primary caregiver, if any, shall also be deemed expired. Upon the deemed expiration of a registry identification card pursuant to this subsection:

(a) The Division shall send, by certified mail, return receipt requested, notice to the person whose registry identification card has been deemed expired, advising the person of the requirements of paragraph (b); and

(b) The person shall return his or her registry identification card to the Division within 7 days after receiving the notice sent pursuant to paragraph (a).

Sec. 22.5. NRS 453A.300 is hereby amended to read as follows:

453A.300 1. A person who holds a registry identification card issued to him or her pursuant to NRS 453A.220 or 453A.250 is not exempt from state prosecution for, nor may the person establish an affirmative defense to charges arising from, any of the following acts:

(a) Driving, operating or being in actual physical control of a vehicle or a vessel under power or sail while under the influence of marijuana.

(b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120, 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420, 488.425 or 493.130.

(c) Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS 202.257.

(d) Possessing marijuana in violation of NRS 453.336 or possessing ~~drug~~ paraphernalia in violation of NRS 453.560 or 453.566, if the possession of the marijuana or ~~drug~~ paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:

(1) Any public place or in any place open to the public or exposed to public view; or

(2) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.

(e) Delivering marijuana to another person who he or she knows does not lawfully hold a registry identification card issued by the Division or its designee pursuant to NRS 453A.220 or 453A.250.

(f) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a registry identification card issued by the Division or its designee pursuant to NRS 453A.220 or 453A.250.

2. Except as otherwise provided in NRS 453A.225 and in addition to any other penalty provided by law, if the Division determines that a person has willfully violated a provision of this chapter or any regulation adopted by the Division to carry out the provisions of this chapter, the Division may, at its own discretion, prohibit the person from obtaining or using a registry identification card for a period of up to 6 months.

Sec. 23. NRS 453A.400 is hereby amended to read as follows:

453A.400 1. The fact that a person possesses a registry identification card issued to the person by the Division or its designee pursuant to NRS 453A.220 or 453A.250, *a medical marijuana establishment registration certificate issued to the person by the Division or its designee pursuant to section 10 of this act or a medical marijuana establishment agent registration card issued to the person by the Division or its designee pursuant to section 13 of this act* does not, alone:

(a) Constitute probable cause to search the person or the person's property; or

(b) Subject the person or the person's property to inspection by any governmental agency.

2. Except as otherwise provided in this subsection, if officers of a state or local law enforcement agency seize marijuana, ~~{drug}~~ paraphernalia or other related property from a person engaged in, *facilitating* or assisting in the medical use of marijuana:

(a) The law enforcement agency shall ensure that the marijuana, ~~{drug}~~ paraphernalia or other related property is not destroyed while in the possession of the law enforcement agency.

(b) Any property interest of the person from whom the marijuana, ~~{drug}~~ paraphernalia or other related property was seized must not be forfeited pursuant to any provision of law providing for the forfeiture of property, except as part of a sentence imposed after conviction of a criminal offense.

(c) Upon a determination by the district attorney of the county in which the marijuana, ~~{drug}~~ paraphernalia or other related property was seized, or the district attorney's designee, that the person from whom the marijuana, ~~{drug}~~ paraphernalia or other related property was seized is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this chapter, the law enforcement agency shall immediately return to that person any usable marijuana, marijuana plants, ~~{drug}~~ paraphernalia or other related property that was seized.

➤ The provisions of this subsection do not require a law enforcement agency to care for live marijuana plants.

3. For the purposes of paragraph (c) of subsection 2, the determination of a district attorney or the district attorney's designee that a person is engaging in or assisting in the medical use of marijuana in accordance with the provisions of this chapter shall be deemed to be evidenced by:

(a) A decision not to prosecute;

(b) The dismissal of charges; or

(c) Acquittal.

Sec. 24. NRS 453A.740 is hereby amended to read as follows:

453A.740 The Administrator of the Division shall adopt such regulations as the Administrator determines are necessary to carry out the provisions of this chapter. The regulations must set forth, without limitation:

1. Procedures pursuant to which the Division will, in cooperation with the Department of Motor Vehicles, cause a registry identification card to be prepared and issued to a qualified person as a type of identification card described in NRS 483.810 to 483.890, inclusive. The procedures described in this subsection must provide that the Division will:

(a) Issue a registry identification card to a qualified person after the card has been prepared by the Department of Motor Vehicles; or

(b) Designate the Department of Motor Vehicles to issue a registry identification card to a person if:

(1) The person presents to the Department of Motor Vehicles valid documentation issued by the Division indicating that the Division has approved the issuance of a registry identification card to the person; and

(2) The Department of Motor Vehicles, before issuing the registry identification card, confirms by telephone or other reliable means that the Division has approved the issuance of a registry identification card to the person.

2. ~~{Criteria for determining whether a marijuana plant is a mature marijuana plant or an immature marijuana plant.~~

3. Fees for:

(a) Providing to an applicant an application for a registry identification card, which fee must not exceed ~~[\$50.]~~ \$25.; and

(b) Processing and issuing a registry identification card, which fee must not exceed ~~[\$150.]~~ \$75.

Sec. 24.3. NRS 453A.800 is hereby amended to read as follows:

453A.800 The provisions of this chapter do not:

1. Require an insurer, organization for managed care or any person or entity who provides coverage for a medical or health care service to pay for or reimburse a person for costs associated with the medical use of marijuana.

2. Require any employer to ~~{accommodate}~~ *allow* the medical use of marijuana in the workplace.

3. *Require an employer to modify the job or working conditions of a person who engages in the medical use of marijuana that are based upon the reasonable business purposes of the employer but the employer must attempt to make reasonable accommodations for the medical needs of an employee who engages in the medical use of marijuana if the employee holds a valid registry identification card, provided that such reasonable accommodation would not ~~pose~~ :*

(a) Pose a threat of harm or danger to persons or property or impose an undue hardship on the employer ~~if~~ ; or

(b) Prohibit the employee from fulfilling any and all of his or her job responsibilities.

Sec. 24.4. Chapter 372A of NRS is hereby amended by adding thereto a new section to read as follows:

1. An excise tax is hereby imposed on each wholesale sale in this State of marijuana by a cultivation facility to another medical marijuana establishment at the rate of 2 percent of the sales price of the marijuana. The excise tax imposed pursuant to this subsection is the obligation of the cultivation facility.

2. An excise tax is hereby imposed on each wholesale sale in this State of edible marijuana products or marijuana-infused products by a facility for the production of edible marijuana products or marijuana-infused products to another medical marijuana establishment at the rate of 2 percent of the sales price of those products. The excise tax imposed pursuant to this subsection is the obligation of the facility for the production of edible marijuana products or marijuana-infused products which sells the edible marijuana products or marijuana-infused products to the other medical marijuana establishment.

3. An excise tax is hereby imposed on each retail sale in this State of marijuana, edible marijuana products or marijuana-infused products by a medical marijuana dispensary at the rate of 2 percent of the sales price of the marijuana, edible marijuana products or marijuana-infused products. The excise tax imposed pursuant to this subsection:

(a) Is the obligation of the medical marijuana dispensary.

(b) Is separate from and in addition to any general state and local sales and use taxes that apply to retail sales of tangible personal property.

(c) Must be considered part of the total retail price to which general state and local sales and use taxes apply.

4. The revenues collected from the excise taxes imposed pursuant to subsections 1, 2 and 3 must be distributed as follows:

(a) Seventy-five percent must be paid over as collected to the State Treasurer to be deposited to the credit of the State Distributive School Account in the State General Fund.

(b) Twenty-five percent must be expended to pay the costs of the Health Division of the Department of Health and Human Services in carrying out the provisions of sections 10 to 20, inclusive, of this act.

5. The Department shall review regularly the rates of the excise taxes imposed pursuant to subsections 1, 2 and 3 and make recommendations to the Legislature, as appropriate, regarding adjustments that the Department determines would benefit the residents of this State.

6. As used in this section:

(a) "Cultivation facility" has the meaning ascribed to it in section 3.5 of this act.

(b) "Edible marijuana products" has the meaning ascribed to it in section 5.3 of this act.

(c) "Facility for the production of edible marijuana products or marijuana-infused products" has the meaning ascribed to it in section 7.3 of this act.

(d) "Marijuana-infused products" has the meaning ascribed to it in section 7.9 of this act.

(e) "Medical marijuana dispensary" has the meaning ascribed to it in section 8 of this act.

(f) "Medical marijuana establishment" has the meaning ascribed to it in section 8.3 of this act.

Sec. 24.5. NRS 372A.060 is hereby amended to read as follows:

372A.060 1. This chapter does not apply to ~~any~~ :

(a) Any person who is registered or exempt from registration pursuant to NRS 453.226 or any other person who is lawfully in possession of a controlled substance ~~[-]~~ ; or

(b) ~~Any~~ Except as otherwise provided in section 24.4 of this act, any person who acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells or dispenses marijuana for the medical use of marijuana as authorized pursuant to chapter 453A of NRS.

2. Compliance with this chapter does not immunize a person from criminal prosecution for the violation of any other provision of law.

Sec. 24.7. NRS 372A.070 is hereby amended to read as follows:

372A.070 1. A person shall not sell, offer to sell or possess with the intent to sell a controlled substance unless he or she first:

(a) Registers with the Department as a dealer in controlled substances and pays an annual fee of \$250; and

(b) Pays a tax on:

(1) ~~Each gram of marijuana, or portion thereof, of \$100;~~

~~(2)~~ Each gram of ~~any other~~ a controlled substance, or portion thereof, of \$1,000; and

~~{(3)}~~ (2) Each 50 dosage units of a controlled substance that is not sold by weight, or portion thereof, of \$2,000.

2. For the purpose of calculating the tax imposed by ~~subparagraphs~~ subparagraph (1) ~~and (2)~~ of paragraph (b) of subsection 1, the controlled substance must be measured by the weight of the substance in the dealer's possession, including the weight of any material, compound, mixture or preparation that is added to the controlled substance.

3. The Department shall not require a registered dealer to give his or her name, address, social security number or other identifying information on any return submitted with the tax.

4. Any person who violates subsection 1 is subject to a civil penalty of 100 percent of the tax in addition to the tax imposed by subsection 1. Any civil penalty imposed pursuant to this subsection must be collected as part of the tax.

5. The district attorney of any county in which a dealer resides may institute and conduct the prosecution of any action for violation of subsection 1.

6. Property forfeited or subject to forfeiture pursuant to NRS 453.301 must not be used to satisfy a fee, tax or penalty imposed by this section.

7. *As used in this section ~~f, "controlled":~~*

(a) "Controlled substance" does not include marijuana ~~f, f~~, edible marijuana products or marijuana-infused products.

(b) "Edible marijuana products" has the meaning ascribed to it in section 5.3 of this act.

(c) "Marijuana-infused products" has the meaning ascribed to it in section 7.9 of this act.

Sec. 24.9. Section 19.5 of this act is hereby amended to read as follows:

Sec. 19.5 1. The State of Nevada and the medical marijuana dispensaries in this State which hold valid medical marijuana establishment registration certificates will recognize a nonresident card only under the following circumstances:

(a) The state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of marijuana;

(b) The state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of such a card, that a physician advise the person that the medical use of marijuana may mitigate the symptoms or effects of the person's medical condition;

(c) The nonresident card has an expiration date and has not yet expired;

~~(d) The holder or bearer of the nonresident card signs an affidavit in a form prescribed by the Division which sets forth that the holder or bearer is entitled to engage in the medical use of marijuana in his or her state or jurisdiction of residence; and~~

~~(e) *state or jurisdiction from which the holder or bearer obtained the nonresident card maintains a database which preserves such information as may be necessary to verify the authenticity or validity of the nonresident card;*~~

(e) The state or jurisdiction from which the holder or bearer obtained the nonresident card allows the Division and medical marijuana dispensaries in this State to access the database described in paragraph (d);

(f) The Division determines that the database described in paragraph (d) is able to provide to medical marijuana dispensaries in this State information that is sufficiently accurate, current and specific as to allow those dispensaries to verify that a person who holds or bears a nonresident card is entitled lawfully to do so; and

(g) The holder or bearer of the nonresident card agrees to abide by, and does abide by, the legal limits on the possession of marijuana for medical purposes in this State, as set forth in NRS 453A.200.

2. For the purposes of the reciprocity described in this section:

(a) The amount of medical marijuana that the holder or bearer of a nonresident card is entitled to possess in his or her state or jurisdiction of residence is not relevant; and

(b) Under no circumstances, while in this State, may the holder or bearer of a nonresident card possess marijuana for medical purposes in excess of the limits set forth in NRS 453A.200.

3. As used in this section, "nonresident card" means a card or other identification that:

(a) Is issued by a state or jurisdiction other than Nevada; and

(b) Is the functional equivalent of a registry identification card, as determined by the Division.

Sec. 25. On or before ~~January~~ April 1, 2014, the Health Division of the Department of Health and Human Services shall adopt the regulations required pursuant to section 20 of this act.

Sec. 25.5. 1. If the Director of the Department of Health and Human Services determines that the revenues from the fees collected pursuant to section 12 of this act are not sufficient in Fiscal Year 2013-2014 or Fiscal Year 2014-2015 to pay authorized expenditures necessary to carry out sections 10 to 20, inclusive of this act, the Director of the Department of Health and Human Services may request from the Director of the Department of Administration a temporary advance from the State General Fund for the payment of authorized expenditures to carry out sections 10 to 20, inclusive of this act.

2. The Director of the Department of Administration shall provide written notification to the State Controller and to the Senate and Assembly Fiscal Analysts of the Fiscal Analysis Division of the Legislative Counsel Bureau if the Director of the Department of Administration approves a request made pursuant to subsection 1. The State Controller shall draw a warrant upon receipt of the approval by the Director of the Department of Administration.

3. Any money which is temporarily advanced from the State General Fund to the Director of the Department of Health and Human Services pursuant to this section must be repaid on or before the last business day in August immediately following the end of Fiscal Year 2013-2014 and Fiscal Year 2014-2015, respectively.

Sec. 26. 1. This section and section 25.5 of this act become effective upon passage and approval.

2. Sections 1 to ~~25~~, 22, inclusive, 22.35 to 24.7, inclusive, and 25 of this act become effective upon passage and approval for the purpose of adopting regulations and carrying out other preparatory administrative acts, and on ~~January~~ April 1, 2014, for all other purposes.

3. Sections 22.3 and 24.9 of this act become effective on April 1, 2016.

4. Sections 14 and 15 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to

restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
➔ are repealed by the Congress of the United States.

Senator Smith moved that the Senate concur in the Assembly Amendment No. 961 to Senate Bill No. 374.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 406.

The following Assembly Amendment was read:

Amendment No. 963.

"SUMMARY—Revises provisions governing tourism improvement districts. (BDR 21-139)"

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

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

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

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

(b) Without any election, acquire, improve, equip, operate and maintain a project within a district created pursuant to paragraph (a). The project may be owned by the municipality, another governmental entity, any other person, or any combination thereof.

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

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

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

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

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

3. A district created pursuant to this section by:

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

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

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

~~[4. The]~~

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

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

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

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

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

6. *As used in this section:*

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

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

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

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

1. If the ordinance:

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

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

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

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

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

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

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

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

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

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

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

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

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

5-} If the governing body is not the board of county commissioners for the county in which the tourism improvement district is or will be located, the governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of county commissioners in the county in which the tourism improvement district is or will be located:

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

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

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

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

(a) As a result of the project:

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

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

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

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

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

~~(a) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to subsection 4 by the school district in which the tourism improvement district is or will be located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide an appropriate fiscal report; and~~

~~(b) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to~~

~~the school district in which the tourism improvement district is or will be located during the term of the use of any money pledged pursuant to NRS 271A.070. The payments may be provided pursuant to agreements with owners of property within the district authorized by NRS 271A.110 or from sources other than the owners of property within the district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the use of any money pledged pursuant to NRS 271A.070.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

271A.110 1. The governing body of a municipality may, except as otherwise provided in subsection 2, enter into an agreement with one or more of the owners of any interest in property within a district, pursuant to which that owner would agree to make payments to the municipality or to another local government that provides services in the district, or to both, to defray, in whole or in part, the cost of local governmental services during the term of the use of any money pledged pursuant to NRS 271A.070. Such an agreement must specify the amount to be paid by the owner of the property interest, which may be stated as a specified amount per year or as an amount based upon any formula upon which the municipality and owner agree.

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

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

~~(b) The Governor requires a commitment from the municipality for the provision of specified payments to the school district in which the district is~~

~~located during the term of the use of any money pledged pursuant to NRS 271A.070.]~~

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

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

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

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

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

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

~~(1) A school district; or~~

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

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

all the persons and other entities that were entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

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

- (a) With respect to any bonds or notes issued pursuant to subsection 1; or
- (b) Under any agreements entered into pursuant to subsection 1,

↪ because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

4. No bond, note or other agreement issued or entered into pursuant to this section may be secured by or payable from the general fund of the municipality, the power of the municipality to levy ad valorem property taxes, or any source other than any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. No bond, note or other agreement issued or entered into pursuant to this section may ever become a general obligation of the municipality or a charge against its general credit or taxing powers, nor may any such bond, note or other agreement become a debt of the municipality for purposes of any limitation on indebtedness.

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

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

271A.125 ~~{The}~~

1. *The governing body of a municipality:*

~~{1.}~~ (a) Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to provide any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor.

~~{2.}~~ (b) Shall not ~~{with}~~ :

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

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

~~{(b)}~~ (II) Any project that includes the relocation on or after July 1, 2011, to the district of any retail facilities of a retailer from another location outside

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

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

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

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

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

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

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

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

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

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

➤ shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public

work pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The governing body of the municipality, the contractor who is awarded the contract or enters into the agreement to perform the construction, improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body of the municipality had undertaken the project or had awarded the contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[2]~~ 5. A governing body of a municipality that receives a notice of an advertisement for bids pursuant to paragraph (b) of subsection 1 ~~[4]~~ or subsection 2:

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

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

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

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

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

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

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

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

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

(c) Third, to the credit of any other funds and accounts to which the money would have been distributed, if not for the pledge of the money

pursuant to that ordinance, for the fiscal year in which the State Controller receives the money.

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

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

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

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

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

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

Senator Smith moved that the Senate concur in the Assembly Amendment No. 963 to Senate Bill No. 406.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 407.

The following Assembly Amendment was read:

Amendment No. 948.

"SUMMARY—Revises provisions governing the statewide performance evaluation system for teachers and administrators. (BDR 34-143)"

"AN ACT relating to education; revising provisions governing the policies for the evaluation of teachers and school-based administrators; requiring the State Board of Education to prescribe the pupil achievement data to be used in the evaluation of teachers and school-based administrators; requiring the Teachers and Leaders Council of Nevada to make recommendations to the State Board concerning the evaluation of counselors, librarians and other licensed educational personnel; temporarily delaying the implementation of a program of performance pay and enhanced compensation for teachers and administrators by school districts; temporarily delaying the implementation of the statewide performance evaluation system and providing for a validation study of the system for teachers and school-based administrators and a

validation study for counselors, librarians and other licensed educational personnel; authorizing a school district to submit an application to the Department of Education to opt out of the delay of the implementation of the statewide performance evaluation system for its teachers and school-based administrators; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district to establish a program of performance pay and enhanced compensation for licensed teachers and administrators and requires each board to implement the program commencing with the 2014-2015 school year. (NRS 391.168) Section 2 of this bill delays the implementation of the program to the 2015-2016 school year.

Existing law requires that, effective July 1, 2013, the policies for the evaluation of teachers and administrators must: (1) designate an employee's overall performance as "highly effective," "effective," "minimally effective" or "ineffective"; and (2) provide that certain information on pupil achievement data maintained by the automated system of accountability information for Nevada must account for at least 50 percent of the evaluation. (NRS 391.3125, 391.3127) Sections 4, 5 and 10 of this bill change the source of the pupil achievement data, upon which 50 percent of the evaluation is based, to data prescribed by the State Board of Education. Sections 4 and 5 also set forth an observation schedule for the evaluation of teachers and administrators based upon the evaluation designation of the employee in the immediately preceding school year. In addition, sections 4 and 5 provide that pupil achievement data must not be used in the evaluation of a probationary teacher or probationary administrator in his or her initial year of employment, with the exception of a postprobationary teacher or administrator who is deemed to be a probationary employee. Section 5 further provides that the policy for the evaluation of administrators applies only to those administrators who primarily provide administrative services at the school level and who do not primarily provide direct instructional services to pupils.

Under existing law, the Teachers and Leaders Council of Nevada is required to make recommendations to the State Board for the establishment of the statewide performance evaluation system for teachers and administrators. (NRS 391.450-391.465) Section 9 of this bill requires the Council to also: (1) make recommendations to the State Board for the evaluation of school counselors, librarians and other licensed educational personnel; and (2) develop and recommend to the State Board a process for peer evaluations of teachers by qualified educational personnel. Section 16 of this bill makes an appropriation to the Teachers and Leaders Council of Nevada for costs associated with the work of the Council.

Sections 16.3-22 of this bill address the period during which the new statewide performance evaluation system will be implemented. Section 19

provides for a validation study of the statewide performance evaluation system for the 2013-2014 school year, with a representative sample of teachers and school-based administrators selected by the Department of Education in consultation with the participating school districts. Sections 17-18.7 provide that for the 2013-2014 school year, all teachers and administrators who are employed by school districts that participate in the validation study and all counselors, librarians and other licensed educational personnel employed by each school district will be evaluated in accordance with the system for evaluations pursuant to which employees are designated as "satisfactory" or "unsatisfactory." Section 16.5 authorizes a school district to submit an application to the Department of Education to opt out of the delay of the statewide performance evaluation system and implement the system for its teachers and administrators commencing with the 2013-2014 school year. Section 16.5 further provides that if such an application is approved by the Department, the school district ~~must not~~ is not required to participate in the validation study for its teachers and school-based administrators ~~but~~ but may, upon approval of the Department, participate in a portion of the validation study. Section 16.3 authorizes the Department of Education to request a work program revision to transfer, in the second year of the biennium, money that is in the Reserve Category to the Regional Professional Development Category for use by the regional training programs for the professional development of teachers and administrators to implement the statewide performance evaluation system. Section 16.3 also requires the Department of Education, on or before August 1, 2014, to submit a report of the results of the validation study and the Department's determination of whether all school districts are prepared to implement the statewide performance evaluation system for the 2014-2015 school year. Section 16.3 further requires the Interim Finance Committee to make a determination whether all school districts are prepared to implement the statewide performance evaluation system for the 2014-2015 school year. If the Interim Finance Committee determines that all school districts are prepared: (1) all school districts that participated in the validation study shall implement the statewide performance evaluation system for its teachers and school-based administrators commencing with the 2014-2015 school year; and (2) the Department of Education may request a work program revision to transfer not more than \$1,315,000 for use by the regional training programs. If the Interim Finance Committee determines that all school districts are not prepared: (1) a second validation study of the statewide performance evaluation system for teachers and school-based administrators must be conducted for the 2014-2015 school year; and (2) the Department of Education may request a work program revision to transfer not more than \$986,250 for use by the regional training programs. Section 16.7 authorizes a school district that participated in the validation study for the 2013-2014 school year to submit an application to the Department of Education to opt out of the delay of the statewide performance evaluation system and

implement the system for its teachers and school-based administrators commencing with the 2014-2015 school year. For the 2014-2015 school year, the Department of Education, in consultation with the 17 school districts, is required to select a representative sample of counselors, librarians and other licensed educational personnel, except for teachers and administrators, to undergo evaluations under the new statewide performance evaluation system in addition to being evaluated under the "satisfactory" or "unsatisfactory" system. Commencing with the 2015-2016 school year, all counselors, librarians and other licensed educational personnel are required to be evaluated pursuant to the new statewide performance evaluation system. Sections 19 and 21 prohibit the basing of any decisions regarding an employee's suspension, demotion, dismissal or refusal to reemploy upon the evaluations conducted as part of either validation study.

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

Section 1. NRS 386.650 is hereby amended to read as follows:

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, the sponsors of charter schools, the school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➔ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction. ~~[The information]~~ *Except as otherwise provided in subsection 9 of NRS 391.3125 and subsection 8 of NRS 391.3127, information on pupil achievement data, as prescribed by the State Board pursuant to NRS 391.465, must account for at least 50 percent, but must not be used as the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher or other employee.*

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

- (1) Individual pupils;
- (2) Individual teachers;
- (3) Individual schools and school districts; and
- (4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 1.5. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

On or before August 1 of each year, the board of trustees of each school district shall submit a report to the State Board and the Teachers and Leaders Council of Nevada created by NRS 391.455 concerning the implementation and effectiveness of the process for peer evaluations of teachers set forth in the regulations adopted by the State Board pursuant to paragraph (f) of subsection 2 of NRS 391.465, including, without limitation, any recommendations for revisions to the process of peer evaluations.

Sec. 2. NRS 391.168 is hereby amended to read as follows:

391.168 1. The board of trustees of each school district shall:

(a) Establish a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators which must be negotiated pursuant to chapter 288 of NRS; and

(b) Commencing with the ~~2014-2015~~ 2015-2016 school year, implement the program established pursuant to paragraph (a).

2. The program of performance pay and enhanced compensation established by a school district pursuant to subsection 1 must have as its primary focus the improvement in the academic achievement of pupils and must give appropriate consideration to implementation in at-risk schools. In addition, the program may include, without limitation, the following components:

- (a) Career leadership advancement options to maximize the retention of teachers in the classroom and the retention of administrators;
- (b) Professional development;
- (c) Group incentives; and
- (d) Multiple assessments of individual teachers and administrators, with primary emphasis on individual pupil improvement and growth in academic achievement, including, without limitation, portfolios of instruction, leadership and professional growth, and other appropriate measures of teacher and administrator performance which must be considered.

Sec. 3. NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, do not apply to:

- (a) Substitute teachers; or
- (b) Adult education teachers.

2. The admonition, demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3194, inclusive, do not apply to:

(a) A probationary teacher. The policy for evaluations prescribed in NRS 391.3125 and 391.3128 applies to a probationary teacher.

(b) A new employee who is employed as a probationary administrator ~~[-]~~ *primarily to provide administrative services at the school level and not primarily to provide direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal.* The policy for evaluations prescribed in NRS 391.3127 and 391.3128 applies to *such* a probationary administrator.

3. The admonition, demotion and suspension provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a postprobationary teacher who is employed as a probationary administrator *primarily to provide administrative services at the school level and not primarily to provide direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal,* with respect to his or her employment in the administrative position. The policy for evaluations prescribed in NRS 391.3127 and 391.3128 applies to *such* a probationary administrator.

4. The provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.

5. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, for demotion, suspension or dismissal apply to them.

Sec. 4. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must comply with the statewide performance evaluation system established by the State Board pursuant to NRS 391.465. The policy must set forth a means according to which an employee's overall performance is determined to be highly effective, effective, minimally effective or ineffective. ~~{The}~~ *Except as otherwise provided in subsection 9, the policy must require that the information maintained pursuant to paragraphs (e), (d) and (c) of subsection 1 of NRS 386.650, pupil achievement data, as prescribed by the State Board pursuant to NRS 391.465, account for at least 50 percent of the evaluation.* The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated. ~~[on forms developed specifically for their respective specialties.]~~ A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. ~~{A conference and a written evaluation for a probationary employee must be concluded not later than:~~

~~(a) December 1;~~

~~(b) February 1; and~~

~~(c) April 1;~~

~~→ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during~~

~~each evaluation period, with at least one observation during that 60 minute evaluation period consisting of at least 45 consecutive minutes.~~

~~4. Except as otherwise provided in this subsection, each postprobationary teacher must be evaluated at least once each year.} The person charged with the evaluation of a teacher pursuant to this section shall hold a conference with the teacher before and after each scheduled observation of the teacher during the school year.~~

4. A probationary teacher must be evaluated three times during each school year of his or her probationary employment. Each evaluation must include at least one scheduled observation of the teacher during the school year as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

5. If a postprobationary teacher receives an evaluation designating his or her overall performance as minimally effective or ineffective, the postprobationary teacher must be evaluated three times in the immediately succeeding school year ~~{. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60 minute evaluation period consisting of at least 30 consecutive minutes.}~~ in accordance with the observation schedule set forth in subsection 4. If a postprobationary teacher is evaluated three times in a school year and he or she receives an evaluation designating his or her overall performance as minimally effective or ineffective on the first or second evaluation, or both evaluations, the postprobationary teacher may request that the third evaluation be conducted by another administrator. If a postprobationary teacher requests that his or her third evaluation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

~~{5.}~~ 6. If a postprobationary teacher receives an evaluation designating his or her overall performance as effective, the postprobationary teacher must be evaluated one time in the immediately succeeding school year. The evaluation must include at least two scheduled observations as follows:

(a) The first scheduled observation must occur within 80 days after the first day of instruction of the school year; and

(b) The second scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

7. *If a postprobationary teacher receives an evaluation designating his or her overall performance as highly effective, the postprobationary teacher must be evaluated one time in the immediately succeeding school year. The evaluation must include at least one scheduled observation which must occur within 120 days after the first day of instruction of the school year.*

8. *The evaluation of a probationary teacher or a postprobationary teacher pursuant to this section must comply with the regulations of the State Board adopted pursuant to NRS 391.465, which must include, without limitation:*

- (a) An evaluation of the ~~classroom management skills of the teacher;~~*
- ~~(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;~~*
- ~~(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;~~*
- ~~(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;~~*
- ~~(e) instructional practice of the teacher in the classroom;~~*
- (b) An evaluation of the professional responsibilities of the teacher to support learning and promote the effectiveness of the school community;*
- (c) Except as otherwise provided in subsection 9, an evaluation of the performance of pupils enrolled in the school;*
- (d) An evaluation of whether the teacher employs practices and strategies to involve and engage the parents and families of pupils in the classroom;*
- ~~(f) If necessary, recommendations;~~*
- (e) Recommendations for improvements in the performance of the teacher;*
- ~~(g) (f) A description of the action that will be taken to assist the teacher in ~~correcting any deficiencies reported in the evaluation;~~ the areas of instructional practice, professional responsibilities and the performance of pupils; and~~*
- ~~(h) (g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.~~*

~~{6.}~~ 9. *The evaluation of a probationary teacher in his or her initial year of employment as a probationary teacher must not include e an evaluation of the performance of pupils enrolled in the school. This subsection does not apply to a postprobationary employee who is deemed to be a probationary employee pursuant to NRS 391.3129.*

10. *The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to ~~correct those deficiencies~~ improve his or her performance based upon*

the recommendations reported in the evaluation of the teacher . ~~[for which the teacher requests assistance.]~~

Sec. 5. NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. *The policy must provide for the evaluation of those administrators who provide primarily administrative services at the school level and who do not provide primarily direct instructional services to pupils, regardless of whether such an administrator is licensed as a teacher or administrator, including, without limitation, a principal and a vice principal.* The policy must comply with the statewide performance evaluation system established by the State Board pursuant to NRS 391.465. The policy must set forth a means according to which an administrator's overall performance is determined to be highly effective, effective, minimally effective or ineffective. ~~[The] Except as otherwise provided in subsection 8, the policy must require that [the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650]~~ *pupil achievement data, as prescribed by the State Board pursuant to NRS 391.465, account for at least 50 percent of the evaluation.* The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

2. ~~[Each administrator must be evaluated in writing at least once a year.~~

~~3.]~~ *The person charged with the evaluation of an administrator pursuant to this section shall hold a conference with the administrator before and after each scheduled observation of the administrator during the school year.*

3. *A probationary administrator must be evaluated three times during each school year of his or her probationary employment. Each evaluation must include at least one scheduled observation of the probationary administrator during the school year as follows:*

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

4. *If a postprobationary administrator receives an evaluation designating his or her overall performance as minimally effective or ineffective, the postprobationary administrator must be evaluated three times in the immediately succeeding school year in accordance with the observation schedule set forth in subsection 3. If a postprobationary administrator is evaluated three times in a school year and he or she receives an evaluation designating his or her overall performance as minimally*

effective or ineffective on the first or second evaluation, or both evaluations, the postprobationary administrator may request that the third evaluation be conducted by another administrator. If a postprobationary administrator requests that his or her third evaluation be conducted by another administrator, that administrator must be:

- (a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and*
- (b) Selected by the postprobationary administrator from a list of three candidates submitted by the superintendent.*

5. If a postprobationary administrator receives an evaluation designating his or her overall performance as effective, the postprobationary administrator must be evaluated one time in the immediately succeeding school year. The evaluation must include at least two scheduled observations as follows:

- (a) The first scheduled observation must occur within 80 days after the first day of instruction of the school year; and*
- (b) The second scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.*

6. If a postprobationary administrator receives an evaluation designating his or her overall performance as highly effective, the postprobationary administrator must be evaluated one time in the immediately succeeding school year. The evaluation must include at least one scheduled observation which must occur within 120 days after the first day of instruction of the school year.

7. The evaluation of an administrator pursuant to this section must comply with the regulations of the State Board adopted pursuant to NRS 391.465, which must include, without limitation:

- (a) An evaluation of the instructional leadership practices of the administrator at the school;*
- (b) An evaluation of the professional responsibilities of the administrator to support learning and promote the effectiveness of the school community;*
- (c) Except as otherwise provided in subsection 8, an evaluation of the performance of pupils enrolled in the school;*
- (d) An evaluation of whether the administrator employs practices and strategies to involve and engage the parents and families of pupils enrolled in the school;*
- (e) Recommendations for improvements in the performance of the administrator; and*
- (f) A description of the action that will be taken to assist the administrator in the areas of instructional leadership practice, professional responsibilities and the performance of pupils.*

8. The evaluation of a probationary administrator in his or her initial year of probationary employment must not include an evaluation of the performance of pupils enrolled in the school. This subsection does not apply

to a postprobationary employee who is deemed to be a probationary employee pursuant to NRS 391.3129.

9. Each probationary administrator is subject to the provisions of NRS 391.3128 and 391.3197.

~~[4.]~~ 10. Before a superintendent transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if the transfer or reassignment is to a position of lower rank, responsibility or pay, the superintendent shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent. The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

Sec. 6. NRS 391.3128 is hereby amended to read as follows:

391.3128 1. If a written evaluation of a probationary teacher, or a probationary administrator *who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal*, designates the overall performance of the teacher or administrator as "minimally effective" or "ineffective":

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive a 'minimally effective' or 'ineffective' evaluation on the first or second evaluation, or both evaluations for this school year, ~~and if you have another evaluation remaining this school year,~~ you may request that the *third* evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in ~~correcting the deficiencies~~ *improving your performance based upon the recommendations reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in* ~~correcting those deficiencies.~~ *improving your performance.*"

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator *to which subsection 1 applies* requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator *to which subsection 1 applies* requests assistance in correcting deficiencies reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for three 1-year periods and has no right to employment after any of the three probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first, second and third school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify the probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing on or before May 10 of the first, second or third year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in the first, second and third years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment pursuant to this subsection constitutes rejection of the contract.

3. A probationary employee who:

- (a) Completes a 3-year probationary period;
 - (b) Receives a designation of "highly effective" or "effective" on each of his or her performance evaluations for 2 consecutive school years; and
 - (c) Receives a notice of reemployment from the school district in the third year of the employee's probationary period,
- ➔ is entitled to be a postprobationary employee in the ensuing year of employment.

4. If a probationary employee is notified that the employee will not be reemployed for the school year following the 3-year probationary period, his or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.

5. A new employee who is employed as an administrator *to provide primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal*, or a postprobationary teacher who is employed as an administrator *to provide those administrative services* shall be deemed to be a probationary employee for the purposes of this section and must serve a 3-year probationary period as an administrator in accordance with the provisions of this section. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after any year of his or her probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

→ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

6. An administrator who has completed his or her probationary period pursuant to subsection 5 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If an administrator is promoted to the position of principal before completion of his or her probationary period pursuant to subsection 5, the administrator must serve the remainder of his or her probationary period pursuant to subsection 5 or an additional probationary period of 1 year in the position of principal, whichever is longer. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the probationary period or additional probationary period, as applicable, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

7. If a probationary employee receives notice that he or she will be dismissed before the completion of the current school year, the probationary employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization.

Sec. 8.5. NRS 391.450 is hereby amended to read as follows:

391.450 As used in NRS 391.450 to 391.465, inclusive, *and section 1.5 of this act*, "Council" means the Teachers and Leaders Council of Nevada created by NRS 391.455.

Sec. 9. NRS 391.460 is hereby amended to read as follows:

391.460 1. The Council shall:

(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers , ~~and~~ administrators *who provide primarily administrative services at the school level and who do not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal, counselors, librarians and other licensed educational personnel* employed by school districts are:

(1) Evaluated using multiple, fair, timely, rigorous and valid methods, which includes evaluations based upon pupil achievement data as required by NRS ~~386.650 and~~ 391.465;

(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and

(3) Provided with the means to share effective educational methods with other teachers , ~~and~~ administrators , *counselors, librarians and other licensed educational personnel* throughout this State.

(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.

(c) Consider the role of professional standards for teachers , ~~and~~ administrators *to which paragraph (a) applies, counselors, librarians and other licensed educational personnel* and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.

(d) *Develop and recommend to the State Board a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching.*

2. The performance evaluation system recommended by the Council must ensure that:

(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers , ~~and~~ administrators ~~and~~ , *counselors, librarians and other licensed educational personnel*; and

(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.

3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.

4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by NRS 391.465.

Sec. 10. NRS 391.465 is hereby amended to read as follows:

391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance.

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

- (1) Highly effective;
- (2) Effective;
- (3) Minimally effective; or
- (4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a).

(c) ~~Require~~ Except as otherwise provided in subsection 9 of NRS 391.3125 and subsection 8 of NRS 391.3127, require that ~~the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650~~ pupil achievement data account for at least 50 percent of the evaluation.

(d) Prescribe the pupil achievement data that must be used as part of the evaluation system pursuant to paragraph (c).

(e) Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.

(f) Include a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer reviews pursuant to the process.

Sec. 11. Section 22 of chapter 379, Statutes of Nevada 2011, at page 2298, is hereby amended to read as follows:

Sec. 22. The board of trustees of each school district shall:

1. Commencing with the ~~{2013-2104}~~ 2013-2014 school year, implement and carry out the policies for evaluations of teachers and administrators required by NRS 391.3125, as amended by section 14 of this act, NRS 391.3127, as amended by section 16 of this act, NRS 391.3197, as amended by section 19.5 of this act, and section 20 of this act.

2. Commencing with the 2013-2014 school year, implement and carry out section 20.5 of this act . ~~{if, and only if, Assembly Bill No. 225 of this session is enacted by the Legislature and becomes effective.}~~

3. Commencing with the ~~{2014-2015}~~ 2015-2016 school year, implement and carry out the program of performance pay and enhanced compensation established by the board of trustees pursuant to section 8 of this act.

Sec. 12. Section 23 of chapter 379, Statutes of Nevada 2011, at page 2298, is hereby amended to read as follows:

Sec. 23. 1. This section and sections 1 to 7, inclusive, 9 to 13, inclusive, 15, 17, 18, 19, 19.6, 19.7, 19.8, 21 and 22 of this act become effective on July 1, 2011.

2. Sections 8, 14, 16, 19.5 ~~{and}~~ , 20 and 20.5 of this act become effective on July 1, 2013.

~~{3. Section 20.5 of this act becomes effective on July 1, 2013, if, and only if, Assembly Bill No. 225 of this session is enacted by the Legislature and becomes effective.}~~

Sec. 13. Section 12 of chapter 487, Statutes of Nevada 2011, at page 3095, is hereby amended to read as follows:

Sec. 12. On or before ~~{June 1,}~~ August 15, 2013, the State Board of Education shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to section 6 of this act, adopt regulations establishing a statewide performance evaluation system for teachers and administrators that complies with section 7 of this act.

Sec. 14. (Deleted by amendment.)

Sec. 15. Section 21 of chapter 379, Statutes of Nevada 2011, at page 2298, is hereby repealed.

Sec. 16. 1. There is hereby appropriated from the Educational Trust Account in the State General Fund created by NRS 120A.610 to the Department of Education for the costs associated with the work of the Teachers and Leaders Council of Nevada created by NRS 391.455 required by the provisions of this act the following sums:

For the Fiscal Year 2013-2014 \$50,000

For the Fiscal Year 2014-2015 \$50,000

2. The sums appropriated by subsection 1 are available for either fiscal year. Any remaining balance of those sums must not be committed for expenditure after June 30, 2015, by the Department of Education or any entity to which money from the appropriation is granted or otherwise

transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2015, by either the Department of Education or the entity to which the money was subsequently granted or transferred, and must be reverted to the Educational Trust Account in the State General Fund on or before September 18, 2015.

Sec. 16.3. 1. On or before August 1, 2014, the Department of Education shall submit a report to the Interim Finance Committee which includes, without limitation:

(a) An assessment of the results of the validation study of the statewide performance evaluation system conducted pursuant to section 19 of this act;

(b) The effectiveness of each school district that participated in the validation study in implementing the statewide performance evaluation system; and

(c) The determination of the Department whether all school districts that participated in the validation study are prepared, commencing with the 2014-2015 school year, to implement the statewide performance evaluation system for all of its teachers and administrators.

2. On or before August 15, 2014, the Interim Finance Committee shall review the report submitted by the Department of Education pursuant to subsection 1 and make a determination whether all school districts that participated in the validation study are prepared to implement the statewide performance evaluation system for all of its teachers and administrators commencing with the 2014-2015 school year.

3. If the Interim Finance Committee determines that all school districts which participated in the validation study are prepared to implement, during the 2014-2015 school year, the statewide performance evaluation system:

(a) All school districts that participated in the validation study shall implement the statewide performance evaluation system adopted by the State Board of Education pursuant to NRS 391.465, as amended by section 10 of this act, for its teachers and administrators commencing with the 2014-2015 school year and each school year thereafter.

(b) The Department of Education may request a work program revision pursuant to NRS 353.220 to transfer not more than \$1,315,000 from the Reserve Category to the Regional Professional Development Category in the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 for use by the regional training programs for the professional development of teachers and administrators to implement the statewide performance evaluation system.

4. If the Interim Finance Committee determines that all school districts that participated in the validation study are not prepared to implement, during the 2014-2015 school year, the statewide performance evaluation system:

(a) Except as otherwise provided in section 16.7 of this act, all school districts that participated in the validation study shall comply with the policies for the evaluations of teachers and administrators prescribed by sections 17 and 18 of this act for the 2014-2015 school year and also

participate in a second validation study of the statewide performance evaluation system for that school year pursuant to section 19 of this act.

(b) The Department of Education may request a work program revision pursuant to NRS 353.220 to transfer not more than \$986,250 from the Reserve Category to the Regional Professional Development Category in the Account for Programs for Innovation and the Prevention of Remediation created by NRS 385.379 for use by the regional training programs for the professional development of teachers and administrators to implement the statewide performance evaluation system.

5. On or before September 1, 2014, the Department of Education shall provide notice to the board of trustees of each school district concerning the determination made by the Interim Finance Committee pursuant to subsection 2.

6. As used in this section, "administrator" means an administrator employed by a school district who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal.

Sec. 16.5. 1. The board of trustees of a school district that is prepared, commencing with the 2013-2014 school year, to implement the statewide performance evaluation system adopted by the State Board of Education pursuant to NRS 391.465, as amended by section 10 of this act, for its teachers and administrators and does not want to delay the implementation of the evaluation system may submit an application on a form prescribed by the Department of Education which includes information demonstrating that the school district is prepared to implement the statewide performance evaluation system for all of its teachers and administrators and any other information requested by the Department.

2. Upon review of the application submitted pursuant to subsection 1, the Department of Education may approve the application if the Department determines that the school district is prepared to implement the statewide performance evaluation system commencing with the 2013-2014 school year and each school year thereafter.

3. A school district whose application is approved by the Department pursuant to subsection 2 ~~(must not)~~ is not required to participate in the validation study of the statewide performance evaluation system conducted pursuant to section 19 of this act during the 2013-2014 school year and, if applicable, the 2014-2015 school year. Upon the request of such a school district, the Department may authorize the school district to participate in a portion of the validation study.

4. As used in this section, "administrator" means an administrator employed by a school district who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal.

Sec. 16.7. 1. If the Interim Finance Committee makes a determination pursuant to section 16.3 of this act that all school districts which participated in the validation study pursuant to section 19 of this act are not prepared to implement the statewide performance evaluation system adopted by the State Board of Education pursuant to NRS 391.465, as amended by section 10 of this act, the board of trustees of a school district that participated in the validation study and that is prepared, commencing with the 2014-2015 school year, to implement the statewide performance evaluation system for its teachers and administrators and does not want to delay the implementation of the evaluation system may submit an application on a form prescribed by the Department of Education which includes information demonstrating that the school district is prepared to implement the evaluation system for all of its teachers and administrators and any other information requested by the Department.

2. Upon review of the application submitted pursuant to subsection 1, the Department of Education may approve the application if the Department determines that the school district is prepared to implement the statewide performance evaluation system commencing with the 2014-2015 school year.

3. A school district whose application is approved by the Department pursuant to subsection 2 ~~(must not)~~ is not required to participate in the validation study of the statewide performance evaluation system conducted pursuant to section 19 of this act for the 2014-2015 school year. Upon the request of such a school district, the Department may authorize the school district to participate in a portion of the validation study.

4. As used in this section, "administrator" means an administrator employed by a school district who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal.

Sec. 17. 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district. Except as otherwise provided in section 16.5 of this act, for the 2013-2014 school year, the board of trustees of each school district shall comply with the policy for the evaluation of teachers, counselors, librarians and other licensed educational personnel, except for administrators, as set forth in this section. For the 2014-2015 school year, the board of trustees of each school district shall comply with the policy for the evaluation of counselors, librarians and other licensed educational personnel, except for teachers and administrators, as set forth in this section.

2. Except as otherwise provided in sections 16.5 and 16.7 of this act, if the Interim Finance Committee makes a determination pursuant to section 16.3 of this act that all school districts which participated in the validation study of the statewide performance evaluation system pursuant to section 19 of this act are not prepared to implement the evaluation system, the board of trustees of each school district shall, for the 2014-2015 school

year, comply with the policy for the evaluation of teachers as set forth in this section.

3. Each board of trustees, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to be satisfactory or unsatisfactory. The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board of trustees. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board of trustees must be filed with the Department of Education. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

4. A conference and a written evaluation for a probationary employee must be concluded not later than:

- (a) December 1;
- (b) February 1; and
- (c) April 1,

↪ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board of trustees. An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.

5. Except as otherwise provided in this subsection, each postprobationary teacher must be evaluated at least once each year. If a postprobationary teacher receives an unsatisfactory evaluation, the postprobationary teacher must be evaluated three times in the immediately succeeding school year. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes. If a postprobationary teacher is evaluated three times in a school year and he or she receives an unsatisfactory evaluation on the first or second evaluation, or both evaluations, the postprobationary teacher may request that the third evaluation be conducted by another administrator. If a postprobationary teacher requests that his or

her third evaluation be conducted by another administrator, that administrator must be:

- (a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and
- (b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

6. The evaluation of a probationary teacher or a postprobationary teacher must include, without limitation:

- (a) An evaluation of the classroom management skills of the teacher;
- (b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;
- (c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;
- (d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;
- (e) If necessary, recommendations for improvements in the performance of the teacher;
- (f) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and
- (g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

7. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

Sec. 18. 1. Except as otherwise provided in section 16.5 of this act, for the 2013-2014 school year, the board of trustees of each school district shall comply with the policy for the evaluation of administrators as set forth in this section. Except as otherwise provided in sections 16.5 and 16.7 of this act, if the Interim Finance Committee makes a determination pursuant to section 16.3 of this act that all school districts which participated in the validation study of the statewide performance evaluation system pursuant to section 19 of this act are not prepared to implement the evaluation system, the board of trustees of each school district shall, for the 2014-2015 school year, comply with the policy for the evaluation of administrators as set forth in this section.

2. Each board of trustees, following consultation with and involvement of elected representatives of administrative personnel or their designated

representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must set forth a means according to which an administrator's overall performance may be determined to be satisfactory or unsatisfactory. The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for a significant portion of the evaluation, as determined by the board of trustees. The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board of trustees must be filed with the Department of Education and made available to the Commission on Professional Standards in Education.

3. Each administrator must be evaluated in writing at least once a year.

4. Each probationary administrator is subject to the provisions of NRS 391.3128 and 391.3197.

5. Before a superintendent of a school district transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if the transfer or reassignment is to a position of lower rank, responsibility or pay, the superintendent shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board of trustees by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent. The board of trustees shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board of trustees is final.

Sec. 18.5. 1. If a written evaluation of a probationary teacher or probationary administrator who is employed by a school district that conducts evaluations pursuant to sections 17 and 18 of this act for the 2013-2014 school year or the 2014-2015 school year, or both, designates the overall performance of the teacher or administrator as "unsatisfactory":

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive an 'unsatisfactory' evaluation on the first or second evaluation, or both evaluations for this school year, and if you have another evaluation remaining this school year, you may request that the evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in correcting the deficiencies reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in correcting those deficiencies."

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator requests assistance in correcting deficiencies reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

Sec. 18.7. 1. The provisions of this section apply to probationary employees who are employed by a school district that conducts evaluations pursuant to sections 17 and 18 of this act for the 2013-2014 school year or the 2014-2015 school year, or both, for each school year that the school district conducts evaluations pursuant to those sections.

2. A probationary employee is employed on a contract basis for three 1-year periods and has no right to employment after any of the three probationary contract years.

3. The board shall notify each probationary employee in writing on or before May 1 of the first, second and third school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify the probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing on or before May 10 of the first, second or third year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in the first, second and third years of the employee's probationary period, not later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment pursuant to this subsection constitutes rejection of the contract.

4. A probationary employee who:

- (a) Completes a 3-year probationary period;
 - (b) Receives a designation of "satisfactory" on each of his or her performance evaluations for 2 consecutive school years; and
 - (c) Receives a notice of reemployment from the school district in the third year of the employee's probationary period,
- is entitled to be a postprobationary employee in the ensuing year of employment.

5. If a probationary employee is notified that the employee will not be reemployed for the school year following the 3-year probationary period, his or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.

6. A new employee who is employed as an administrator or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 3-year probationary period as an administrator in accordance with the provisions of this section. If:

- (a) A postprobationary teacher who is an administrator is not reemployed as an administrator after any year of his or her probationary period; and
 - (b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,
- the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

7. An administrator who has completed his or her probationary period pursuant to subsection 6 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If an administrator is promoted to the position of principal before completion of his or her probationary period pursuant to subsection 6, the administrator must serve the remainder of his or her probationary period pursuant to subsection 6 or an additional probationary period of 1 year in the position of principal, whichever is longer. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the probationary period or additional probationary period, as applicable, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

8. If a probationary employee receives notice that he or she will be dismissed before the completion of the current school year, the probationary employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization.

Sec. 19. 1. Except as otherwise provided by section 16.5 of this act, each school district shall participate in the validation study of the statewide performance evaluation system adopted by the State Board of Education pursuant to NRS 391.465, as amended by section 10 of this act, for the 2013-2014 school year. Except as otherwise provided in sections 16.5 and 16.7 of this act, if the Interim Finance Committee makes a determination pursuant to section 16.3 of this act that all school districts which participated in the validation study of the statewide performance evaluation system for the 2013-2014 school year are not prepared to implement the evaluation system, those school districts must participate in a second validation study of the evaluation system for the 2014-2015 school year.

2. On or before August 1, 2013, and, if applicable, on or before August 1, 2014, the Department of Education shall, in consultation with the boards of trustees of the school districts that do not have an application approved by the Department to opt out of the delay of the implementation of the statewide performance evaluation system pursuant to section 16.5 or 16.7 of this act, as applicable, select a representative sample of teachers and administrators for a validation study of the statewide performance evaluation system adopted by the State Board of Education pursuant to NRS 391.465, as amended by section 10 of this act. In addition, if the Department has approved a school district that opted out of the delay of the implementation of the statewide performance evaluation system to participate in a portion of the validation study, the Department shall, in consultation with that school district, select a representative sample of teachers and administrators for the portion of the validation study the Department has approved for the school district's participation. The administrators selected for the validation study must provide primarily administrative services at the school level and not provide primarily direct instructional services to pupils, regardless of whether such an administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal. ~~Each school district shall participate in the validation study.~~

3. For the 2013-2014 school year and, if applicable, for the 2014-2015 school year:

(a) Some evaluations of teachers and administrators pursuant to the statewide performance evaluation system adopted by the State Board of Education pursuant to NRS 391.465, as amended by section 10 of this act, will be conducted as set forth in this section for purposes of a validation study concurrently with the evaluations required by sections 17 and 18 of this act, as applicable.

(b) Decisions regarding the suspension, demotion, dismissal and refusal to reemploy must not be based upon any results of the evaluations conducted pursuant to this section for purposes of the validation study.

4. ~~4. [The]~~ For those school districts that have not opted out of the delay of the implementation of the statewide performance evaluation system, the teachers who are selected for the validation study must be evaluated in accordance with section 17 of this act and in accordance with the policy for evaluations set forth in NRS 391.3125, as amended by section 4 of this act.

5. ~~5. [The]~~ For those school districts that have not opted out of the delay of the implementation of the statewide performance evaluation system, the administrators who are selected for the validation study must be evaluated in accordance with section 18 of this act and in accordance with the policy for evaluations set forth in NRS 391.3127, as amended by section 5 of this act.

Sec. 20. 1. If a validation study is not conducted pursuant to section 19 of this act for the 2014-2015 school year, each postprobationary teacher and administrator who is employed by a school district that did not opt out of the delay of the implementation of the statewide performance evaluation system and that participated in the validation study during the 2013-2014 school year must be evaluated during the 2014-2015 school year pursuant to NRS 391.3125 or 391.3127, as amended by sections 4 and 5 of this act, respectively, and must, as part of the evaluation, be observed at least two times as follows:

(a) The first observation must occur within 80 days after the first day of instruction of the school year; and

(b) The second observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

2. For the 2015-2016 school year and each school year thereafter, each postprobationary teacher and administrator who is evaluated pursuant to NRS 391.3125 or 391.3127, as amended by sections 4 and 5 of this act, respectively, must, as part of the evaluation, be observed in accordance with the observation schedule set forth in NRS 391.3125 or 391.3127, as applicable, based upon the designation of the overall performance of the employee for the 2014-2015 school year.

Sec. 20.5. 1. If a validation study is conducted pursuant to section 19 of this act for the 2014-2015 school year, each postprobationary teacher and administrator who is employed by a school district that did not opt out of the delay of the implementation of the statewide performance evaluation system and that participated in the validation study for that school year must be evaluated during the 2015-2016 school year pursuant to NRS 391.3125 or 391.3127, as amended by sections 4 and 5 of this act, respectively, and must, as part of the evaluation, be observed at least two times as follows:

(a) The first observation must occur within 80 days after the first day of instruction of the school year; and

(b) The second observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

2. For the 2016-2017 school year and each school year thereafter, each postprobationary teacher and administrator who is evaluated pursuant to NRS 391.3125 or 391.3127, as amended by sections 4 and 5 of this act, respectively, must, as part of the evaluation, be observed in accordance with the observation schedule set forth in NRS 391.3125 or 391.3127, as applicable, based upon the designation of the overall performance of the employee for the 2015-2016 school year.

Sec. 21. 1. On or before August 1, 2014, the Department of Education shall, in consultation with the boards of trustees of the 17 school districts, select a representative sample of counselors, librarians and other licensed educational personnel, except for teachers and administrators, for a validation study of the statewide performance evaluation system adopted by the State Board of Education pursuant to NRS 391.465, as amended by section 10 of this act. Each school district shall participate in the validation study.

2. *For the 2014-2015 school year:*

(a) *The evaluations of counselors, librarians and other licensed educational personnel, except for teachers and administrators, pursuant to the statewide performance evaluation system adopted by the State Board of Education pursuant to NRS 391.465, as amended by section 10 of this act, will be conducted as set forth in this section for purposes of a validation study concurrently with the evaluations required by section 17 of this act.*

(b) *Decisions regarding the suspension, demotion, dismissal and refusal to reemploy must not be based upon any results of the evaluations conducted pursuant to this section for purposes of the validation study.*

3. *The counselors, librarians and other licensed educational personnel who are selected for the validation study must be evaluated in accordance with section 17 of this act and in accordance with the policy for evaluations set forth in NRS 391.3125, as amended by section 4 of this act.*

Sec. 22. Commencing with the 2015-2016 school year, the board of trustees of each school district shall implement and carry out the policy for evaluations of counselors, librarians and other licensed educational personnel, except for teachers and administrators, required by NRS 391.3125, as amended by section 4 of this act.

Sec. 23. 1. This section and section 16 of this act become effective upon passage and approval.

2. Sections 1 to 15, inclusive, and 16.3 to 22, inclusive, of this act become effective on July 1, 2013.

TEXT OF REPEALED SECTION

Section 21 of chapter 379, Statutes of Nevada 2011:

Sec. 21. The provisions of section 9 of this act, NRS 391.311 to 391.3125, inclusive, as amended by sections 10 to 13, inclusive, of this act, NRS 391.3127, as amended by section 15 of this act, NRS 391.313, as amended by section 17 of this act, NRS 391.317, as amended by

section 18 of this act, and NRS 391.3197, as amended by section 19 of this act, apply to all:

1. Teachers who are initially employed by a school district on or after July 1, 2011.

2. A new employee who is hired by a school district as an administrator on or after July 1, 2011.

3. A postprobationary teacher who is employed as an administrator on or after July 1, 2011.

Senator Smith moved that the Senate concur in the Assembly Amendment No. 948 to Senate Bill No. 407.

Motion carried by a constitutional majority.

Bill ordered enrolled.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Smith moved that Assembly Bill No. 150 be taken from the Secretary's Desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 150.

Bill read third time.

Remarks by Senators Spearman, Settlemeyer, and Hardy.

SENATOR SPEARMAN:

Thank you, Mr. President. Assembly Bill No. 150 creates the Legislative Committee on Governmental Oversight and Accountability as a Statutory Interim Committee. The Committee may evaluate and comment upon issues related to governmental agencies including accountability programs, governmental oversight, financing methods and any other matter affecting governmental agencies. The bill is effective on July 1, 2013.

SENATOR SETTELMEYER:

Thank you, Mr. President. I rise in opposition to Assembly Bill No. 150. The testimony we heard during the Committee meeting was from several local entities that felt this oversight already exists, and that this bill is far too broad. Sections 10 and 12 dealing with high-level radioactive waste were added in by amendment. I appreciate that.

This would create the Legislative Committee on Governmental Oversight and Accountability. My understanding is they would be permitted ten bill draft requests during the Interim. I think we had a bill earlier tonight focused on trying to reduce the number of bill draft requests.

SENATOR HARDY:

Thank you, Mr. President. I rise in support of Assembly Bill No. 150. I think some oversight and accountability may be a good thing.

Roll call on Assembly Bill No. 150:

YEAS—11.

NAYS—Brower, Cegavske, Goicoechea, Gustavson, Hammond, Hutchison, Kieckhefer, Roberson, Settlemeyer—9.

EXCUSED—Woodhouse.

Assembly Bill No. 150 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 273, 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*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 3, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 165, Amendment No. 964, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendments Nos. 671, 949, to Assembly Bill No. 288.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 508, Assembly Amendment No. 697, and requests a conference, and appointed Assemblymen Carrillo, Healey and Wheeler as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Benitez-Thompson, Daly and Stewart as a Conference Committee concerning Assembly Bill No. 139.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted the report of the Conference Committee concerning Senate Bills Nos. 176, 185, 228, 280, 389, 410, 425, 450; Senate Joint Resolution No. 9; Assembly Bills Nos. 66, 181, 202, 205, 223, 262, 283, 378, 415.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

GENERAL FILE AND THIRD READING

Assembly Bill No. 260.

Bill read third time.

Remarks by Senator Ford.

Thank you, Mr. President. Assembly Bill No. 260 shows the gratitude due to our veterans by offering them in-state tuition in Nevada schools. I urge your support.

Roll call on Assembly Bill No. 260:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 260 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 273.

Bill read third time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 979.

"SUMMARY—Revises provisions relating to the Foreclosure Mediation Program. (BDR 9-719)"

"AN ACT relating to real property; revising provisions governing enrollment in the Foreclosure Mediation Program; revising provisions governing the payment of certain obligations during participation in the

Foreclosure Mediation Program; revising provisions governing the foreclosure of liens by an association of a common-interest community; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the trustee under a deed of trust concerning owner-occupied housing has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085, 107.086) One such restriction requires the trustee under the deed of trust to include with the copy of the notice of default and election to sell which is mailed to the homeowner: (1) a notice provided by the Foreclosure Mediation Program Administrator indicating that the grantor or the person who holds the title of record has the right to seek mediation under rules adopted by the Nevada Supreme Court; and (2) a form on which a homeowner may request such mediation. Under existing law, a homeowner must elect to participate by: (1) completing and returning to the trustee a form upon which the homeowner elects to enter into mediation; and (2) paying his or her share of the fee established under the rules adopted by the Nevada Supreme Court. (NRS 107.080, 107.086)

This bill revises provisions governing enrollment in the Foreclosure Mediation Program. Under sections 2 and 3 of this bill, a trustee under a deed of trust concerning owner-occupied housing must, in addition to including certain information concerning the Foreclosure Mediation Program with the copy of the notice of default and election which is mailed to the homeowner, send that information to the homeowner concurrently with, but separately from, the copy of the notice of default and election to sell. Section 3 further provides that a homeowner will be enrolled in the Foreclosure Mediation Program unless: (1) he or she elects to waive mediation; or (2) fails to pay his or her share of the fee established under the rules adopted by the Nevada Supreme Court. If the homeowner waives mediation, fails to pay his or her share of the fee or, if the homeowner is enrolled in the Foreclosure Mediation Program, fails to appear at a scheduled mediation, the Mediation Administrator must provide to the trustee a certificate authorizing the continuation of the process to exercise the power of sale. Section 3 also :(1) establishes deadlines by which the Mediation Administrator must provide certain information to the trustee. ~~It~~:(2) requires the trustee to provide notice of the compliance with the Foreclosure Mediation Program to a homeowners' association; and (3) requires a unit has owner to pay certain obligations during participation in the Foreclosure Mediation Program.

Section 4 of this bill prohibits a homeowners' association from foreclosing its lien on a unit constituting owner-occupied housing while the unit has owner is eligible to participate or is participating in the Foreclosure Mediation Program.

Section 4.5 of this bill makes an appropriation of \$100 from the State General Fund to the Account for Foreclosure Mediation to support the Foreclosure Mediation Program.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003, and, on the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(bb), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32; or

(b) The trust agreement concerns owner-occupied housing as defined in NRS 107.086.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor or the person who holds the title of record a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor or the person who holds the title of record:

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor or the person who holds the title of record; or

(2) If the trust agreement concerns owner-occupied housing as defined in NRS 107.086:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his or her place of residence or from his or her usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his or her place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person

there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and, except as otherwise provided in subsection 4, a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

~~{YOU MAY HAVE A RIGHT TO PARTICIPATE IN THE STATE OF NEVADA FORECLOSURE MEDIATION PROGRAM IF THE TIME TO REQUEST MEDIATION HAS NOT EXPIRED!}~~

Your home loan is being foreclosed. In not less than 60 days your home may be sold and you may be forced to move. For help, call:

~~{State of Nevada Foreclosure Mediation Program _____}~~

Consumer Credit Counseling _____

The Attorney General _____

The Division of Mortgage Lending _____

The Division of Financial Institutions _____

Legal Services _____

Your Lender _____

Nevada Fair Housing Center _____

4. The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.

5. This section does not prohibit a judicial foreclosure.

6. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 3. NRS 107.086 is hereby amended to read as follows:

107.086 1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development;

(3) A notice provided by the Mediation Administrator indicating that the grantor or the person who holds the title of record ~~[has the right to seek]~~ *will be enrolled to participate in mediation pursuant to this section [3] if he or she pays to the Mediation Administrator his or her share of the fee established pursuant to subsection 9; and*

(4) A form upon which the grantor or the person who holds the title of record may indicate an election ~~[to enter into mediation or]~~ to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) *In addition to including the information described in paragraph (a) with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080, provides to the grantor or the person who holds the title of record the information described in paragraph (a) concurrently with, but separately from, the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080;*

(c) Serves a copy of the notice upon the Mediation Administrator; and

~~[(e)]~~ (d) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection ~~[3]~~ 4 or ~~[6]~~ 7 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection ~~[7]~~ 8 which provides that mediation has been completed in the matter.

3. ~~[The]~~ *If the grantor or the person who holds the title of record elects to waive mediation, he or she shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and return the form to the trustee and the Mediation Administrator by certified mail, return receipt requested. If the grantor or the person who holds the title of record [indicates on the form an election to enter into mediation, the trustee] does not elect to waive mediation, he or she shall, not later than 30 days after the service of the notice in the manner required by NRS 107.080, pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 9. Upon receipt of the share of the fee established pursuant to subsection 9 owed by the grantor or the person who holds title of record, the Mediation Administrator shall notify the [beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090,] trustee, by certified mail, return receipt requested, of the [election of the grantor or the person who holds the title of record to enter into] enrollment of the grantor or person who holds the title of record to participate in mediation pursuant*

to this section and ~~[file the form with the Mediation Administrator, who]~~ shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. ~~[No]~~ *The trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the enrollment of the grantor or the person who holds the title of record to participate in mediation. If the grantor or person who holds the title of record is enrolled to participate in mediation pursuant to this section, no further action may be taken to exercise the power of sale until the completion of the mediation.*

4. If the grantor or the person who holds the title of record indicates on the form *described in subparagraph (4) of paragraph (a) of subsection 2* an election to waive mediation or fails to ~~[return the form to the trustee]~~ pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 9, as required by ~~[this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service,]~~ subsection 3, the Mediation Administrator shall, *not later than 60 days after the Mediation Administrator receives the form indicating an election to waive mediation or 90 days after the service of the notice in the manner required by NRS 107.080, whichever is earlier,* provide to the trustee a certificate which provides that no mediation is required in the matter.

~~[4.]~~ 5. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection ~~[8.]~~ 9. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or ~~[a]~~ *his or her* representative, ~~[shall attend the mediation if the grantor elected to enter into mediation,]~~ or the person who holds the title of record or ~~[a]~~ *his or her* representative, shall attend the mediation. ~~[if the person who holds the title of record elected to enter into mediation.]~~ The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

~~[5.]~~ 6. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection ~~[4.]~~ 5 or does not have the authority or access to a person with the authority required by subsection ~~[4.]~~ 5, the mediator shall prepare and submit to the

Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

~~{6.}~~ 7. If the grantor or the person who holds the title of record ~~{elected to enter into mediation and}~~ *is enrolled to participate in mediation pursuant to this section but fails to attend the mediation, the Mediation Administrator shall, not later than 30 days after the scheduled mediation, provide to the trustee a certificate which states that no mediation is required in the matter.*

~~{7.}~~ 8. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be terminated. The Mediation Administrator shall, *not later than 30 days after submittal of the mediator's recommendation that the matter be terminated*, provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

~~{8.}~~ 9. *Upon receipt of the certificate provided to the trustee by the Mediation Administrator pursuant to subsection 4, 7 or 8, if the property is located within a common-interest community, the trustee shall notify the unit-owner's association organized under NRS 116.3101 of the existence of the certificate.*

10. During the pendency of any mediation pursuant to this section, a unit has owner must continue to pay any obligation, other than any past due obligation.

11. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

~~{9.}~~ ~~{10.}~~ *12.* Except as otherwise provided in subsection ~~{11.}~~ ~~{12.}~~ *14.* the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

~~{10.}~~ ~~{11.}~~ 13. A noncommercial lender is not excluded from the application of this section.

~~{11.}~~ ~~{12.}~~ 14. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

~~{12.}~~ ~~{13.}~~ 15. As used in this section:

(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.

(b) "Mediation Administrator" means the entity so designated pursuant to subsection ~~{8.}~~ ~~{9.}~~

~~{10.}~~ 11.

(c) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

~~{(c)}~~ (d) "Obligation" has the meaning ascribed to it in NRS 116.310313.

(e) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(f) "Unit has owner" has the meaning ascribed to it in NRS 116.095.

Sec. 4. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 4 ~~{.}~~ and 5, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit has owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the name and address of the person authorized by the association to enforce the lien by sale.

(3) Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit has owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

2. The notice of default and election to sell must be signed by the person designated in the declaration or by the association for that purpose or, if no one is designated, by the president of the association.

3. The period of 90 days begins on the first day following:

(a) The date on which the notice of default is recorded; or

(b) The date on which a copy of the notice of default is mailed by certified or registered mail, return receipt requested, to the unit has owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

↪ whichever date occurs later.

4. The association may not foreclose a lien by sale based on a fine or penalty for a violation of the governing documents of the association unless:

(a) The violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community; or

(b) The penalty is imposed for failure to adhere to a schedule required pursuant to NRS 116.310305.

5. *The association may not foreclose a lien by sale if:*

(a) *The unit is owner-occupied housing encumbered by a deed of trust;*

(b) *The beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee has recorded a notice of default and election to sell with respect to the unit pursuant to subsection 2 of NRS 107.080; and*

(c) *The trustee of record has not recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (d) of subsection 2 of NRS 107.086.*

↪ *As used in this subsection, "owner-occupied housing" has the meaning ascribed to it in NRS 107.086.*

Sec. 4.5. 1. There is hereby appropriated from the State General Fund to the Account for Foreclosure Mediation created by NRS 107.080 the sum of \$100 for the purpose of supporting the program of foreclosure mediation established by Supreme Court Rule.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2015, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2015.

Sec. 5. The amendatory provisions of this act apply only with respect to trust agreements for which a notice of default and election to sell is recorded on or after October 1, 2013.

Sec. 6. 1. This section and section 4.5 of this act become effective on July 1, 2013.

2. Sections 1 to 4, inclusive, and 5 of this act become effective on October 1, 2013.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 979 to Assembly Bill No. 273 requires a notice of compliance be provided from a trustee of the Foreclosure Mediation Program to a homeowners' association. It also requires a unit has owner to pay certain obligations during the participation in the Foreclosure Mediation Program.

Amendment adopted.

Bill read third time.

Remarks by Senator Hammond.

Thank you, Mr. President. Assembly Bill No. 273 requires a trustee of a deed of trust to provide certain information to the borrower before it decides the power of sale in owner-occupied housing.

Roll call on Assembly Bill No. 273:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

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

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Senator Roberson moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 10:58 p.m.

SENATE IN SESSION

At 11:03 p.m.
 President Krolicki presiding.
 Quorum present.

UNFINISHED BUSINESS

RECEDE FROM SENATE AMENDMENTS

Senator Kihuen moved that the Senate do not recede from its action on Assembly Bill No. 496, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Kihuen, Parks and Hutchison as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 496.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Assembly Bill No. 66, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 675 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 4, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises the manner in which the State Board of Equalization must provide ~~notice of a proposed increase~~ certain notices concerning increases in the valuation of property ~~under certain circumstances~~. (BDR 32-301)"

"AN ACT relating to property tax; revising the manner in which the State Board of Equalization must provide ~~notice of a proposed increase~~ certain notices concerning increases in the valuation of property ~~under certain circumstances~~; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Board of Equalization is required to give 10 days' notice by registered or certified mail or by personal service to interested persons if the Board proposes to increase the valuation of any property on the assessment roll. (NRS 361.395) ~~For notices of proposed increases in the valuation of property that relate to a fiscal year that began before July 1, 2012, this bill requires the Board to continue to provide the notice required under the current law. For~~ Section 1 of this bill maintains this requirement if the Board proposes to increase the valuation of any property on the assessment roll in a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403. However, for notices of proposed increases in the valuation of a class or group of property that relate to a fiscal year that begins on or after July 1, 2013, ~~this bill~~ section 1 requires the Board to give 30 days' notice ~~[(1)]~~ by first-class mail to interested persons ~~[(1)]~~ ~~if the Board proposes to increase the property values of a class or group of properties; and (2) by registered or certified mail or by personal service to interested persons if the Board proposes to increase property values in a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403.]~~

Under existing law, whenever the valuation of any property is raised by the Board, the Secretary of the Board is required to forward notice of the increased valuation by certified mail

to the property owner or owners affected. (NRS 361.405) Section 1.5 of this bill: (1) maintains the requirement that this notice be provided by certified mail if the Board increases the valuation in a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403; and (2) requires this notice to be provided by first-class mail to the property owner or owners affected if the Board increases the valuation of a class or group of properties.

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

Section 1. NRS 361.395 is hereby amended to read as follows:

361.395 1. During the annual session of the State Board of Equalization beginning on the fourth Monday in March of each year, the State Board of Equalization shall:

(a) Equalize property valuations in the State.

(b) Review the tax rolls of the various counties as corrected by the county boards of equalization thereof and raise or lower, equalizing and establishing the taxable value of the property, for the purpose of the valuations therein established by all the county assessors and county boards of equalization and the Nevada Tax Commission, of any class or piece of property in whole or in part in any county, including those classes of property enumerated in NRS 361.320.

2. If the State Board of Equalization proposes to increase the valuation of any property on the assessment roll ~~it~~:

(a) Pursuant to paragraph (b) of subsection 1, it shall give 30 days' notice to interested persons by first-class mail.

(b) In a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403, it shall give ~~10~~ ~~20~~ days' notice to interested persons by registered or certified mail or by personal service. ~~(The)~~

↪ A notice provided pursuant to this subsection must state the time when and place where the person may appear and submit proof concerning the valuation of the property. A person waives the notice requirement if he or she personally appears before the Board and is notified of the proposed increase in valuation.

Sec. 1.5. NRS 361.405 is hereby amended to read as follows:

361.405 1. The Secretary of the State Board of Equalization forthwith shall certify any change made by the Board in the assessed valuation of any property in whole or in part to the county auditor of the county where the property is assessed, and whenever the valuation of any property is raised ~~it~~:

(a) In a proceeding to resolve an appeal or other complaint before the Board pursuant to NRS 361.360, 361.400 or 361.403, the Secretary of the ~~(State)~~ Board ~~of Equalization~~ shall forward by certified mail to the property owner or owners affected, notice of the increased valuation.

(b) Pursuant to paragraph (b) of subsection 1 of NRS 361.395, the Secretary of the Board shall forward by first-class mail to the property owner or owners affected, notice of the increased valuation.

2. As soon as changes resulting from cases having a substantial effect on tax revenues have been certified to the county auditor by the Secretary of the State Board of Equalization, the county auditor shall:

(a) Enter all such changes and the value of any construction work in progress and net proceeds of minerals which were certified to him or her by the Department, on the assessment roll before the delivery thereof to the tax receiver.

(b) Add up the valuations and enter the total valuation of each kind of property and the total valuation of all property on the assessment roll.

(c) Certify the results to the board of county commissioners and the Department.

3. The board of county commissioners shall not levy a tax on the net proceeds of minerals added to the assessed valuation pursuant to paragraph (a) of subsection 2, but, except as otherwise provided by specific statute, the net proceeds of minerals must be included in the assessed valuation of the taxable property of the county and all local governments in the county for the determination of the rate of tax and all other purposes for which assessed valuation is used.

4. As soon as changes resulting from cases having less than a substantial effect on tax revenue have been certified to the county tax receiver by the Secretary of the State Board of Equalization, the county tax receiver shall adjust the assessment roll or the tax statement or make a tax refund, as directed by the State Board of Equalization.

Sec. 2. The amendatory provisions of section 1 of this act apply only to notices of proposed increases in the valuation of property that relate to a fiscal year that begins on or after July 1, 2013.

Sec. 3. This act becomes effective on July 1, 2013.

RUBEN KIHUEN
BEN KIECKHEFER
DAVID PARKS

Senate Conference Committee

IRENE BUSTAMANTE ADAMS
DINA NEAL
RANDY KIRNER

Assembly Conference Committee

Senator Kihuen moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 66.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 181, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 651 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 1, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Makes various changes to provisions governing employment practices. (BDR 53-48)"

"AN ACT relating to employment; prohibiting employers from conditioning employment on a consumer credit report or other credit information; providing certain exceptions; prohibiting employers from conditioning employment on access to an employee's social media account; prohibiting a person from requesting or considering a consumer report for purposes relating to employment except under certain circumstances; revising provisions relating to the release of a consumer report that is subject to a security freeze; providing civil remedies and administrative penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes various unlawful employment practices. (Chapter 613 of NRS) ~~[This]~~

Section 1.6 of this bill prohibits an employer from conditioning the employment of an employee or prospective employee on his or her consumer credit report or other credit information. Section 1.6 also prohibits an employer from taking certain employment actions based on the refusal of an employee or prospective employee to submit a credit report or other credit information or on the results of such a report or information. Section 1.6 further prohibits an employer from taking certain employment actions where an employee or prospective employee files a complaint, testifies in any legal proceeding or exercises his or her rights with respect to any violation committed by the employer. Section 1.7 of this bill provides certain exceptions to the preceding prohibitions, including, without limitation, an exception for circumstances in which the information contained in the consumer credit report or other credit information is reasonably related to the position of employment. Section 1.8 of this bill establishes the civil remedies available to a person affected by a violation committed by an employer, including employment of a prospective employee, reinstatement or promotion of an employee, payment of lost wages and benefits and the award of reasonable costs and attorney's fees. Section 1.9 of this bill authorizes the Labor Commissioner to impose an administrative penalty against an employer for each violation and to bring a civil action against the employer.

Section 2 of this bill prohibits an employer from conditioning the employment of an employee or prospective employee on his or her disclosure of the user name, password or any other information that provides access to the employee's or prospective employee's personal social media account. ~~[This bill]~~ Section 2 also prohibits an employer from taking certain

employment actions based on the refusal of an employee or prospective employee to disclose such information. ~~[This bill]~~ Section 2 further provides, however, that it is not unlawful for an employer to require an employee to disclose his or her user name, password or any other information to an account or a service, other than a personal social media account, for the purpose of accessing the employer's own internal computer or information system.

~~f. Under existing law, a person who complies with the requirements of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq., and chapter 598C of NRS is allowed to obtain a consumer report for purposes relating to the employment of the consumer. Sections 3 and 4 of this bill prohibit a person from requesting or considering a consumer report for purposes of evaluating a consumer for employment, promotion, reassignment or retention as an employee unless: (1) the use of the report is required or authorized by state or federal law; (2) the person reasonably believes that the consumer has engaged in specific activity which may constitute a violation of state or federal law and is likely to be reflected in the report; or (3) the information in the report is reasonably related to the position for which the consumer is being evaluated.~~

~~Existing law provides that if a consumer places a security freeze on his or her file maintained by a credit reporting agency, the agency is not allowed to release the consumer report without the consumer's consent except for certain purposes, which include certain purposes relating to employment of the consumer. (NRS 598C 350, 598C 380) Section 5 of this bill revises the scope of that exception to conform with section 4.)~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 613 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 2 ~~(and 3)~~, inclusive, of this act.

Sec. 1.1. *As used in sections 1.1 to 1.9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.2 to 1.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 1.2. *"Consumer credit report" means any written, oral or other communication of information by a consumer reporting agency bearing on the credit worthiness, credit standing or credit capacity of a person.*

Sec. 1.3. *"Consumer reporting agency" has the meaning ascribed to it in NRS 686A.640.*

Sec. 1.4. *"Credit information" means any information that is related to credit and derived from a consumer credit report or found on a consumer credit report. The term does not include information that is not related to credit, regardless of whether it is contained in a consumer credit report.*

Sec. 1.5. *"Employer" has the meaning ascribed to it in subsection 1 of NRS 613.440.*

Sec. 1.6. *Except as otherwise provided in section 1.7 of this act, it is unlawful for any employer in this State to:*

1. Directly or indirectly, require, request, suggest or cause any employee or prospective employee to submit a consumer credit report or other credit information as a condition of employment;

2. Use, accept, refer to or inquire concerning a consumer credit report or other credit information;

3. Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee;

(a) Who refuses, declines or fails to submit a consumer credit report or other credit information; or

(b) On the basis of the results of a consumer credit report or other credit information; or

4. Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against, any employee or prospective employee who has:

(a) Filed any complaint or instituted or caused to be instituted any legal proceeding pursuant to sections 1.1 to 1.9, inclusive, of this act;

(b) Testified or may testify in any legal proceeding instituted pursuant to sections 1.1 to 1.9, inclusive, of this act; or

(c) Exercised his or her rights, or has exercised on behalf of another person the rights afforded to him or her pursuant to sections 1.1 to 1.9, inclusive, of this act.

Sec. 1.7. An employer may request or consider a consumer credit report or other credit information for the purpose of evaluating an employee or prospective employee for employment, promotion, reassignment or retention as an employee if:

1. The employer is required or authorized, pursuant to state or federal law, to use a consumer credit report or other credit information for that purpose;

2. The employer reasonably believes that the employee or prospective employee has engaged in specific activity which may constitute a violation of state or federal law; or

3. The information contained in the consumer credit report or other credit information is reasonably related to the position for which the employee or prospective employee is being evaluated for employment, promotion, reassignment or retention as an employee. The information in the consumer credit report or other credit information shall be deemed reasonably related to such an evaluation if the duties of the position involve:

(a) The care, custody and handling of, or responsibility for, money, financial accounts, corporate credit or debit cards, or other assets;

(b) Access to trade secrets or other proprietary or confidential information;

(c) Managerial or supervisory responsibility;

(d) The direct exercise of law enforcement authority as an employee of a state or local law enforcement agency;

(e) The care, custody and handling of, or responsibility for, the personal information of another person;

(f) Access to the personal financial information of another person;

(g) Employment with a financial institution that is chartered under state or federal law, including a subsidiary or affiliate of such a financial institution; or

(h) Employment with a licensed gaming establishment, as defined in NRS 463.0169.

Sec. 1.8. 1. An employer who violates the provisions of sections 1.1 to 1.9, inclusive, of this act is liable to the employee or prospective employee affected by the violation. The employer is liable for any legal or equitable relief as may be appropriate, including employment of a prospective employee, reinstatement or promotion of an employee and the payment of lost wages and benefits.

2. An action to recover the liability pursuant to subsection 1 may be maintained against the employer by an employee or prospective employee:

(a) For or on behalf of the employee or prospective employee; and

(b) On behalf of other employees or prospective employees similarly situated.

➤ An action must not be commenced pursuant to this section more than 3 years after the date of the alleged violation.

3. In any action brought pursuant to this section, the court, in its discretion, may allow the prevailing party reasonable costs, including attorney's fees.

Sec. 1.9. 1. If any person violates sections 1.1 to 1.9, inclusive, of this act, the Labor Commissioner may impose against the person an administrative penalty of not more than \$9,000 for each such violation.

2. In determining the amount of any administrative penalty to be imposed against the person, the Labor Commissioner shall consider the previous record of the person in terms of compliance with sections 1.1 to 1.9, inclusive, of this act and the severity of the violation. Any administrative penalty imposed against the person is in addition to any other remedy or penalty provided pursuant to this act.

3. The Labor Commissioner may bring a civil action pursuant to this section to restrain violations of sections 1.1 to 1.9, inclusive, of this act. A court of competent jurisdiction may issue, without bond, a temporary or permanent restraining order or injunction to require compliance with sections 1.1 to 1.9, inclusive, of this act, including any legal or equitable relief incident thereto as may be appropriate, such as employment of a prospective employee, reinstatement or promotion of an employee, and the payment of lost wages and benefits.

Sec. 2. 1. It is unlawful for any employer in this State to:

(a) Directly or indirectly, require, request, suggest or cause any employee or prospective employee to disclose the user name, password or any other information that provides access to his or her personal social media account.

(b) Discharge, discipline, discriminate against in any manner or deny employment or promotion to, or threaten to take any such action against any employee or prospective employee who refuses, declines or fails to disclose the user name, password or any other information that provides access to his or her personal social media account.

2. It is not unlawful for an employer in this State to require an employee to disclose the user name, password or any other information to an account or a service, other than a personal social media account, for the purpose of accessing the employer's own internal computer or information system.

3. Nothing in this section shall be construed to prevent an employer from complying with any state or federal law or regulation or with any rule of a self-regulatory organization, as defined in NRS 90.300.

4. As used in this section, "social media account" means any electronic service or account or electronic content, including, without limitation, videos, photographs, blogs, video blogs, podcasts, instant and text messages, electronic mail programs or services, online services or Internet website profiles.

Sec. 3. ~~[1. Except as otherwise provided in section 4 of this act, a person shall not request or consider a consumer report for the purpose of evaluating any other person for employment, promotion, reassignment or retention as an employee.~~

~~2. As used in this section, "consumer report" has the meaning ascribed to it in NRS 598C.060.] (Deleted by amendment.)~~

Sec. 4. ~~[Chapter 598C of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. A person may request or consider a consumer report for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee if:~~

~~1. The person is required or authorized, pursuant to state or federal law, to use a consumer report for that purpose;~~

~~2. The person reasonably believes that the consumer has engaged in specific activity which may constitute a violation of state or federal law; or~~

~~3. The information contained in the consumer report is reasonably related to the position for which the consumer is being evaluated for employment, promotion, reassignment or retention as an employee. The information in the consumer report shall be deemed to be reasonably related to such an evaluation if the duties of the position involve:~~

~~(a) The care, custody and handling of or responsibility for money, financial accounts, corporate credit or debit cards, or other assets;~~

~~(b) Access to trade secrets or other proprietary or confidential information;~~

~~(c) Managerial or supervisory responsibility;~~

~~(d) The direct exercise of law enforcement authority as an employee of a state or local law enforcement agency;~~

~~(e) The care, custody and handling of or responsibility for the personal information, as defined in NRS 603A.040, of another person;~~

~~(f) Access to the personal financial information of another person;~~

~~(g) Employment with a financial institution that is chartered under federal or state law; or~~

~~(h) Employment with a licensed gaming establishment, as defined in NRS 463.0160.]~~

~~(Deleted by amendment.)~~

Sec. 5. ~~[NRS 598C.380 is hereby amended to read as follows:~~

~~598C.380 Notwithstanding that a security freeze has been placed in the file of a consumer, a reporting agency may release the consumer report of the consumer to:~~

~~1. A person with whom the consumer has an existing business relationship, or the subsidiary, affiliate or agent of that person, for any purpose relating to that business relationship;~~

~~2. A licensed collection agency to which an account of the consumer has been assigned for the purposes of collection;~~

~~3. A person with whom the consumer has an account or contract or to whom the consumer has issued a negotiable instrument, or the subsidiary, affiliate, agent, assignee or prospective assignee of that person, for purposes relating to that account, contract or negotiable instrument.~~

~~4. A person seeking to use information in the file of the consumer for the purposes of prescreening pursuant to the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.~~

~~5. A subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom access has been granted pursuant to NRS 598C.250 for the purposes of facilitating the extension of credit.~~

~~6. A person seeking to provide the consumer with a copy of the consumer report or the credit score of the consumer upon the request of the consumer.~~

~~7. A person administering a credit file monitoring subscription service to which the consumer has subscribed.~~

~~8. A person requesting the consumer report pursuant to a court order, warrant or subpoena.~~

~~9. A federal, state or local governmental entity, agency or instrumentality that is acting within the scope of its authority, including, without limitation, an agency which is seeking to collect child support payments pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq.~~

~~10. A person holding a license issued by the Nevada Gaming Commission pursuant to title 41 of NRS, or the subsidiary, affiliate, agent, assignee or prospective assignee of that person, for purposes relating to any activities conducted pursuant to the license.~~

~~11. [An] If authorized pursuant to section 4 of this act, an employer, or the subsidiary, affiliate, agent, assignee or prospective assignee of that employer, for purposes of:~~

~~(a) Preemployment screenings relating to the consumer; or~~

~~(b) Decisions or investigations relating to the consumer's current or former employment with the employer.] (Deleted by amendment.)~~

KELVIN ATKINSON

JUSTIN JONES

MARK HUTCHISON

Senate Conference Committee

DAVID BOBZIEN

JAMES HEALEY

TOM GRADY

Assembly Conference Committee

Senator Atkinson moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 181.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 202, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment Nos. 673, 829, 867, of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 9, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises various provisions relating to juveniles charged as adults for committing certain crimes. (BDR 5-64)"

"AN ACT relating to juvenile justice; revising the list of offenses that are excluded from the original jurisdiction of the juvenile court; reducing the age at which a child charged with murder or attempted murder may be certified as an adult for criminal proceedings; authorizing a child who is certified for adult criminal proceedings to petition the court for placement in a state juvenile detention facility during the pendency of the proceeding; requiring the Legislative Committee on Child Welfare and Juvenile Justice to appoint a task force to study certain issues relating to juveniles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the juvenile court has exclusive jurisdiction over a child who is alleged to have committed an act designated as a criminal offense unless: (1) the criminal offense is excluded from the jurisdiction of the juvenile court; or (2) the child is alleged to have committed an offense for which the juvenile court may certify the child for criminal proceedings

as an adult and the juvenile court certifies the child for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation. (NRS 62B.330, 62B.390)

Under existing law, the offenses excluded from the jurisdiction of the juvenile court include, without limitation, murder and attempted murder. (NRS 62B.330) Section 1 of this bill provides that murder and attempted murder are excluded from the jurisdiction of the juvenile court only if the offense was committed by a child who was 16 years of age or older when he or she committed the offense. Under section 11 of this bill, this provision becomes effective on October 1, 2014.

Under existing law, a child may be certified for criminal proceedings as an adult upon a motion by the district attorney and after a full investigation if the child: (1) is charged with an offense that would have been a felony if committed by an adult; and (2) was 14 years of age or older at the time the child allegedly committed the offense. Section 1.3 of this bill reduces the minimum age of such certification from 14 years of age to 13 years of age ~~if~~ if the child is charged with murder or attempted murder. Under section 11, this provision becomes effective on October 1, 2014.

Under existing law, during the pendency of the proceeding, a child who is charged with a crime which is excluded from the original jurisdiction of the juvenile court may petition the juvenile court for temporary placement in a facility for the detention of children. (NRS 62C.030) Section 2 of this bill authorizes a child who is certified for criminal proceedings as an adult to petition the juvenile court for temporary placement in a facility for the detention of children during the pendency of the proceeding. Under section 11, this provision becomes effective on October 1, 2013.

Section 10 of this bill requires the Legislative Committee on Child Welfare and Juvenile Justice to create a task force to study certain issues relating to juvenile justice.

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

Section 1. NRS 62B.330 is hereby amended to read as follows:

62B.330 1. Except as otherwise provided in this title, the juvenile court has exclusive original jurisdiction over a child living or found within the county who is alleged or adjudicated to have committed a delinquent act.

2. For the purposes of this section, a child commits a delinquent act if the child:

- (a) Violates a county or municipal ordinance;
- (b) Violates any rule or regulation having the force of law; or
- (c) Commits an act designated a criminal offense pursuant to the laws of the State of Nevada.

3. For the purposes of this section, each of the following acts shall be deemed not to be a delinquent act, and the juvenile court does not have jurisdiction over a person who is charged with committing such an act:

(a) Murder or attempted murder and any other related offense arising out of the same facts as the murder or attempted murder, regardless of the nature of the related offense ~~if~~ if the person was 16 years of age or older when the murder or attempted murder was committed.

(b) Sexual assault or attempted sexual assault involving the use or threatened use of force or violence against the victim and any other related offense arising out of the same facts as the sexual assault or attempted sexual assault, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the sexual assault or attempted sexual assault was committed; and

(2) Before the sexual assault or attempted sexual assault was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(c) An offense or attempted offense involving the use or threatened use of a firearm and any other related offense arising out of the same facts as the offense or attempted offense involving the use or threatened use of a firearm, regardless of the nature of the related offense, if:

(1) The person was 16 years of age or older when the offense or attempted offense involving the use or threatened use of a firearm was committed; and

(2) Before the offense or attempted offense involving the use or threatened use of a firearm was committed, the person previously had been adjudicated delinquent for an act that would have been a felony if committed by an adult.

(d) A felony resulting in death or substantial bodily harm to the victim and any other related offense arising out of the same facts as the felony, regardless of the nature of the related offense, if:

(1) The felony was committed on the property of a public or private school when pupils or employees of the school were present or may have been present, at an activity sponsored by a public or private school or on a school bus while the bus was engaged in its official duties; and

(2) The person intended to create a great risk of death or substantial bodily harm to more than one person by means of a weapon, device or course of action that would normally be hazardous to the lives of more than one person.

(e) A category A or B felony and any other related offense arising out of the same facts as the category A or B felony, regardless of the nature of the related offense, if the person was at least 16 years of age but less than 18 years of age when the offense was committed, and:

(1) The person is not identified by law enforcement as having committed the offense and charged before the person is at least 20 years, 3 months of age, but less than 21 years of age; or

(2) The person is not identified by law enforcement as having committed the offense until the person reaches 21 years of age.

(f) Any other offense if, before the offense was committed, the person previously had been convicted of a criminal offense.

Sec. 1.3. NRS 62B.390 is hereby amended to read as follows:

62B.390 1. Except as otherwise provided in subsection 2 and NRS 62B.400, upon a motion by the district attorney and after a full investigation, the juvenile court may certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) ~~Is~~ Except as otherwise provided in paragraph (b), is charged with an offense that would have been a felony if committed by an adult ~~and~~ and

~~(b) Was~~ was 14 ~~(13)~~ years of age or older at the time the child allegedly committed the offense ~~and~~ ; or

(b) Is charged with murder or attempted murder and was 13 years of age or older when the murder or attempted murder was committed.

2. Except as otherwise provided in subsection 3, upon a motion by the district attorney and after a full investigation, the juvenile court shall certify a child for proper criminal proceedings as an adult to any court that would have jurisdiction to try the offense if committed by an adult, if the child:

(a) Is charged with:

(1) A sexual assault involving the use or threatened use of force or violence against the victim; or

(2) An offense or attempted offense involving the use or threatened use of a firearm; and

(b) Was 16 years of age or older at the time the child allegedly committed the offense.

3. The juvenile court shall not certify a child for criminal proceedings as an adult pursuant to subsection 2 if the juvenile court specifically finds by clear and convincing evidence that:

(a) The child is developmentally or mentally incompetent to understand the situation and the proceedings of the court or to aid the child's attorney in those proceedings; or

(b) The child has substance abuse or emotional or behavioral problems and the substance abuse or emotional or behavioral problems may be appropriately treated through the jurisdiction of the juvenile court.

4. If a child is certified for criminal proceedings as an adult pursuant to subsection 1 or 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the offense for which the child was certified, regardless of the nature of the related offense.

5. If a child has been certified for criminal proceedings as an adult pursuant to subsection 1 or 2 and the child's case has been transferred out of the juvenile court:

(a) The court to which the case has been transferred has original jurisdiction over the child;

(b) The child may petition for transfer of the case back to the juvenile court only upon a showing of exceptional circumstances; and

(c) If the child's case is transferred back to the juvenile court, the juvenile court shall determine whether the exceptional circumstances warrant accepting jurisdiction.

Sec. 1.7. ~~NRS 62B.400 is hereby amended to read as follows:~~

~~62B.400 1. A child shall be deemed to be a prisoner who has escaped or attempted to escape from lawful custody in violation of NRS 212.090, and proceedings may be brought against the child pursuant to the provisions of this section, if the child:~~

~~(a) Is committed to or otherwise is placed in a public or private facility for the detention or correctional care of children, including, but not limited to, all state, regional and local facilities for the detention of children; and~~

~~(b) Escapes or attempts to escape from such a facility.~~

~~2. Upon a motion by the district attorney and after a full investigation, the juvenile court may certify the child for criminal proceedings as an adult pursuant to subsection 1 of NRS 62B.390 if the child was [14] 12 years of age or older at the time of the escape or attempted escape and:~~

~~(a) The child was committed to or placed in the facility from which the child escaped or attempted to escape because the child had been charged with or had been adjudicated delinquent for an unlawful act that would have been a felony if committed by an adult; or~~

~~(b) The child or another person aiding the child used a dangerous weapon to facilitate the escape or attempted escape.~~

~~3. If the child is certified for criminal proceedings as an adult pursuant to subsection 2, the juvenile court shall also certify the child for criminal proceedings as an adult for any other related offense arising out of the same facts as the escape or attempted escape, regardless of the nature of the related offense.~~

~~4. If the child is not certified for criminal proceedings as an adult pursuant to subsection 2 or otherwise is not subject to the provisions of subsection 2, the escape or attempted escape shall be deemed to be a delinquent act, and proceedings may be brought against the child pursuant to the provisions of this title.] (Deleted by amendment.)~~

Sec. 2. NRS 62C.030 is hereby amended to read as follows:

62C.030 1. If a child is not alleged to be delinquent or in need of supervision, the child must not, at any time, be confined or detained in:

(a) A facility for the secure detention of children; or

(b) Any police station, lockup, jail, prison or other facility in which adults are detained or confined.

2. If a child is alleged to be delinquent or in need of supervision, the child must not, before disposition of the case, be detained in a facility for the secure detention of children unless there is probable cause to believe that:

(a) If the child is not detained, the child is likely to commit an offense dangerous to the child or to the community, or likely to commit damage to property;

(b) The child will run away or be taken away so as to be unavailable for proceedings of the juvenile court or to its officers;

(c) The child was taken into custody and brought before a probation officer pursuant to a court order or warrant; or

(d) The child is a fugitive from another jurisdiction.

3. If a child is less than 18 years of age, the child must not, at any time, be confined or detained in any police station, lockup, jail, prison or other facility where the child has regular contact with any adult who is confined or detained in the facility and who has been convicted of a criminal offense or charged with a criminal offense, unless:

(a) The child is alleged to be delinquent;

(b) An alternative facility is not available; and

(c) The child is separated by sight and sound from any adults who are confined or detained in the facility.

4. During the pendency of a proceeding involving ~~the~~ :

(a) A criminal offense excluded from the original jurisdiction of the juvenile court pursuant to NRS 62B.330 ~~1~~; or

(b) A child who is certified for criminal proceedings as an adult pursuant to NRS 62B.390, a child may petition the juvenile court for temporary placement in a facility for the detention of children.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. The Legislative Committee on Child Welfare and Juvenile Justice created by NRS 218E.705 shall create a task force to study certain issues relating to juvenile justice in accordance with the provisions of this section.

2. The Chair of the Legislative Committee on Child Welfare and Juvenile Justice shall appoint to the task force the following 10 voting members:

(a) One member of the Senate or Assembly, who shall serve as Chair of the task force.

(b) One member who is a district attorney.

(c) One member who is a public defender.

(d) One member from the Office of the Attorney General.

(e) One member from the Division of Child and Family Services of the Department of Health and Human Services.

(f) One member who is a judge of the juvenile court.

(g) One member who is a director of juvenile services, as defined in NRS 62A.080.

(h) One member who is a mental health professional.

(i) One member who is a representative from an organization that advocates on behalf of juveniles.

(j) The Director of the Department of Corrections.

3. The task force shall study the following issues and make its findings and any recommendations for proposed legislation:

(a) The laws in this State and other states, including an examination of best practices, pertaining to certification of juveniles as adults and offenses excluded from the jurisdiction of the juvenile court.

(b) The advantages and disadvantages of blended sentencing.

(c) The ability of adult correctional facilities and institutions to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and incarcerated in adult facilities and institutions.

(d) The ability of juvenile detention facilities to provide appropriate housing and programming for youthful offenders who are convicted of crimes as adults and detained in juvenile detention facilities.

(e) The costs and benefits of housing juvenile offenders who are convicted of crimes as adults in adult correctional facilities and institutions and in juvenile detention facilities.

(f) Proposed legislation that is necessary to implement any necessary or desirable changes in Nevada law relating to the issues set forth in this subsection.

4. The members of the task force, other than the Chair of the task force, serve without compensation, except that each such member is entitled, while engaged in the business of the task force and within the limits of available money, to the per diem allowance and travel expenses provided for state officers and employees generally.

5. Not later than 30 days after appointment, each member of the task force, other than the Chair of the task force, shall nominate one person to serve as his or her alternate member and submit the name of the person nominated to the Chair of the task force for appointment. An alternate member shall serve as a voting member of the task force when the appointed member who nominated the alternate member is disqualified or unable to serve.

6. The members of the task force shall hold not more than four meetings at the call of the Chair of the task force.

7. To the extent that money is available, including, without limitation, money from gifts, grants and donations, the Committee may fund the costs of the task force.

8. The Committee shall submit a report of the findings of the task force and its recommendations for legislation to the 78th Session of the Nevada Legislature.

Sec. 11. 1. This section and section 10 of this act become effective on July 1, 2013.

2. Sections 2 to 9, inclusive, of this act become effective on October 1, 2013.

3. Sections 1, 1.3 and 1.7 of this act become effective on October 1, 2014.

TICK SEGERBLOM

AARON FORD

GREG BROWER

Senate Conference Committee

JAMES OHRENSCHALL

OLIVIA DIAZ

IRA HANSEN

Assembly Conference Committee

Senator Segerblom moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 202.

Motion carried by a constitutional majority.

Mr. President:

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

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

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

Conference Amendment.

"SUMMARY—Revises provisions governing charter schools. (BDR 34-200)"

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

Legislative Counsel's Digest:

Existing law authorizes the formation and operation of charter schools. (NRS 386.490-386.610) Section 3 of this bill requires that a written performance framework for a charter school be incorporated into the charter contract executed by the sponsor and the governing body of the charter school pursuant to section 8 of this bill. The performance framework must include performance indicators, measures and metrics for: (1) the academic achievement and proficiency of pupils enrolled in the charter school and disparities in achievement among those pupils; (2) the attendance rate of pupils enrolled in the charter school and the percentage of pupils who reenroll from year-to-year; (3) the financial condition and sustainability of the charter school; (4) the performance of the governing body of the charter school; and (5) if the charter school enrolls pupils at the high school grade level, the rate of graduation of those pupils. This bill also addresses the period during which some charter schools will continue to operate under existing written charters until their expiration and potential renewal under the terms and conditions for the issuance of a charter contract.

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

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

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

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

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

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

Existing law provides that a charter school dedicated to providing educational programs and opportunities to pupils who are at risk may enroll a child who is the child of a full-time employee of the charter school before enrolling pupils who are otherwise eligible for enrollment. Section 17 of this bill removes the provision that such a charter school must serve at-risk pupils and instead authorizes any charter school to, before enrolling children who are otherwise eligible for enrollment, enroll a child if the child is the child of: (1) an employee of the charter school; (2) a member of the committee to form the charter school; or (3) a member of the governing body of the charter school.

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

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

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

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

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

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

(a) *The category of academics addresses:*

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

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

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

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

(c) *The category of organization addresses:*

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

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

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

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

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

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

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

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

2. *If a written charter is revoked or a charter contract is terminated pursuant to subsection 1, the sponsor of the charter school shall submit a written report to the Department*

and the governing body of the charter school setting forth the reasons for the termination not later than 10 days after revoking the written charter or terminating the charter contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) One member who:

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

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

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

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

(1) Accounting;

(2) Financial services;

(3) Law; or

(4) Human resources.

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

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

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

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

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

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

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

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

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

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

(1) Improving the academic achievement of pupils;

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

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

(4) Establishing accountability and transparency of public schools;

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

(6) Creating new professional opportunities for teachers.

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

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

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

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

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

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

- (i) The qualifications of the persons who will provide instruction at the charter school.
- (j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.
- (k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.
- (l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.
- (m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125 and 391.3128. If the procedure is different from the procedure prescribed in NRS 391.3125 and 391.3128, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125 and 391.3128.
- (n) The time by which certain academic or educational results will be achieved.
- (o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.
- (p) A statement of whether the charter school will enroll pupils who are in a particular category of at-risk pupils before enrolling other children who are eligible to attend the charter school pursuant to NRS 386.580 and the method for determining eligibility for enrollment in each such category of at-risk pupils served by the charter school.

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

~~6. [The Department shall provide written notice to the applicant and the proposed sponsor of the charter school of its determination whether the application is substantially complete and compliant. If the Department determines that an application is not substantially complete and compliant, the Department shall include in the written notice the basis for that determination and the deficiencies in the application. The staff designated by the Department shall meet with the applicant to confer on the method to correct the identified deficiencies. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application. If the Department determines an application is substantially complete and compliant, the Department shall transmit the application to the proposed sponsor for review pursuant to NRS 386.525.]~~

~~7. As used in subsection 1, "teacher" means a person who:~~

- ~~(a) Holds a current license to teach issued pursuant to chapter 391 of NRS or who previously held such a license and is retired, as long as his or her license was held in good standing; and~~
- ~~(b) Has at least 2 years of experience as an employed teacher.~~

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

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

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

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

(a) *Assemble a team of reviewers who possess the appropriate knowledge and expertise with regard to the academic, financial and organizational experience of charter schools to review and evaluate the application;*

(b) *Conduct a thorough evaluation of the application, which includes an in-person interview with the committee to form the charter school;*

(c) *Base its determination on documented evidence collected through the process of reviewing the application; and*

(d) *Adhere to the policies and practices developed by the proposed sponsor pursuant to subsection 5 of NRS 386.515.*

3. *The proposed sponsor of a charter school may approve an application to form a charter school only if the proposed sponsor determines that:*

(a) *The application:*

(1) *Complies with NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, and the regulations applicable to charter schools; and*

(2) *Is complete in accordance with the regulations of the Department; and*

(b) *The applicant has demonstrated competence in accordance with the criteria for approval prescribed by the sponsor pursuant to subsection 5 of NRS 386.515 that will likely result in a successful opening and operation of the charter school.*

4. If the board of trustees of a school district or a college or a university within the Nevada System of Higher Education, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than ~~{45}~~ 60 days after the receipt of the application, or a *later* period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. ~~{If the proposed sponsor requested that the Department review the application pursuant to NRS 386.520, the proposed sponsor shall be deemed to receive the application pursuant to this subsection upon transmittal of the application from the Department.}~~ The board of trustees, the college or the university, as applicable, shall review an application ~~{to determine whether the application:~~

~~(a) Complies with NRS 386.490 to 386.610, inclusive, and the regulations applicable to charter schools; and~~

~~(b) Is complete in accordance with the regulations of the Department.~~

~~3.} in accordance with the requirements for review set forth in subsections 2 and 3.~~

5. ~~{The Department shall assist the board of trustees of a school district, the college or the university, as applicable, in the review of an application.}~~ The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of ~~{paragraphs (a) and (b) of} subsection {2.} 3.~~

6. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

~~{4.}~~ If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~{5.}~~ 7. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection ~~{4.}~~ 6, the applicant may submit a written request for sponsorship by the State Public Charter School Authority not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

~~{6.}~~ 8. If the State Public Charter School Authority receives an application pursuant to subsection 1 or ~~{5.}~~ 7, it shall consider the application at a meeting which must be held not later than ~~{45}~~ 60 days after receipt of the application ~~{.}~~ or a *later period mutually agreed upon by the committee to form the charter school and the State Public Charter School Authority.* ~~{If the State Public Charter School Authority requested that the Department review the application pursuant to NRS 386.520, the State Public Charter School Authority shall be deemed to receive~~

~~the application pursuant to this subsection upon transmittal of the application from the Department.~~ Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Public Charter School Authority shall review the application in accordance with the ~~requirements for review set forth in paragraphs (a) and (b) of subsection~~ *subsections 2* ~~and 3. The Department shall assist the State Public Charter School Authority in the review of an application.~~ The State Public Charter School Authority may approve an application *only* if it satisfies the requirements of ~~paragraphs (a) and (b) of~~ subsection ~~2~~ 3. Not more than 30 days after the meeting, the State Public Charter School Authority shall provide written notice of its determination to the applicant.

~~7.~~ 9. If the State Public Charter School Authority denies or fails to act upon an application, the denial or failure to act must be based upon a finding that the applicant failed to ~~adequately address objective criteria established by regulation of the Department or the State Board.~~ *satisfy the requirements of subsection 3.* The State Public Charter School Authority shall include in the written notice the reasons for the denial or the failure to act and the deficiencies in the application. The staff designated by the State Public Charter School Authority shall meet with the applicant to confer on the method to correct the identified deficiencies. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~8.~~ 10. If the State Public Charter School Authority denies an application after it has been resubmitted pursuant to subsection ~~7~~ 9, the applicant may, not more than 30 days after the receipt of the written notice from the State Public Charter School Authority, appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~9.~~ 11. On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the State Public Charter School Authority, a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 8. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the ~~State Public Charter School Authority, the board of trustees of a school district or a college or university within the Nevada System of Higher Education~~ *proposed sponsor of a charter school* approves an application to form a charter school, it shall, *before the effective date of this act, grant a written charter to the governing body of the charter school or, on or after the effective date of this act, negotiate and execute a charter* ~~to~~ *contract with the* ~~applicant,~~ *governing body of the charter school. ~~The~~ A charter contract must be executed not later than 60 days before the charter school commences operation. The charter contract must be in writing and incorporate, without limitation:*

(a) The performance framework for the charter school;

(b) A description of the administrative relationship between the sponsor of the charter school and the governing body of the charter school, including, without limitation, the rights and duties of the sponsor and the governing body; and

(c) Any pre-opening conditions which the sponsor has determined are necessary for the charter school to satisfy before the commencement of operation to ensure that the charter school meets all building, health, safety, insurance and other legal requirements.

2. *The charter contract must be signed by a member of the governing body of the charter school and:*

(a) If the board of trustees of a school district is the sponsor of the charter school, the superintendent of schools of the school district;

(b) If the State Public Charter School Authority is the sponsor of the charter school, the Chair of the State Public Charter School Authority; or

(c) If a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the president of the college or university.

3. Before the charter contract is executed, the sponsor of the charter school must approve the charter contract at a meeting of the sponsor held in accordance with chapter 241 of NRS.

4. The ~~{State Public Charter School Authority, the board of trustees, the college or the university, as applicable,}~~ sponsor of the charter school shall, not later than 10 days after the ~~{approval}~~ execution of the ~~{application}~~ charter contract, provide ~~{written notice}~~ to the Department :

(a) Written notice of the ~~{approval}~~ charter contract and the date of ~~{the approval}~~ execution; and

(b) A copy of the charter contract and any other documentation relevant to the charter contract.

5. If the board of trustees approves the application, ~~the charter contract,~~ the board of trustees shall be deemed the sponsor of the charter school.

~~{2-}~~ 6. If the State Public Charter School Authority approves the application: ~~the charter contract,~~

(a) The State Public Charter School Authority shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board, the State Public Charter School Authority nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

~~{3-}~~ 7. If a college or university within the Nevada System of Higher Education approves the application: ~~the charter contract,~~

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

~~{4-}~~ 8. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board shall adopt:

(a) A process for a charter school that requests a change in the sponsorship of the charter school, which must not require the charter school to undergo all the requirements of an initial application to form a charter school; and

(b) Objective criteria for the conditions under which such a request may be granted.

~~{5- Except as otherwise provided in subsection 7, a written charter}~~

9. A written charter or a charter contract, as applicable, must be for a term of 6 years . ~~{unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in subsection 4 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the State Public Charter School Authority or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.}~~

~~{6-}~~ The term of the charter contract begins on the first day of operation of the charter school after the charter contract has been executed. The sponsor of the charter school may require, or the governing body of the charter school may request that the sponsor authorize, the charter school to delay commencement of operation for 1 school year.

10. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter ~~{of the}~~ or charter ~~{school}~~ contract ~~if~~ , as applicable. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school. If the proposed amendment complies with the provisions of NRS 386.490 to 386.610, inclusive, and sections 2

to 3.5, inclusive, of this act, and any other statute or regulation applicable to charter schools, the sponsor and the governing body of the charter school may amend the written charter *or charter contract, as applicable*, in accordance with the proposed amendment. If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.

~~{7. The State Board shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:~~

~~(a) Period for which such a written charter is valid; and~~
~~(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.~~

~~↪ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.~~

~~8. The holder of a written charter that is issued pursuant to subsection 7}~~

11. A charter school shall not commence operation ~~{of the charter school}~~ and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements ~~{adopted by the State Board pursuant to subsection 7}~~ of this section have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

↪ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 8.5. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the proposed sponsor of a charter school approves an application to form a charter school, it shall ~~{before the effective date of this act, grant a written charter to the governing body of the charter school or, on or after the effective date of this act,}~~ negotiate and execute a charter contract with the governing body of the charter school. A charter contract must be executed not later than 60 days before the charter school commences operation. The charter contract must be in writing and incorporate, without limitation:

(a) The performance framework for the charter school;

(b) A description of the administrative relationship between the sponsor of the charter school and the governing body of the charter school, including, without limitation, the rights and duties of the sponsor and the governing body; and

(c) Any pre-opening conditions which the sponsor has determined are necessary for the charter school to satisfy before the commencement of operation to ensure that the charter school meets all building, health, safety, insurance and other legal requirements.

2. The charter contract must be signed by a member of the governing body of the charter school and:

(a) If the board of trustees of a school district is the sponsor of the charter school, the superintendent of schools of the school district;

(b) If the State Public Charter School Authority is the sponsor of the charter school, the Chair of the State Public Charter School Authority; or

(c) If a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the president of the college or university.

3. Before the charter contract is executed, the sponsor of the charter school must approve the charter contract at a meeting of the sponsor held in accordance with chapter 241 of NRS.

4. The sponsor of the charter school shall, not later than 10 days after the execution of the charter contract, provide to the Department:

- (a) Written notice of the charter contract and the date of execution; and
- (b) A copy of the charter contract and any other documentation relevant to the charter contract.

5. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

6. If the State Public Charter School Authority approves the application:

(a) The State Public Charter School Authority shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board, the State Public Charter School Authority nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

7. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

8. The governing body of a charter school may request, at any time, a change in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The State Board shall adopt:

(a) A process for a charter school that requests a change in the sponsorship of the charter school, which must not require the charter school to undergo all the requirements of an initial application to form a charter school; and

(b) Objective criteria for the conditions under which such a request may be granted.

9. A ~~written charter or a~~ charter contract ~~[, as applicable,]~~ must be for a term of 6 years. The term of the charter contract begins on the first day of operation of the charter school after the charter contract has been executed. The sponsor of the charter school may require, or the governing body of the charter school may request that the sponsor authorize, the charter school to delay commencement of operation for 1 school year.

10. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the ~~written charter or~~ charter contract ~~[, as applicable,]~~. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school. If the proposed amendment complies with the provisions of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, and any other statute or regulation applicable to charter schools, the sponsor and the governing body of the charter school may amend the ~~written charter or~~ charter contract ~~[, as applicable,]~~ in accordance with the proposed amendment. If the sponsor denies the request for an amendment, the sponsor shall provide written notice to the governing body of the charter school setting forth the reasons for the denial.

11. A charter school shall not commence operation and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements of this section have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➡ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 9. NRS 386.530 is hereby amended to read as follows:

386.530 1. ~~[Except as otherwise provided in subsection 2,]~~ On or before June 30 immediately preceding the final school year in which a charter school is authorized to operate pursuant to its charter contract, the sponsor of the charter school shall submit to the governing body of the charter school a written report summarizing the performance of the charter school during the term of the charter contract, including, without limitation:

(a) A summary of the performance of the charter school based upon the terms of the charter contract and the requirements of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act;

(b) An identification of any deficiencies relating to the performance of the charter school which the sponsor has determined may result in nonrenewal of the charter contract if the deficiencies remain uncorrected;

(c) Requirements for the application for renewal of the charter contract submitted to the sponsor pursuant to subsection 2; and

(d) The criteria that the sponsor will apply in making a determination on the application for renewal based upon the performance framework for the charter school and the requirements of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act.

2. The governing body of a charter school may submit a written response to the sponsor of the charter school concerning the performance report prepared by the sponsor pursuant to subsection 1, which may include any revisions or clarifications that the governing body seeks to make to the report.

3. If a charter school seeks to renew its charter contract, the governing body of the charter school shall submit an application for renewal ~~[of a written charter may be submitted]~~ to the sponsor of the charter school ~~[not less than 120 days before the expiration of the charter. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:~~

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

~~☛ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.~~

2. ~~A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:~~

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

~~☛ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.]~~ on or before October 15 of the final school year in which the charter school is authorized to operate pursuant to its charter contract. The application for renewal must include, without limitation:

(a) The requirements for the application identified by the sponsor in the performance report prepared by the sponsor pursuant to subsection 1;

(b) A description of the academic, financial and organizational vision and plans for the charter school for the next charter term;

(c) Any information or data that the governing body of the charter school determines supports the renewal of the charter contract in addition to the information contained in the

performance report prepared by the sponsor pursuant to subsection 1 and any response submitted by the governing body pursuant to subsection 2; and

(d) A description of any improvements to the charter school already undertaken or planned.

4. The sponsor of a charter school shall consider the application for renewal of the charter contract at a meeting held in accordance with chapter 241 of NRS. The sponsor shall provide written notice to the governing body of the charter school concerning its determination on the application for renewal of the charter contract not more than 60 days after receipt of the application for renewal from the governing body. The determination of the sponsor must be based upon:

(a) The criteria of the sponsor for the renewal of charter contracts; and

(b) Evidence of the performance of the charter school during the term of the charter contract in accordance with the performance framework for the charter school.

5. The sponsor of the charter school shall:

(a) Make available to the governing body of the charter school the data used in making the renewal decision; and

(b) Post a report on the Internet website of the sponsor summarizing the decision of the sponsor on the application for renewal and the basis for its decision.

6. A charter contract may be renewed for a term of 6 years.

Sec. 10. NRS 386.535 is hereby amended to read as follows:

386.535 Except as otherwise provided in section 3.5 of this act:

1. The sponsor of a charter school may revoke ~~the~~ a written charter ~~of the~~ or terminate a charter ~~school~~ contract before the expiration of the charter ~~contract~~ if the sponsor determines that:

(a) The charter school, its officers or its employees : ~~have failed to comply with:~~

(1) ~~The~~ Committed a material breach of the terms and conditions of the written charter ~~;~~

~~(2) Generally;~~ or charter contract;

(2) Failed to comply with generally accepted standards of ~~accounting and~~ fiscal management; ~~for;~~

(3) ~~The~~ Failed to comply with the provisions of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, or any other statute or regulation applicable to charter schools; or

(4) ~~Has~~ If the charter school holds a charter contract, has persistently underperformed, as measured by the performance indicators, measures and metrics set forth in the performance framework for the charter school;

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate; or

(c) There is reasonable cause to believe that revocation or termination is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located.

2. Before the sponsor revokes a written charter or terminates ~~the~~ a charter ~~;~~ contract, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to revoke the written charter or terminate the charter ~~;~~ contract.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to ~~revoke the written charter or terminate the [written] charter [] contract~~. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not ~~revoke the written charter or terminate the [written] charter contract~~ of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected.

4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.

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

Sec. 10.5. NRS 386.535 is hereby amended to read as follows:

386.535 Except as otherwise provided in section 3.5 of this act:

1. The sponsor of a charter school may ~~revoke a written charter or~~ terminate a charter contract before the expiration of the charter if the sponsor determines that:

(a) The charter school, its officers or its employees:

(1) Committed a material breach of the terms and conditions of the ~~[written charter or] charter contract~~;

(2) Failed to comply with generally accepted standards of fiscal management;

(3) Failed to comply with the provisions of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, or any other statute or regulation applicable to charter schools; or

(4) ~~[If the charter school holds a charter contract, has]~~ *Has* persistently underperformed, as measured by the performance indicators, measures and metrics set forth in the performance framework for the charter school;

(b) The charter school has filed for a voluntary petition of bankruptcy, is adjudicated bankrupt or insolvent, or is otherwise financially impaired such that the charter school cannot continue to operate; or

(c) There is reasonable cause to believe that ~~[revocation or]~~ termination is necessary to protect the health and safety of the pupils who are enrolled in the charter school or persons who are employed by the charter school from jeopardy, or to prevent damage to or loss of the property of the school district or the community in which the charter school is located.

2. Before the sponsor ~~revokes a written charter or~~ terminates a charter contract, the sponsor shall provide written notice of its intention to the governing body of the charter school. The written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based;

(b) Except as otherwise provided in subsection 4, prescribe a period, not less than 30 days, during which the charter school may correct the deficiencies, including, without limitation, the date on which the period to correct the deficiencies begins and the date on which that period ends;

(c) Prescribe the date on which the sponsor will make a determination regarding whether the charter school has corrected the deficiencies, which determination may be made during the public hearing held pursuant to subsection 3; and

(d) Prescribe the date on which the sponsor will hold a public hearing to consider whether to ~~revoke the written charter or~~ terminate the charter contract.

3. Except as otherwise provided in subsection 4, not more than 90 days after the notice is provided pursuant to subsection 2, the sponsor shall hold a public hearing to make a determination regarding whether to ~~revoke the written charter or~~ terminate the charter contract. If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b) of subsection 2, the sponsor shall not ~~revoke the written charter or~~

terminate the charter contract of the charter school. The sponsor may not include in a written notice pursuant to subsection 2 any deficiency which was included in a previous written notice and which was corrected by the charter school, unless the deficiency recurred after being corrected.

4. The sponsor of a charter school and the governing body of the charter school may enter into a written agreement that prescribes different time periods than those set forth in subsections 2 and 3.

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

Sec. 11. NRS 386.536 is hereby amended to read as follows:

386.536 1. Except as otherwise provided in subsections 2 and 3, if a charter school ceases to operate voluntarily, *if a charter contract is not renewed* or upon revocation of a written charter or termination of [its written] a charter [.] contract, the governing body of the charter school shall appoint an administrator of the charter school, subject to the approval of the sponsor of the charter school, to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

- (a) Charter school;
- (b) Employees of the charter school; and
- (c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection 2, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 1.

4. The governing body of the charter school or the sponsor of the charter school may, to the extent practicable, provide financial compensation to the administrator or person appointed to carry out the provisions of this section. If the sponsor of the charter school provides such financial compensation, the sponsor is entitled to receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.

Sec. 11.5. NRS 386.536 is hereby amended to read as follows:

386.536 1. Except as otherwise provided in subsections 2 and 3, if a charter school ceases to operate voluntarily, if a charter contract is not renewed or upon ~~[revocation of a written charter or]~~ termination of a charter contract, the governing body of the charter school shall appoint an administrator of the charter school, subject to the approval of the sponsor of the charter school, to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

- (a) Charter school;
- (b) Employees of the charter school; and
- (c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection 2, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 1.

4. The governing body of the charter school or the sponsor of the charter school may, to the extent practicable, provide financial compensation to the administrator or person appointed to carry out the provisions of this section. If the sponsor of the charter school provides such

financial compensation, the sponsor is entitled to receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.

Sec. 12. NRS 386.540 is hereby amended to read as follows:

386.540 1. The Department shall adopt regulations that prescribe:

(a) The process for submission of an application pursuant to NRS 386.515 by the board of trustees of a school district or a college or university within the Nevada System of Higher Education to the Department for authorization to sponsor charter schools, ~~and~~ the contents of the application ~~and~~, the process for the Department to review the application and the timeline for review;

(b) The process for the Department to conduct a comprehensive review of the sponsors of charter schools that it has approved for sponsorship pursuant to NRS 386.515 at least once every 3 years;

(c) The process for the Department to determine whether to continue or to revoke the authorization of a board of trustees of a school district or a college or university within the Nevada System of Higher Education to sponsor charter schools;

(d) The process for submission of an application to form a charter school to the board of trustees of a school district, the State Public Charter School Authority and a college or university within the Nevada System of Higher Education, and the contents of the application;

~~((e))~~ (e) The process for submission of an application to renew a ~~written~~ charter ~~and~~ contract;

~~((d))~~ (f) The criteria and type of investigation that must be applied by the board of trustees, the State Public Charter School Authority and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school, an application to renew a ~~written~~ charter contract or a request for an amendment of a written charter ~~and~~ or a charter contract; and

~~((e))~~ (g) The process for submission of an amendment of a written charter or a charter contract pursuant to NRS 386.527 and the contents of the application.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(b) Requirements for performance audits and financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

Sec. 12.5. NRS 386.540 is hereby amended to read as follows:

386.540 1. The Department shall adopt regulations that prescribe:

(a) The process for submission of an application pursuant to NRS 386.515 by the board of trustees of a school district or a college or university within the Nevada System of Higher Education to the Department for authorization to sponsor charter schools, the contents of the application, the process for the Department to review the application and the timeline for review;

(b) The process for the Department to conduct a comprehensive review of the sponsors of charter schools that it has approved for sponsorship pursuant to NRS 386.515 at least once every 3 years;

(c) The process for the Department to determine whether to continue or to revoke the authorization of a board of trustees of a school district or a college or university within the Nevada System of Higher Education to sponsor charter schools;

(d) The process for submission of an application to form a charter school to the board of trustees of a school district, the State Public Charter School Authority and a college or university within the Nevada System of Higher Education, and the contents of the application;

(e) The process for submission of an application to renew a charter contract;

(f) The criteria and type of investigation that must be applied by the board of trustees, the State Public Charter School Authority and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school, an

application to renew a charter contract or a request for an amendment of a ~~written charter or a~~ charter contract; and

(g) The process for submission of an amendment of a ~~written charter or a~~ charter contract pursuant to NRS 386.527 and the contents of the application.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(b) Requirements for performance audits and financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(c) Requirements for performance audits every 3 years and financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

Sec. 13. NRS 386.551 is hereby amended to read as follows:

386.551 The provisions of NRS 386.490 to 386.610, inclusive, *and sections 2 to 3.5, inclusive, of this act*, and any other statute or regulation applicable to a charter school or its officers or employees govern the formation and operation of charter schools in this State. ~~Upon the first renewal of a written charter and each renewal thereafter, the sponsor of a charter school shall not prescribe additional requirements or otherwise require a charter school to comply with additional terms or conditions unless the sponsor is specifically authorized by statute, regulation or the written charter.~~

Sec. 14. NRS 386.561 is hereby amended to read as follows:

386.561 1. The governing body of a charter school may contract with the sponsor of the charter school for the purchase of services, excluding those services which are covered by the sponsorship fee paid to the sponsor pursuant to NRS 386.570. If the governing body of a charter school elects to purchase such services, the governing body and the sponsor shall enter into an annual service agreement which is separate from the written charter *or charter contract* of the charter school ~~(-), as applicable.~~

2. If a service agreement is entered into pursuant to this section, the sponsor of the charter school shall, not later than August 1 after the completion of the school year, provide to the governing body of the charter school an itemized accounting of the actual costs of those services purchased by the charter school. Any difference between the amount paid by the charter school pursuant to the service agreement and the actual cost for those services must be reconciled and paid to the party to whom it is due. If the governing body or the sponsor disputes the amount due, the party making the dispute may request an independent review by the Department, whose determination is final.

3. The governing body of a charter school may not be required to enter into a service agreement pursuant to this section as a condition to approval of its ~~written~~ charter *contract* by the sponsor of the charter school or as a condition to renewal of the ~~written~~ charter ~~(-)~~ *contract*.

Sec. 14.5. NRS 386.561 is hereby amended to read as follows:

386.561 1. The governing body of a charter school may contract with the sponsor of the charter school for the purchase of services, excluding those services which are covered by the sponsorship fee paid to the sponsor pursuant to NRS 386.570. If the governing body of a charter school elects to purchase such services, the governing body and the sponsor shall enter into an annual service agreement which is separate from the ~~written charter or~~ charter contract of the charter school ~~(- as applicable.)~~

2. If a service agreement is entered into pursuant to this section, the sponsor of the charter school shall, not later than August 1 after the completion of the school year, provide to the governing body of the charter school an itemized accounting of the actual costs of those services purchased by the charter school. Any difference between the amount paid by the charter school pursuant to the service agreement and the actual cost for those services must be reconciled and paid to the party to whom it is due. If the governing body or the sponsor disputes the amount due, the party making the dispute may request an independent review by the Department, whose determination is final.

3. The governing body of a charter school may not be required to enter into a service agreement pursuant to this section as a condition to approval of its charter contract by the sponsor of the charter school or as a condition to renewal of the charter contract.

Sec. 15. NRS 386.565 is hereby amended to read as follows:

386.565 The board of trustees of a school district in which a charter school is located shall not:

1. Assign any pupil who is enrolled in a public school in the school district or any employee who is employed in a public school in the school district to a charter school.

2. Interfere with the operation and management of the charter school except as authorized by the written charter ~~[-] or charter contract, as applicable,~~ NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, and any other statute or regulation applicable to charter schools or its officers or employees.

Sec. 15.5. NRS 386.565 is hereby amended to read as follows:

386.565 The board of trustees of a school district in which a charter school is located shall not:

1. Assign any pupil who is enrolled in a public school in the school district or any employee who is employed in a public school in the school district to a charter school.

2. Interfere with the operation and management of the charter school except as authorized by the ~~[-written charter or]~~ charter contract, ~~[-as applicable,]~~ NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act, and any other statute or regulation applicable to charter schools or its officers or employees.

Sec. 16. NRS 386.578 is hereby amended to read as follows:

386.578 1. If the governing body of a charter school has a written charter issued or a charter contract executed pursuant to NRS 386.527, the governing body may submit an application to the Department for a loan from the Account for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The Department shall, within the limits of money available for use in the Account, make loans to charter schools whose applications have been approved. If the Department makes a loan from the Account, the Department shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. The State Board:

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the Department by a charter school that desires to receive a loan from the Account; and

(2) Period for repayment and the rate of interest for loans made from the Account.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

Sec. 16.5. NRS 386.578 is hereby amended to read as follows:

386.578 1. If the governing body of a charter school has a ~~[-written charter issued or a]~~ charter contract executed pursuant to NRS 386.527, the governing body may submit an application to the Department for a loan from the Account for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The Department shall, within the limits of money available for use in the Account, make loans to charter schools whose applications have been approved. If the Department makes a loan from the Account, the Department shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. The State Board:

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the Department by a charter school that desires to receive a loan from the Account; and

(2) Period for repayment and the rate of interest for loans made from the Account.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

Sec. 17. NRS 386.580 is hereby amended to read as follows:

386.580 1. An application for enrollment in a charter school may be submitted to the governing body of the charter school by the parent or legal guardian of any child who resides in this State. Except as otherwise provided in this subsection and subsection 2, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district. Except as otherwise provided in subsection 2, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

2. Before a charter school enrolls pupils who are eligible for enrollment, a charter school ~~[that is dedicated to providing educational programs and opportunities to pupils who are at risk]~~ may enroll a child who:

- (a) Is a sibling of a pupil who is currently enrolled in the charter school;
- (b) Was enrolled, *free of charge and* on the basis of a lottery system, in a prekindergarten program at the charter school or any other early childhood educational program affiliated with the charter school;
- (c) Is a child of a person ~~[employed in a full-time position]~~ who is:
 - (1) *Employed* by the charter school;
 - (2) *A member of the committee to form the charter school; or*
 - (3) *A member of the governing body of the charter school;*
- (d) Is in a particular category of at-risk pupils and the child meets the eligibility for enrollment prescribed by the charter school for that particular category; or
- (e) Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

➤ If more pupils described in this subsection who are eligible apply for enrollment than the number of spaces available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

3. Except as otherwise provided in subsection 8, a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

- (a) Race;
- (b) Gender;
- (c) Religion;
- (d) Ethnicity; or
- (e) Disability,

➤ of a pupil.

4. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a

parent or legal guardian of a homeschooled child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his or her school or homeschool or participate in an extracurricular activity at the charter school if:

- (a) Space for the child in the class or extracurricular activity is available;
- (b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity; and
- (c) The child is a homeschooled child and a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 392.705.

➤ If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

6. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school pursuant to subsection 5 if the governing body determines that the child has failed to comply with applicable statutes, or applicable rules and regulations. If the governing body so revokes its approval, neither the governing body nor the charter school is liable for any damages relating to the denial of services to the child.

7. The governing body of a charter school may, before authorizing a homeschooled child to participate in a class or extracurricular activity pursuant to subsection 5, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

8. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

- (a) With disabilities;
- (b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or
- (c) Who are at risk.

➤ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

Sec. 18. NRS 386.595 is hereby amended to read as follows:

386.595 1. All employees of a charter school shall be deemed public employees.

2. The governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.311 to 391.3197, inclusive, unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.

3. Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.

4. Except as otherwise provided in this subsection, if the written charter ~~contract~~ of a charter school is revoked or a charter contract is terminated, as applicable, or if a charter school ceases to operate as a charter school, the licensed employees of the charter school must be reassigned to employment within the school district in accordance with the applicable collective bargaining agreement. A school district is not required to reassign a licensed employee of a charter school pursuant to this subsection if the employee:

- (a) Was not granted a leave of absence by the school district to accept employment at the charter school pursuant to subsection 5;

(b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with subsection 5; or

(c) Does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.

5. The board of trustees of a school district shall grant a leave of absence, not to exceed 3 years, to any licensed employee who is employed by the board of trustees who requests such a leave of absence to accept employment with a charter school. After the first school year in which a licensed employee is on a leave of absence, the employee may return to a comparable teaching position with the board of trustees. After the third school year, a licensed employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted. The board of trustees shall grant a written request to return to a comparable position pursuant to this subsection even if the return of the licensed employee requires the board of trustees to reduce the existing workforce of the school district. The board of trustees is not required to accept the return of the licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school. The board of trustees may require that a request to return to a comparable teaching position submitted pursuant to this subsection be submitted at least 90 days before the employee would otherwise be required to report to duty.

6. Upon the request of the board of trustees of a school district, the governing body of a charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to this section, transmit to the school district a copy of the employment record of the employee that is maintained by the charter school before the return of the employee to employment with the school district pursuant to subsection 4 or 5. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the charter school and any disciplinary action taken by the charter school against the licensed employee. Before the return of the licensed employee, the board of trustees of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate disciplinary action as to the status of the person as an employee of the school district, including, without limitation:

(a) The dismissal of the employee from employment with the school district; or

(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.

7. If a school district conducts an investigation pursuant to subsection 6:

(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and

(b) The investigation must be conducted within a reasonable time.

8. A licensed employee who is on a leave of absence from a school district pursuant to this section:

(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.

(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district only with respect to any matter relating to his or her status or employment with the district.

☛ The time during which such an employee is on a leave of absence and employed in a charter school does not count toward the acquisition of permanent status with the school district.

9. Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in a charter school.

10. An employee of a charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.

11. For all employees of a charter school:

(a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.

(b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.

12. If the board of trustees of a school district in which a charter school is located manages a plan of group insurance for its employees, the governing body of the charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the board of trustees offers to its employees. If the employees of the charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the charter school shall:

(a) Ensure that the premiums for that insurance are paid to the board of trustees; and

(b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the charter school.

Sec. 18.5. NRS 386.595 is hereby amended to read as follows:

386.595 1. All employees of a charter school shall be deemed public employees.

2. The governing body of a charter school may make all decisions concerning the terms and conditions of employment with the charter school and any other matter relating to employment with the charter school. In addition, the governing body may make all employment decisions with regard to its employees pursuant to NRS 391.311 to 391.3197, inclusive, unless a collective bargaining agreement entered into by the governing body pursuant to chapter 288 of NRS contains separate provisions relating to the discipline of licensed employees of a school.

3. Upon the request of the governing body of a charter school, the board of trustees of a school district shall, with the permission of the licensed employee who is seeking employment with the charter school, transmit to the governing body a copy of the employment record of the employee that is maintained by the school district. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the school district and any disciplinary action taken by the school district against the licensed employee.

4. Except as otherwise provided in this subsection, if the ~~written charter of a charter school is revoked or a~~ charter contract of a charter school is terminated, ~~if applicable,~~ or if a charter school ceases to operate as a charter school, the licensed employees of the charter school must be reassigned to employment within the school district in accordance with the applicable collective bargaining agreement. A school district is not required to reassign a licensed employee of a charter school pursuant to this subsection if the employee:

(a) Was not granted a leave of absence by the school district to accept employment at the charter school pursuant to subsection 5;

(b) Was granted a leave of absence by the school district and did not submit a written request to return to employment with the school district in accordance with subsection 5; or

(c) Does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school.

5. The board of trustees of a school district shall grant a leave of absence, not to exceed 3 years, to any licensed employee who is employed by the board of trustees who requests such a leave of absence to accept employment with a charter school. After the first school year in which a licensed employee is on a leave of absence, the employee may return to a comparable teaching position with the board of trustees. After the third school year, a licensed employee shall either submit a written request to return to a comparable teaching position or resign from the position for which the employee's leave was granted. The board of trustees shall grant a written request

to return to a comparable position pursuant to this subsection even if the return of the licensed employee requires the board of trustees to reduce the existing workforce of the school district. The board of trustees is not required to accept the return of the licensed employee if the employee does not comply with or is otherwise not eligible to return to employment pursuant to subsection 6, including, without limitation, the refusal of the licensed employee to allow the school district to obtain the employment record of the employee that is maintained by the charter school. The board of trustees may require that a request to return to a comparable teaching position submitted pursuant to this subsection be submitted at least 90 days before the employee would otherwise be required to report to duty.

6. Upon the request of the board of trustees of a school district, the governing body of a charter school shall, with the permission of the licensed employee who is granted a leave of absence from the school district pursuant to this section, transmit to the school district a copy of the employment record of the employee that is maintained by the charter school before the return of the employee to employment with the school district pursuant to subsection 4 or 5. The employment record must include, without limitation, each evaluation of the licensed employee conducted by the charter school and any disciplinary action taken by the charter school against the licensed employee. Before the return of the licensed employee, the board of trustees of the school district may conduct an investigation into any misconduct of the licensed employee during the leave of absence from the school district and take any appropriate disciplinary action as to the status of the person as an employee of the school district, including, without limitation:

(a) The dismissal of the employee from employment with the school district; or

(b) Upon the employee's return to employment with the school district, documentation of the disciplinary action taken against the employee into the employment record of the employee that is maintained by the school district.

7. If a school district conducts an investigation pursuant to subsection 6:

(a) The licensed employee is not entitled to return to employment with the school district until the investigation is complete; and

(b) The investigation must be conducted within a reasonable time.

8. A licensed employee who is on a leave of absence from a school district pursuant to this section:

(a) Shall contribute to and be eligible for all benefits for which the employee would otherwise be entitled, including, without limitation, participation in the Public Employees' Retirement System and accrual of time for the purposes of leave and retirement.

(b) Continues, while the employee is on leave, to be covered by the collective bargaining agreement of the school district only with respect to any matter relating to his or her status or employment with the district.

☛ The time during which such an employee is on a leave of absence and employed in a charter school does not count toward the acquisition of permanent status with the school district.

9. Upon the return of a teacher to employment in the school district, the teacher is entitled to the same level of retirement, salary and any other benefits to which the teacher would otherwise be entitled if the teacher had not taken a leave of absence to teach in a charter school.

10. An employee of a charter school who is not on a leave of absence from a school district is eligible for all benefits for which the employee would be eligible for employment in a public school, including, without limitation, participation in the Public Employees' Retirement System.

11. For all employees of a charter school:

(a) The compensation that a teacher or other school employee would have received if he or she were employed by the school district must be used to determine the appropriate levels of contribution required of the employee and employer for purposes of the Public Employees' Retirement System.

(b) The compensation that is paid to a teacher or other school employee that exceeds the compensation that the employee would have received if he or she were employed by the school district must not be included for the purposes of calculating future retirement benefits of the employee.

12. If the board of trustees of a school district in which a charter school is located manages a plan of group insurance for its employees, the governing body of the charter school may negotiate with the board of trustees to participate in the same plan of group insurance that the

board of trustees offers to its employees. If the employees of the charter school participate in the plan of group insurance managed by the board of trustees, the governing body of the charter school shall:

- (a) Ensure that the premiums for that insurance are paid to the board of trustees; and
- (b) Provide, upon the request of the board of trustees, all information that is necessary for the board of trustees to provide the group insurance to the employees of the charter school.

Sec. 19. NRS 386.610 is hereby amended to read as follows:

386.610 ~~1.1~~ On or before ~~August 15~~ *October 1* of each year, the sponsor of a charter school shall submit a written report to the Department. The written report must include :

~~[(a) An]~~

~~1. For each charter school that it sponsors with a written charter, an evaluation of the progress of ~~for~~ each such charter school ~~that it sponsors~~ in achieving the educational goals ~~for~~ ~~1.1.1~~ and objectives of the written charter.~~

~~2. For each charter school that it sponsors with a charter contract, a summary evaluating the academic, financial and organizational performance of the charter school, as measured by the performance indicators, measures and ~~objectives of the charter school.~~~~

~~(b) A description of all administrative support and services provided by the sponsor to the charter school, including, without limitation, an itemized accounting for the costs of the support and services.~~

~~[(c)] metrics set forth in the performance framework for the charter school.~~

~~1.2~~ ~~3.~~ An identification of each charter school approved by the sponsor:

~~[(1)] (a) Which has not opened and the scheduled time for opening, if any;~~

~~[(2)] (b) Which is open and in operation;~~

~~[(3)] (c) Which has transferred sponsorship;~~

~~[(4)] (d) Whose written charter has been revoked or whose charter contract has been ~~revoked~~ terminated by the sponsor;~~

~~[(5)] (e) Whose ~~written~~ charter contract has not been renewed by the sponsor; and~~

~~[(6)] (f) Which has voluntarily ceased operation.~~

~~[(d)] ~~1.3~~ 4.~~ A description of the strategic vision of the sponsor for the charter schools that it sponsors and the progress of the sponsor in achieving that vision.

~~[(e)] ~~1.4~~ 5.~~ A description of the services provided by the sponsor pursuant to a service agreement entered into with the governing body of the charter school pursuant to NRS 386.561, including an itemized accounting of the actual costs of those services.

~~[2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the Department, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.]~~

~~1.5~~ ~~6.~~ The amount of any money from the Federal Government that was distributed to the charter school, any concerns regarding the equity of such distributions and any recommendations on how to improve access to and distribution of money from the Federal Government.

Sec. 19.5. NRS 386.610 is hereby amended to read as follows:

386.610 On or before October 1 of each year, the sponsor of a charter school shall submit a written report to the Department. The written report must include:

1. ~~For each charter school that it sponsors with a written charter, an evaluation of the progress of each such charter school in achieving the educational goals and objectives of the written charter.~~

~~2. For each charter school that it sponsors with a charter contract, a~~ *A* summary evaluating the academic, financial and organizational performance of the charter school, as measured by the performance indicators, measures and metrics set forth in the performance framework for the charter school.

~~1.2~~ *2.* An identification of each charter school approved by the sponsor:

(a) Which has not opened and the scheduled time for opening, if any;

(b) Which is open and in operation;

(c) Which has transferred sponsorship;
 (d) Whose ~~[written charter has been revoked or whose]~~ charter contract has been terminated by the sponsor;

(e) Whose charter contract has not been renewed by the sponsor; and

(f) Which has voluntarily ceased operation.

~~[4.]~~ 3. A description of the strategic vision of the sponsor for the charter schools that it sponsors and the progress of the sponsor in achieving that vision.

~~[5.]~~ 4. A description of the services provided by the sponsor pursuant to a service agreement entered into with the governing body of the charter school pursuant to NRS 386.561, including an itemized accounting of the actual costs of those services.

~~[6.]~~ 5. The amount of any money from the Federal Government that was distributed to the charter school, any concerns regarding the equity of such distributions and any recommendations on how to improve access to and distribution of money from the Federal Government.

Sec. 19.7. Section 3.5 of this act is hereby amended to read as follows:

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

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

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

Sec. 20. 1. Except as otherwise provided in subsection 2, a charter school that is operating under a written charter issued before the effective date of this act shall continue to operate under the terms of the written charter until the expiration of the written charter, unless the written charter is revoked before the expiration of the current term. Before the expiration of the written charter, if the charter school seeks to continue operation, the charter school must apply to the sponsor of the charter school for a charter contract ~~[.]~~ in the form and on the date prescribed by the sponsor.

2. If a charter school that is operating under a written charter issued before the effective date of this act does not wish to continue operation under the written charter until its expiration, upon approval of the sponsor of the charter school, the charter school may apply to the sponsor for a charter contract ~~[.]~~ in the form and on the date prescribed by the sponsor.

3. An application submitted pursuant to subsection 1 or 2 must include, without limitation:

(a) A description of the academic, financial and organizational vision and plans for the charter school for the next charter term;

(b) Any information or data that the governing body of the charter school determines supports the renewal of the charter under the terms and conditions for the issuance of a charter contract;

(c) A description of any improvements to the charter school already undertaken or planned; and

(d) Any other requirements or information prescribed by the sponsor.

4. Upon receipt of an application pursuant to subsection 1 or 2, the sponsor of the charter school shall consider the application for a charter contract at a meeting held in accordance with chapter 241 of NRS. The sponsor shall provide written notice to the governing body of the charter school concerning its determination on the application not more than 60 days after receipt of the application. The determination of the sponsor must be based upon:

(a) The criteria of the sponsor for the issuance and renewal of charter contracts based upon the requirements of NRS 386.490 to 386.610, inclusive, and sections 2 to 3.5, inclusive, of this act; and

(b) Evidence of the performance of the charter school during the term of the written charter.

5. Upon approval of an application for a charter contract pursuant to subsection 1 or 2:

(a) A written performance framework for the charter school in accordance with section 3 of this act must be incorporated into the charter contract executed pursuant to paragraph (b).

(b) The sponsor of the charter school and the governing body of the charter school shall execute a charter contract pursuant to NRS 386.527, as amended by section 8 of this act.

Sec. 20.5. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to the term "written charter" to include "or charter contract, as applicable" through January 1, 2020, and thereafter to refer only to a "charter contract."

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to the term "written charter" to include "or charter contract, as applicable" through January 1, 2020, and thereafter to refer only to a "charter contract."

Sec. 21. 1. This section and sections 1 to 5, inclusive, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 20.5 of this act ~~(becomes)~~ become effective upon passage and approval.

2. Sections 5.5, 8.5, 10.5, 12.5, 14.5, 15.5, 16.5, 18.5, 19.5 and 19.7 become effective on January 1, 2020.

3. Section 11.5 of this act becomes effective on July 1, 2020.

AARON FORD

BARBARA CEGAVSKE

Senate Conference Committee

ELLIOT ANDERSON

MAGGIE CARLTON

LYNN STEWART

Assembly Conference Committee

Senator Ford moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 205.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 223, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 764 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 21, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions governing constables. (BDR 3-15)"

"AN ACT relating to constables; revising provisions governing certain notice of a foreclosure sale required to be provided to a tenant; requiring a constable in certain townships to become certified as a category I or category II peace officer within a certain period after commencing his or her term of office; prohibiting a constable or deputy constable in certain smaller townships from making arrests in the course of his or her duties ~~but~~ unless he or she is certified as a category I or category II peace officer; revising provisions governing the appointment of deputy constables and the clerical and operational staff of a constable; clarifying that a constable may issue a citation for a violation of certain laws governing the registration of motor vehicles only if the motor vehicle is located in his or her township; revising various other provisions governing constables; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a summary eviction procedure when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent due by the month or a shorter period defaults in the payment of the rent. (NRS 40.253) Section 1 of this bill provides that the affidavit of complaint for eviction of a tenant that a landlord or landlord's agent is authorized to file in justice court or district court applies to tenants of recreational vehicles.

Existing law provides that if a sale of property is a residential foreclosure, the posting of certain required notices on the property must be completed by a licensed process server or any constable or sheriff. (NRS 107.087) Section 3 of this bill: (1) specifies that the constable or

sheriff who posts such a notice must be a constable or sheriff of the county in which the property is located; and (2) revises the date by which certain required notices must be provided.

Existing law provides that a constable is a peace officer in his or her township. (NRS 258.070) Section 8.6 of this bill requires a constable of a township whose ~~boundaries include a city whose~~ population is ~~(150,000)~~ 15,000 or more ~~(currently Henderson, Las Vegas, North Las Vegas and Reno))~~ or that has within its boundaries a city whose population is 15,000 or more to become certified as a category I or category II peace officer by the Peace Officers' Standards and Training Commission within 1 year after the date on which the constable commences his or her term of office or appointment unless the Commission, for good cause shown, extends the time. Section 16.5 of this bill provides that this requirement does not apply to a constable who is in office on July 1, 2013, unless he or she is elected or appointed to a term of office on or after July 1, 2013.

Sections 7.5, 12 and 12.5 of this bill provide that a constable or deputy constable in a township ~~(that has within its boundaries a city)~~ whose population is less than ~~(150,000 (currently all cities other than Henderson, Las Vegas, North Las Vegas and Reno))~~ 15,000 or that has within its boundaries a city whose population is less than 15,000 may not make an arrest in the course of performing his or her duties as a constable ~~(-)~~ unless he or she is certified as a category I or category II peace officer.

Existing law authorizes a constable to appoint deputies and provides that a deputy constable must be certified as a category II peace officer by the Peace Officers' Standards and Training Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, extends the time. (NRS 258.060, 289.470, 289.550) Section 10 of this bill provides that a person appointed as a deputy constable for a township whose ~~boundaries include a city whose~~ population is ~~(150,000)~~ 15,000 or more ~~(currently Henderson, Las Vegas, North Las Vegas and Reno))~~ or that has within its boundaries a city whose population is 15,000 or more must be certified as a category I or category II peace officer by the Commission before he or she commences employment as a deputy constable.

Existing law authorizes the board of county commissioners to appoint clerks for the constable of a township and to provide compensation for those clerks. (NRS 258.065) Section 11 of this bill authorizes the constable to appoint clerical and operational staff for the office of the constable, subject to the approval of the board of county commissioners, and requires the board of county commissioners to fix the compensation of the clerical and operational staff of the constable's office. Section 11 further provides that the clerical and operational staff of a constable's office do not have the powers of a peace officer and may not possess a weapon or carry a concealed firearm while performing the duties of the constable's office.

Existing law provides that a constable is a peace officer in his or her township and may issue a citation to the owner or driver of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. (NRS 258.070, 482.385) Sections 12, 15 and 16 of this bill clarify that the constable may issue such a citation only if the vehicle is located in his or her township at the time the citation is issued.

Section 8.8 of this bill authorizes the board of county commissioners to establish, by resolution or ordinance, penalties to be imposed on a constable who fails to file a report, oath or other document required by statute to be filed with the county or the Peace Officers' Standards and Training Commission. Section 9 of this bill requires the oath of a constable to be filed and recorded in the office of the recorder of the county.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➡ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant:

(1) Of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent;

(2) That if the court determines that the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant, directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order; and

(3) That, pursuant to NRS 118A.390, a tenant may seek relief if a landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises or willfully interrupts or causes or permits the interruption of an essential service required by the rental agreement or chapter 118A of NRS.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home, *recreational vehicle* or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home, *recreational vehicle* or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➡ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460 or 118C.230 and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 107.087 is hereby amended to read as follows:

107.087 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell and the notice of sale must:

- (a) Be posted in a conspicuous place on the property not later than:
 - (1) For a notice of default and election to sell, 100 days before the date of sale; or
 - (2) For a notice of sale, 15 days before the date of sale; and
 - (b) Include, without limitation:
 - (1) The physical address of the property; and
 - (2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.
2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.
3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or the grantor's successor in interest, in actual occupation of the premises not later than ~~15 business days after the notice of the sale is given pursuant to subsection 4 of NRS 107.080.~~ *15 days before the date of sale.* The separate notice must be in substantially the following form:

NOTICE TO TENANTS OF THE PROPERTY

Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.

You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.

Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.

After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.

Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to quit.

If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.

If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.

Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:

- (1) Delivering a copy to you personally in the presence of a witness;
- (2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or
- (3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.

If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.

Under the Justice Court Rules of Civil Procedure:

- (1) You will be given at least 10 days to answer a summons and complaint;
- (2) If you do not file an answer, an order evicting you by default may be obtained against you;
- (3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and

(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.

4. The posting of a notice required by this section must be completed by a process server licensed pursuant to chapter 648 of NRS or any constable or ~~the~~ sheriff ~~of the county in which the property is located.~~

5. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 7.5. NRS 171.124 is hereby amended to read as follows:

171.124 1. Except as otherwise provided in subsection 3 and NRS 33.070 , ~~and~~ 33.320 ~~and~~ 258.070, a peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may make an arrest in obedience to a warrant delivered to him or her, or may, without a warrant, arrest a person:

(a) For a public offense committed or attempted in the officer's presence.

(b) When a person arrested has committed a felony or gross misdemeanor, although not in the officer's presence.

(c) When a felony or gross misdemeanor has in fact been committed, and the officer has reasonable cause for believing the person arrested to have committed it.

(d) On a charge made, upon a reasonable cause, of the commission of a felony or gross misdemeanor by the person arrested.

(e) When a warrant has in fact been issued in this State for the arrest of a named or described person for a public offense, and the officer has reasonable cause to believe that the person arrested is the person so named or described.

2. A peace officer or an officer of the Drug Enforcement Administration designated by the Attorney General of the United States for that purpose may also, at night, without a warrant, arrest any person whom the officer has reasonable cause for believing to have committed a felony or gross misdemeanor, and is justified in making the arrest, though it afterward appears that a felony or gross misdemeanor has not been committed.

3. An officer of the Drug Enforcement Administration may only make an arrest pursuant to subsections 1 and 2 for a violation of chapter 453 of NRS.

Sec. 8. Chapter 258 of NRS is hereby amended by adding thereto the provisions set forth as sections 8.1 to 8.8, inclusive, of this act.

Sec. 8.1. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 8.2, 8.3 and 8.4 of this act have the meanings ascribed to them in those sections.*

Sec. 8.2. *"Category I peace officer" has the meaning ascribed to it in NRS 289.460.*

Sec. 8.3. *"Category II peace officer" has the meaning ascribed to it in NRS 289.470.*

Sec. 8.4. *"Peace officer" has the meaning ascribed to it in NRS 289.010.*

Sec. 8.6. 1. *Each constable of a township ~~that has within its boundaries a city~~ whose population is ~~150,000~~ 15,000 or more or a township that has within its boundaries a city whose population is 15,000 or more shall become certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer within 1 year after the date on which the constable commences his or her term of office or appointment unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months.*

2. *If a constable does not comply with the provisions of subsection 1, the constable forfeits his or her office and a vacancy is created which must be filled in accordance with NRS 258.030.*

Sec. 8.8. *In addition to any fine imposed pursuant to NRS 258.200, a board of county commissioners may establish, by resolution or ordinance, penalties for the failure of the constable of a township in the county to file any report, oath or other document required by statute to be filed with the county or the Peace Officers' Standards and Training Commission.*

Sec. 9. NRS 258.020 is hereby amended to read as follows:

258.020 Each constable elected or appointed in this state shall, before entering upon the duties of office:

1. Take the oath prescribed by law. *The oath must be filed and recorded in a book provided for that purpose in the office of the recorder of the county within which the constable legally holds and exercises his or her office.*

2. Execute a bond to the State of Nevada, to be approved by the board of county commissioners, in the penal sum of not less than \$1,000 nor more than \$3,000, as may be designated by the board of county commissioners. ~~[which] The bond [shall] must be conditioned for the faithful performance of the duties of his or her office [and [shall] must be filed in the county clerk's office.~~

Sec. 10. NRS 258.060 is hereby amended to read as follows:

258.060 1. All constables may appoint deputies, who are authorized to transact all official business pertaining to the office to the same extent as their principals. A person must not be appointed as a deputy constable unless the person has been a resident of the State of Nevada for at least 6 months before the date of the appointment. *A person who is appointed as a deputy constable in a township ~~that has within its boundaries a city~~ whose population is ~~[150,000]~~ 15,000 or more or a township that has within its boundaries a city whose population is 15,000 or more may not commence employment as a deputy constable until the person is certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer.* The appointment of a deputy constable must not be construed to confer upon that deputy policymaking authority for the office of the county constable or the county by which the deputy constable is employed.

2. Constables are responsible for the compensation of their deputies and are responsible on their official bonds for all official malfeasance or nonfeasance of the same. Bonds for the faithful performance of their official duties may be required of the deputies by the constables.

3. All appointments of deputies under the provisions of this section must be in writing and must, together with the oath of office of the deputies, be filed and recorded *within 30 days after the appointment* in a book provided for that purpose in the office of the recorder of the county within which the constable legally holds and exercises his or her office. Revocations of such appointments must also be filed and recorded as provided in this section ~~[and] within 30 days after the revocation of the appointment.~~ From the time of the filing of the appointments or revocations therein, persons shall be deemed to have notice of the same.

Sec. 11. NRS 258.065 is hereby amended to read as follows:

258.065 1. ~~The [board of county commissioners may appoint for the] constable of a township [a reasonable number of clerks] may, subject to the approval of the board of county commissioners, appoint such clerical and operational staff as the work of the constable requires. [and provide compensation therefor.] The compensation of any person so appointed must be fixed by the board of county commissioners.~~

2. *A person who is employed as clerical or operational staff of a constable:*

(a) *Does not have the powers of a peace officer; and*

(b) *May not possess a weapon or carry a concealed firearm, regardless of whether the person possesses a permit to carry a concealed firearm issued pursuant to NRS 202.3653 to 202.369, inclusive, while performing the duties of the office of the constable.*

3. A constable's clerk shall take the constitutional oath of office and give bond in the sum of \$2,000 for the faithful discharge of the duties of the office, and in the same manner as is or may be required of other officers of that township and county.

~~[3.]~~ 4. A constable's clerk shall do all clerical work in connection with keeping the records and files of the office, and shall perform such other duties in connection with the office as the constable shall prescribe.

Sec. 12. NRS 258.070 is hereby amended to read as follows:

258.070 1. ~~[Each]~~ *Subject to the provisions of subsection 2, each constable shall:*

(a) *Be a peace officer in his or her township.*

(b) *Serve all mesne and final process issued by a court of competent jurisdiction.*

(c) *Execute the process, writs or warrants that the constable is authorized to receive pursuant to NRS 248.100.*

(d) *Discharge such other duties as are or may be prescribed by law.*

2. *A constable or deputy constable elected or appointed in a township ~~that has within its boundaries a city~~ whose population is less than ~~[150,000]~~ 15,000 or a township that has within*

its boundaries a city whose population is less than 15,000 may not arrest any person while carrying out the duties of the office of constable ~~if~~ unless he or she is certified by the Peace Officers' Standards and Training Commission as a category I or category II peace officer.

3. Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484A to 484E, inclusive, of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle ~~that~~ which is located in his or her township at the time the citation is issued and which is required to be registered in this State if the constable determines that the vehicle is not properly registered. The constable shall, upon the issuance of such citation, charge and collect a fee of \$100 from the person to whom the citation is issued, which may be retained by the constable as compensation.

~~3.1~~ 4. If a sheriff or the sheriff's deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or the sheriff's deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. The sheriff or the sheriff's deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

Sec. 12.5. NRS 258.110 is hereby amended to read as follows:

258.110 ~~4.4~~ Unless, pursuant to subsection 2 of NRS 258.070, a constable is prohibited from making an arrest, any constable ~~shall~~ who willfully ~~refuse~~ refuses to receive or arrest any person charged with a criminal offense ~~[, such constable]~~ is guilty of a gross misdemeanor and shall be removed from office.

Sec. 13. NRS 258.190 is hereby amended to read as follows:

258.190 1. ~~On~~ In each calendar year, on the first Monday of January, April, July and October, the constables who receive fees under the provisions of this chapter shall make out and file with the boards of county commissioners of their several counties a full and correct statement under oath of all fees or compensation, of whatever nature or kind, received in their several official capacities during the preceding 3 months. In the statement they shall set forth the cause in which, and the services for which, such fees or compensation were received.

2. Nothing in this section shall be so construed as to require personal attendance in filing statements, which may be transmitted by mail or otherwise directed to the clerk of the board of county commissioners.

Sec. 14. NRS 289.550 is hereby amended to read as follows:

289.550 1. Except as otherwise provided in subsection 2 and NRS 3.310, ~~and~~ 4.353 ~~and~~ 258.060, and section 8.6 of this act, a person upon whom some or all of the powers of a peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, must be certified by the Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months, by which the person must become certified. A person who fails to become certified within the required time shall not exercise any of the powers of a peace officer after the time for becoming certified has expired.

2. The following persons are not required to be certified by the Commission:

- (a) The Chief Parole and Probation Officer;
- (b) The Director of the Department of Corrections;
- (c) The Director of the Department of Public Safety, the deputy directors of the Department, the chiefs of the divisions of the Department other than the Investigation Division and the Nevada Highway Patrol, and the members of the State Disaster Identification Team of the Division of Emergency Management of the Department;
- (d) The Commissioner of Insurance and the chief deputy of the Commissioner of Insurance;
- (e) Railroad police officers; and
- (f) California correctional officers.

Sec. 14.5. NRS 482.231 is hereby amended to read as follows:

482.231 1. Except as otherwise provided in subsection 3, the Department shall not register a motor vehicle if a local authority has filed with the Department a notice stating that the owner of the motor vehicle:

(a) Was cited by a constable pursuant to subsection ~~{2}~~ 3 of NRS 258.070 for failure to comply with the provisions of NRS 482.385; and

(b) Has failed to pay the fee charged by the constable pursuant to subsection ~~{2}~~ 3 of NRS 258.070.

2. The Department shall, upon request, furnish to the owner of the motor vehicle a copy of the notice of nonpayment described in subsection 1.

3. The Department may register a motor vehicle for which the Department has received a notice of nonpayment described in subsection 1 if:

(a) The Department receives:

(1) A receipt from the owner of the motor vehicle which indicates that the owner has paid the fee charged by the constable; or

(2) Notification from the applicable local authority that the owner of the motor vehicle has paid the fee charged by the constable; and

(b) The owner of the motor vehicle otherwise complies with the requirements of this chapter for the registration of the motor vehicle.

Sec. 15. NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, trailer or semitrailer, the owner shall carry the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, including a constable ~~†† of the township in which the motor vehicle is located~~ or a justice of the peace or a deputy of the Department.

3. No person charged with violating this section may be convicted if the person produces in court a certificate of registration which was previously issued to him or her and was valid at the time of the demand.

Sec. 16. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in subsections 5 and 7 and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State:

(a) For a period of not more than 30 days in the aggregate in any 1 calendar year; and

(b) Notwithstanding the provisions of paragraph (a), during any period in which the owner is:

(1) On active duty in the military service of the United States;

(2) An out-of-state student;

(3) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or

(4) A migrant or seasonal farm worker.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. Except as otherwise provided in subsection 5, when a person, formerly a nonresident, becomes a resident of this State, the person shall:

(a) Within 30 days after becoming a resident; or

(b) At the time he or she obtains a driver's license, whichever occurs earlier, apply for the registration of each vehicle the person owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection.

4. A citation may be issued pursuant to subsection 1, 3 or 5 only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. The Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of subsection 3 and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

5. Except as otherwise provided in this subsection, a resident or nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter who engages in a trade, profession or occupation or accepts gainful employment in this State or who enrolls his or her children in a public school in this State shall, within 30 days after the commencement of such employment or enrollment, apply for the registration of each vehicle the person owns which is operated in this State. The provisions of this subsection do not apply to a nonresident who is:

- (a) On active duty in the military service of the United States;
- (b) An out-of-state student;
- (c) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or
- (d) A migrant or seasonal farm worker.

6. A person who violates the provisions of subsection 1, 3 or 5 is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of \$1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection 4. The fine imposed pursuant to this subsection may be reduced to not less than \$200 if the person presents evidence at the time of the hearing that the person has registered the vehicle pursuant to this chapter.

7. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his or her continuous use within this State, shall cause that vehicle to be registered within 30 days after beginning its operation within this State.

8. A person registering a vehicle pursuant to the provisions of subsection 1, 3, 5, 7 or 9 or pursuant to NRS 482.390:

- (a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and
- (b) Must not be allowed credit on those taxes and fees for the unused months of the previous registration.

9. If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

10. An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

11. A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

- (a) The owner of the vehicle is a resident of this State;
- (b) The vehicle is used in this State for a gainful purpose;
- (c) Except as otherwise provided in paragraph (b) of subsection 1, the owner of the vehicle is a nonresident and has operated the vehicle in this State for more than 30 days in the aggregate in any 1 calendar year; or

(d) The owner of the vehicle is a nonresident required to register the vehicle pursuant to subsection 5.

12. *A constable may issue a citation for a violation of this section only if the vehicle is located in his or her township at the time the citation is issued.*

13. As used in this ~~[subsection]~~ section, "peace officer" includes a constable.

Sec. 16.5. The provisions of section 8.6 of this act do not apply to a constable who is in office on July 1, 2013, unless the constable is elected or appointed to a term of office on or after July 1, 2013.

Sec. 17. This act becomes effective on July 1, 2013.

DAVID PARKS

PAT SPEARMAN

SCOTT HAMMOND

Senate Conference Committee

TERESA BENITEZ-THOMPSON

JAMES HEALEY

LYNN STEWART

Assembly Conference Committee

Senator Parks moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 223.

Motion carried by a constitutional majority.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 33, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

KELVIN ATKINSON, *Chair*

Mr. President:

Your Committee on Finance, to which were re-referred Senate Bills Nos. 34, 385, 473, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which were referred Assembly Bills Nos. 38, 74, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Mr. President:

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

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Revenue and Economic Development, to which was referred Assembly Bill No. 413, 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*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 3, 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. 123, 293, 322, 391, 400, 461, 462, 475, 480, 484, 485, 486, 487, 500, 519.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 165, Amendment No. 964, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 508, Assembly

Amendment No. 697, and requests a conference, and appointed Assemblymen Carrillo, Healey and Wheeler as a Conference Committee to meet with a like committee of the Senate.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

GENERAL FILE AND THIRD READING

Senate Bill No. 34.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 984.

"SUMMARY—Makes various changes relating to group health insurance provided by the Public Employees' Benefits Program. (BDR 23-377)"

"AN ACT relating to programs for public employees; ~~requiring that,~~ eliminating the requirement, for the purpose of determining rates and coverage for group health insurance, that separate risk pools be maintained by the Board of the Public Employees' Benefits Program ~~maintain a single risk pool~~ for state participants in the Program, and non-state participants in the Program ~~and~~ ; requiring that the Board continue to maintain for that purpose a separate risk pool for certain retired officers and employees, and their dependents, of local governmental agencies that do not participate in the Program; providing for a one-time contribution to the health reimbursement arrangements of certain retired officers and employees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Board of the Public Employees' Benefits Program provides group insurance coverage through the Program for active and retired state officers and employees and their dependents. (NRS 287.043) The Program also provides coverage to active and retired officers and employees, and their dependents, of any county, school district or other local governmental agency whose governing body elects to participate in the Program. (NRS 287.025, 287.043) For the purpose of determining rates and coverage for group health insurance provided through the Program, the Board is required by existing law to maintain separate "risk pools" for these state and non-state participants. (NRS 287.043) The rates for any contract entered into by the Board with a physician, hospital, health maintenance organization or other provider of medical care are likewise required to be based on these separate risk pools. (NRS 287.0434)

~~[Section 4 of this bill requires the Board to maintain a single risk pool for: (1) active and retired state officers and employees and their dependents; (2) active and retired officers and employees of participating local governmental agencies and their dependents; and (3) certain retired officers and employees of nonparticipating local governmental agencies and their dependents.]~~ For the two groups described above, section 4 of this bill eliminates the requirement that the Board maintain separate risk pools. However, for any retired officer or employee of a local governmental agency whose last public employer does not participate in the Program, and who is not otherwise

excluded from participation in the Program, section 4 retains the requirement that these persons and their dependents be rated separately. Section 5 of this bill makes similar changes for the purposes of establishing the rates set forth in a contract between the Board and a provider of health care.

Section 7.7 of this bill requires the Board to set aside sufficient money from excess reserves to provide a one-time contribution in Fiscal Year 2014-2015 to the health reimbursement arrangements of retired officers and employees whose last employers were nonparticipating local governmental agencies.

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

"Nonparticipating local governmental agency" means a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State that does not have an agreement in effect with the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025 to obtain group insurance from the Program.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 287.025 is hereby amended to read as follows:

287.025 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may, in addition to the other powers granted in NRS 287.010, 287.015 and 287.020:

(a) Negotiate and contract with the Board of the Public Employees' Benefits Program to secure exclusive group insurance for all of its officers and employees and their dependents, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph ~~(c)~~ (i) of subsection 2 of NRS 287.043, by participation in the Public Employees' Benefits Program.

(b) Negotiate and contract with another county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada to secure group insurance for its officers and employees and their dependents by participation in any group insurance plan established or to be established by the other local governmental agency.

(c) To secure group health, life or workers' compensation insurance for its officers and employees and their dependents, participate as a member of a nonprofit cooperative association or nonprofit corporation that has been established in this State to secure such insurance for its members from an insurer licensed pursuant to the provisions of title 57 of NRS.

(d) In addition to the provisions of paragraph (c), participate as a member of a nonprofit cooperative association or nonprofit corporation that has been established in this State to:

(1) Facilitate contractual arrangements for the provision of medical services to its members' officers and employees and their dependents and for related administrative services.

(2) Procure health-related information and disseminate that information to its members' officers and employees and their dependents.

2. Each contract negotiated pursuant to paragraph (a) or (b) of subsection 1:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner of Insurance.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

Sec. 3. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.04064, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 4. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include a program relating to group life, accident or health insurance, or any combination of these; and

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,

➔ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active ~~and~~

~~(1) Active~~ and retired state officers and employees and their dependents ~~and~~

~~(2) Active~~ and active and retired officers and employees of participating local governmental agencies and their dependents, ~~and~~

~~(3) Retired officers and employees whose last public employers are nonparticipating local governmental agencies and who are not otherwise~~

~~excluded from participation in the Program pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (h) and their dependents;~~

~~→~~ commingle the claims experience of such active and retired officers and employees and their dependents ~~[for whom the Program provides primary health insurance coverage]~~ into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that wishes to obtain exclusive group insurance for all of its active and retired officers and employees and their dependents, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph ~~[(h)]~~ (i), by participation in the Program. ~~[The Board shall establish]~~

(c) Establish separate rates and coverage for ~~[active and]~~ retired officers and employees ~~[of those local governmental agencies]~~ .

(1) Whose last public employers are nonparticipating local governmental agencies; and

(2) Who are not otherwise excluded from participation in the Program pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (i).

→ and their dependents . based on actuarial reports that commingle the claims experience of such ~~[active and]~~ retired officers and employees and their dependents ~~[for whom the Program provides primary health insurance coverage]~~ into a single risk pool.

~~[(e)]~~ (d) Except as otherwise provided in paragraph ~~[(d)]~~ (e), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

~~[(d)]~~ (e) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change the participant's policy of health insurance.

~~[(e)]~~ (f) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

~~[(f)]~~ (g) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

~~[(g)]~~ (h) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

~~[(b)]~~ (i) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.010 to 287.245, inclusive, *and section 1 of this act*, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency whose last continuous period of enrollment with the Program began after November 30, 2008, terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants;

(4) Specific procedures for the determination of contested claims;

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

3. The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

4. The Board may engage the services of an attorney who specializes in health plans and health care law as necessary to assist in carrying out the Program.

5. The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

6. A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

7. As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 5. NRS 287.0434 is hereby amended to read as follows:

287.0434 The Board may:

1. Use its assets only to pay the expenses of health care for its members and covered dependents, to pay its employees' salaries and to pay administrative and other expenses.

2. Enter into contracts relating to the administration of the Program, including, without limitation, contracts with licensed administrators and qualified actuaries. Each such contract with a licensed administrator:

(a) Must be submitted to the Commissioner of Insurance not less than 30 days before the date on which the contract is to become effective for approval as to the licensing and fiscal status of the licensed administrator and status of any legal or administrative actions in this State against the licensed administrator that may impair his or her ability to provide the services in the contract.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

3. Enter into contracts with physicians, surgeons, hospitals, health maintenance organizations and rehabilitative facilities for medical, surgical and rehabilitative care and the evaluation, treatment and nursing care of members and covered dependents. The Board shall not enter into a contract pursuant to this subsection unless:

(a) Provision is made by the Board to offer all the services specified in the request for proposals, either by a health maintenance organization or through separate action of the Board.

(b) The rates set forth in the contract are based on:

(1) For active ~~for~~

~~(1) Active~~ and retired state officers and employees and their dependents, ~~for~~

~~(2) Active~~ and active and retired officers and employees of participating local governmental agencies and their dependents, for and

~~(3) Retired officers and employees whose last public employers are nonparticipating local governmental agencies and who are not otherwise excluded from participation in the Program pursuant to sub-subparagraph (1) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043 and their dependents,~~

~~and~~ the commingled claims experience of such active and retired officers and employees and their dependents ~~for whom the Program provides primary health insurance coverage~~ in a single risk pool ~~for~~; and

(2) For [active and] retired officers and employees [of public agencies enumerated in NRS 287.010 that contract with the Program to obtain group insurance by participation in the Program].

(1) Whose last public employers are nonparticipating local governmental agencies; and

(II) Who are not otherwise excluded from participation in the Program pursuant to sub-subparagraph (II) of subparagraph (2) of paragraph (i) of subsection 2 of NRS 287.043.

~~↪ and their dependents, the commingled claims experience of such [active and] retired officers and employees and their dependents [for whom the Program provides primary health insurance coverage] in a single risk pool.~~

4. Enter into contracts for the services of other experts and specialists as required by the Program.

5. Charge and collect from an insurer, health maintenance organization, organization for dental care or nonprofit medical service corporation, a fee for the actual expenses incurred by the Board or a participating public agency in administering a plan of insurance offered by that insurer, organization or corporation.

6. Charge and collect the amount due from local governments pursuant to paragraph (b) of subsection 4 of NRS 287.023. If the payment of a local government pursuant to that provision is delinquent by more than 90 days, the Board shall notify the Executive Director of the Department of Taxation pursuant to NRS 354.671.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. NRS 287.045 is hereby amended to read as follows:

287.045 1. Except as otherwise provided in this section, every state officer or employee is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment.

2. Professional employees of the Nevada System of Higher Education who have annual employment contracts are eligible to participate in the Program on:

(a) The effective dates of their respective employment contracts, if those dates are on the first day of a month; or

(b) The first day of the month following the effective dates of their respective employment contracts, if those dates are not on the first day of a month.

3. Every officer or employee who is employed by a participating local governmental agency on a permanent and full-time basis on the date on which the participating local governmental agency enters into an agreement to participate in the Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, and every officer or employee who commences employment with that participating local governmental agency after that date, is eligible to participate in the Program on the first day of the month following the completion of 90 days of full-time employment, unless that officer or employee is excluded pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph ~~(4)~~ (i) of subsection 2 of NRS 287.043.

4. Every member of the Senate and Assembly is eligible to participate in the Program on the first day of the month following the 90th day after the member's initial term of office begins.

5. Notwithstanding the provisions of subsections 1, 3 and 4, if the Board does not, pursuant to NRS 689B.580, elect to exclude the Program from compliance with NRS 689B.340 to 689B.590, inclusive, and if the coverage under the Program is provided by a health maintenance organization authorized to transact insurance in this State pursuant to chapter 695C of NRS, any affiliation period imposed by the Program may not exceed the statutory limit for an affiliation period set forth in NRS 689B.500.

Sec. 7. (Deleted by amendment.)

Sec. 7.5. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. Except as otherwise provided in subsection 3, a retired public officer or employee or the surviving spouse of a retired public officer or employee who is deceased may reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee:

(a) Retired:

(1) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from a participating state agency or was enrolled in a retirement program provided pursuant to NRS 286.802; or

(2) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement; and

(b) Did not have more than one period during which the retired public officer or employee was not covered by insurance under the Program on or after October 1, 2011, or on or after the date of retirement of the public officer or employee, whichever is later.

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice to the Program of the intent of the public officer or employee or surviving spouse to reinstate the insurance not later than 31 days before the commencement of the plan year;

(b) Accepting the Program's current plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in NRS 287.046, paying any portion of the premiums or contributions for coverage under the Program, in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

3. If a retired public officer or employee retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency, the retired public officer or employee, or the surviving spouse of such a retired public officer or employee who is deceased, may not reinstate health insurance pursuant to subsection 1 if he or she is excluded from participation in the Program pursuant to

sub-subparagraph (III) of subparagraph (2) of paragraph ~~[(4)]~~ (i) of subsection 2 of NRS 287.043.

Sec. 7.7. 1. The Board of the Public Employees' Benefits Program shall set aside sufficient money from excess reserves to provide a one-time contribution in Fiscal Year 2014-2015 to the health reimbursement arrangements of retired officers and employees whose last employers were nonparticipating local governmental agencies. The one-time contribution required pursuant to this subsection must be \$400 for each such primary insured and \$100 for each dependent of such a primary insured up to a maximum of three dependents.

2. As used in this section, "nonparticipating local governmental agency" has the meaning ascribed to it in section 1 of this act.

Sec. 8. This act becomes effective on July 1, 2014.

Senator Smith moved the adoption of the amendment.

Remarks by Senator Smith.

Thank you, Mr. President. Amendment No. 984 to Senate Bill No. 34 takes the bill back to its original form. It allows the pooling of retired and active employees.

Amendment adopted.

Bill read third time.

Remarks by Senator Smith.

Thank you, Mr. President. Senate Bill No. 34 changes the comingling of State and non-State risk pools with the Public Employees' Benefits Program. It also makes it possible for retirees from non-State entities to be rated with State participants if the entity's active employees participate in the Public Employees' Benefits Program. This is a good benefit for State employees.

Roll call on Senate Bill No. 34:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Senate Bill No. 34 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Senate Bill No. 385.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 985.

"SUMMARY—Authorizes certain businesses to apply to the Office of Economic Development for a partial abatement from certain taxes.
(BDR 32-822)"

"AN ACT relating to taxation; authorizing certain qualified businesses in this State that own, operate, manufacture, service or utilize aircraft or a component of an aircraft to apply to the Office of Economic Development for a partial abatement from certain property ~~and~~ or sales and use taxes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the assessment of ad valorem taxes on certain real property and the assessment of certain taxes on the gross receipts from the sale, storage, use and other consumption of certain personal property. (Chapters 361 and 374 of NRS) Section 1 of this bill authorizes an owner of a qualified business or a person who intends to locate or expand a qualified business in this State to apply to the Office of Economic Development for a partial abatement of ~~ad valorem taxes on~~ certain property ~~imposed pursuant to chapter 361 of NRS and of~~ or sales and use taxes ~~imposed pursuant to chapter 374 of NRS.~~ Section 1 requires the Office of Economic Development to grant a partial abatement for a period of not more than 10 years to certain qualified new and existing businesses that own, operate, manufacture, service or utilize aircraft or components of aircraft.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An owner of a business or a person who intends to locate or expand a business in this State may apply to the Office of Economic Development for a partial abatement from one or more of the property taxes or local sales and use taxes imposed on an aircraft or a component of an aircraft. ~~pursuant to chapters 361 and 374 of NRS.~~ An application for a partial abatement for local sales and use taxes may include a request for a partial abatement of the taxes as applied to:*

(a) Purchases made by the business;

(b) Purchases made from the business, for which the business has agreed to pay the local sales and use taxes; or

(c) Both purchases by and from the business.

2. *Notwithstanding the provisions of any law to the contrary and except as otherwise provided in subsection 3, the Office of Economic Development shall approve an application for a partial abatement if the Office makes the following determinations:*

(a) The applicant has executed an agreement with the Office which:

(1) Complies with the requirements of NRS 360.755; and

(2) States that the business will, after the date on which a certificate of eligibility for the partial abatement is issued pursuant to subsection ~~4.1~~ 5, continue in operation in this State for a period specified by the Office, which must be not less than 5 years;

(b) The business is registered pursuant to the laws of this State or the applicant commits to obtaining a valid business license and all other permits required by the county, city or town in which the business operates;

(c) The business owns, operates, manufactures, services or utilizes aircraft or components of aircraft;

(d) If the business is:

(1) A new business, that it will have five or more full-time employees on the payroll of the business not later than 1 year after receiving its certificate of eligibility for a partial abatement; or

(2) An existing business, that it will increase its number of full-time employees on the payroll of the business in this State by 3 percent or three employees, whichever is greater, not later than 1 year after receiving its certificate of eligibility for a partial abatement; and

(e) The business meets at least one of the following requirements:

(1) The business will make a new capital investment of at least \$250,000 in this State not later than 1 year after receiving its certificate of eligibility for a partial abatement;

(2) The business will maintain and possess in this State tangible personal property having a value of not less than \$5,000,000 during the period of partial abatement;

(3) The average hourly wage that will be paid by the business to its employees in this State during the period of partial abatement is not less than 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; or

(4) The business develops, refines or owns a patent or other intellectual property, or has been issued a ~~supplemental~~ type certificate by the Federal Aviation Administration pursuant to 14 C.F.R. Part 21.

3. The Office of Economic Development:

(a) Shall approve or deny an application submitted pursuant to this section and notify the applicant of its decision not later than 45 days after receiving the application.

(b) Shall not:

(1) Consider an application for a partial abatement unless the Office has requested a letter of acknowledgment of the request for the partial abatement from any affected county, school district, city or town and has complied with the requirements of NRS 360.757; or

(2) Approve a partial abatement for any applicant for a period of more than 10 years.

4. The Office of Economic Development shall not approve a partial abatement of property taxes for a business whose physical property is collectively valued and centrally assessed pursuant to NRS 361.320 and 361.3205 unless the business is regulated under 14 C.F.R. Part 125 or 135.

5. If the Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the partial abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the appropriate county treasurer.

~~5.7~~ 6. *An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.*

~~6.7~~ 7. *If a business whose partial abatement has been approved pursuant to this section and whose partial abatement is in effect ceases:*

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (a) of subsection 2,

➤ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the appropriate county treasurer, the amount of the partial abatement that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the partial abatement required to be repaid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~7.7~~ 8. *The Office of Economic Development may adopt such regulations as the Office determines to be necessary to carry out the provisions of this section.*

~~8.7~~ 9. *The Nevada Tax Commission may adopt such regulations as the Commission determines are necessary to carry out the provisions of this section.*

~~9.7~~ 10. *An applicant for a partial abatement who is aggrieved by a final decision of the Office of Economic Development may petition a court of competent jurisdiction to review the decision in the manner provided in chapter 233B of NRS.*

~~10.7~~ 11. *If the Office of Economic Development approves an application for a partial abatement of local sales and use taxes ~~imposed pursuant to chapter 374 of NRS~~ pursuant to this section:*

(a) The Office of Economic Development shall specify whether the partial abatement applies to taxes due on purchases made by the business or purchases made from the business, or both. If the partial abatement applies to purchases made from the business for which the business has agreed to pay the local sales and use taxes, the business may apply the partial abatement and pay the taxes on behalf of the purchaser.

(b) The partial abatement must be equal to that portion of the combined rate of all the local sales and use taxes payable by the business each year which exceeds 0.25 percent.

~~[(b)]~~ (c) *The Department shall issue to the business a document certifying the partial abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of ~~[(2.25)]~~ 2.6 percent.*

~~[(c)]~~ (d) *The State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the business for the period of the partial abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.*

~~[(11)]~~ 12. *As used in this section:*

(a) *"Aircraft" means any fixed-wing, rotary-wing or unmanned aerial vehicle.*

(b) *"Component of an aircraft" means any:*

(1) *Component of the physical structure of an aircraft;*

(2) *Mechanical, electrical or other system of an aircraft, including, without limitation, any component thereof; and*

(3) *Part, engine, machinery, tool, chemical, gas or equipment used to manufacture, maintain, test, repair, overhaul or assemble an aircraft or component of an aircraft.*

(c) *"Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by the Sales and Use Tax Act.*

(d) *"Property taxes" means any taxes levied by the State or a local government pursuant to the provisions of chapter 361 of NRS.*

Sec. 2. NRS 360.755 is hereby amended to read as follows:

360.755 1. If the Office of Economic Development approves an application by a business for a partial abatement pursuant to NRS 360.750 ~~[(1)]~~ or section 1 of this act, the agreement with the Office must provide that the business:

(a) Agrees to allow the Department to conduct audits of the business to determine whether the business is in compliance with the requirements for the partial abatement; and

(b) Consents to the disclosure of the audit reports in the manner set forth in this section.

2. If the Department conducts an audit of the business to determine whether the business is in compliance with the requirements for the partial abatement, the Department shall, upon request, provide the audit report to the Office of Economic Development.

3. Until the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit, the information contained in the audit report provided to the Office of Economic Development:

(a) Is confidential proprietary information of the business;

(b) Is not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Office of Economic Development unless the business consents to the disclosure.

4. After the business has exhausted all appeals to the Department and the Nevada Tax Commission relating to the audit:

(a) The audit report provided to the Office of Economic Development is a public record; and

(b) Upon request by any person, the Executive Director of the Office of Economic Development shall disclose the audit report to the person who made the request, except for any information in the audit report that is protected from disclosure pursuant to subsection 5.

5. Before the Executive Director of the Office of Economic Development discloses the audit report to the public, the business may submit a request to the Executive Director to protect from disclosure any information in the audit report which, under generally accepted business practices, would be considered a trade secret or other confidential proprietary information of the business. After consulting with the business, the Executive Director shall determine whether to protect the information from disclosure. The decision of the Executive Director is final and is not subject to judicial review. If the Executive Director determines to protect the information from disclosure, the protected information:

(a) Is confidential proprietary information of the business;

(b) Is not a public record;

(c) Must be redacted by the Executive Director from any audit report that is disclosed to the public; and

(d) Must not be disclosed to any person who is not an officer or employee of the Office of Economic Development unless the business consents to the disclosure.

Sec. 3. NRS 360.757 is hereby amended to read as follows:

360.757 1. The Office of Economic Development shall not take any action on an application for any abatement of taxes pursuant to NRS 274.310, 274.320, 274.330 or 360.750 or *section 1 of this act* or any other specific statute unless the Office:

(a) Takes that action at a public hearing conducted for that purpose; and

(b) At least 30 days before the hearing, provides notice of the application to:

(1) The governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the pertinent business is or will be located;

(2) The governing body of any other political subdivision that could be affected by the abatement; and

(3) The general public.

2. The notice required by this section must set forth the date, time and location of the hearing at which the Office of Economic Development will consider the application.

3. The Office of Economic Development shall adopt regulations relating to the notice required by this section.

Sec. 3.1. NRS 374.115 is hereby amended to read as follows:

374.115 ~~[The]~~ *Except as otherwise provided in section 1 of this act, the tax hereby imposed shall be collected by the retailer from the consumer insofar as it can be done.*

Sec. 3.3. NRS 374.120 is hereby amended to read as follows:

374.120 1. ~~[[~~ *Except as otherwise provided in section 1 of this act, it is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.*

2. Any person violating any provision of this section is guilty of a misdemeanor.

Sec. 3.5. NRS 374.200 is hereby amended to read as follows:

374.200 ~~[Every]~~ *Except as otherwise provided in section 1 of this act, every retailer maintaining a place of business in a county and making sales of tangible personal property for storage, use or other consumption in the county, not exempted under NRS 374.265 to 374.355, inclusive, shall, at the time of making the sales or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Department.*

Sec. 3.7. NRS 374.210 is hereby amended to read as follows:

374.210 ~~[[~~ *Except as otherwise provided in section 1 of this act, it is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.*

Sec. 3.9. NRS 374.370 is hereby amended to read as follows:

374.370 1. Except as otherwise required by the Department pursuant to NRS 360B.200 or provided in NRS 360B.281 or 360B.350 to 360B.375, inclusive:

(a) For the purposes of the sales tax:

(1) The return must show the gross receipts of the seller during the preceding reporting period.

(2) The gross receipts must be segregated and reported separately for each county to which a sale of tangible personal property pertains.

(3) A sale pertains to the county in this State in which the tangible personal property is or will be delivered to the purchaser or his or her agent or designee.

(b) For purposes of the use tax:

(1) In the case of a return filed by a retailer, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which property became subject to the use tax during the preceding reporting period.

(2) The sales price must be segregated and reported separately for each county to which a purchase of tangible personal property pertains.

(3) If the property was:

(I) Brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property is or will be first used, stored or otherwise consumed.

(II) Not brought into this State by the purchaser or his or her agent or designee, the sale pertains to the county in this State in which the property was delivered to the purchaser or his or her agent or designee.

2. The Department shall provide a section on the return to allow a business to appropriately report property sold by the business for which the business has agreed to pay the local sales and use taxes pursuant to section 1 of this act.

~~3.~~ In case of a return filed by a purchaser, the return must show the total sales price of the property purchased by him or her, the storage, use or consumption of which became subject to the use tax during the preceding reporting period and indicate the county in this State in which the property was first used, stored or consumed.

~~3.~~ 4. The return must also show the amount of the taxes for the period covered by the return and such other information as the Department deems necessary for the proper administration of this chapter.

~~4.~~ 5. Except as otherwise provided in subsection ~~5.~~ 6, upon determining that a retailer has filed a return which contains one or more violations of the provisions of this section, the Department shall:

(a) For the first return of any retailer which contains one or more violations, issue a letter of warning to the retailer which provides an explanation of the violation or violations contained in the return.

(b) For the first or second return, other than a return described in paragraph (a), in any calendar year which contains one or more violations, assess a penalty equal to the amount of the tax which was not reported or was reported for the wrong county or \$1,000, whichever is less.

(c) For the third and each subsequent return in any calendar year which contains one or more violations, assess a penalty of three times the amount of the tax which was not reported or was reported for the wrong county or \$3,000, whichever is less.

~~5.~~ 6. For the purposes of subsection ~~4.~~ 5, if the first violation of this section by any retailer was determined by the Department through an audit which covered more than one return of the retailer, the Department shall treat all returns which were determined through the same audit to contain a violation or violations in the manner provided in paragraph (a) of subsection ~~4.~~ 5.

Sec. 4. NRS 218D.355 is hereby amended to read as follows:

218D.355 1. ~~[Any]~~ *Except as otherwise provided in section 1 of this act, any state legislation enacted on or after July 1, 2012, which authorizes or requires the Office of Economic Development to approve any abatement of taxes or increases the amount of any abatement of taxes which the Office is authorized or required to approve:*

(a) Expires by limitation 10 years after the effective date of that legislation.

(b) Does not apply to:

(1) Any taxes imposed pursuant to NRS 374.110 or 374.190; or

(2) Any entity that receives:

(I) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or

(II) Any real or personal property from a governmental entity at no cost or at a reduced cost.

(c) Requires each recipient of the abatement to submit to the Department of Taxation, on or before the last day of each even-numbered year, a report on whether the recipient is in compliance with the terms of the abatement. The Department of Taxation shall establish a form for the report and may adopt such regulations as it determines to be appropriate to carry out this paragraph. The report must include, without limitation:

(1) The date the recipient commenced operation in this State;

(2) The number of employees actually employed by the recipient and the average hourly wage of those employees;

(3) An accounting of any fees paid by the recipient to the State and to local governmental entities;

(4) An accounting of the property taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(5) An accounting of the sales and use taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(6) An accounting of the total capital investment made in connection with the project to which the abatement applies; and

(7) An accounting of the total investment in personal property made in connection with the project to which the abatement applies.

2. On or before January 15 of each odd-numbered year, the Department of Taxation shall:

(a) Based upon the information submitted to the Department of Taxation pursuant to paragraph (c) of subsection 1, prepare a written report of its findings regarding whether the costs of the abatement exceed the benefits of the abatement; and

(b) Submit the report to the Director for transmittal to the Legislature.

Sec. 5. NRS 231.0685 is hereby amended to read as follows:

231.0685 The Office shall, on or before January 15 of each odd-numbered year, prepare and submit to the Director of the Legislative Counsel Bureau for transmission to the Legislature a report concerning the

abatements from taxation that the Office approved pursuant to NRS 274.310, 274.320, 274.330 or 360.750 ~~[-]~~ *or section 1 of this act*. The report must set forth, for each abatement from taxation that the Office approved in the 2-year period immediately preceding the submission of the report:

1. The dollar amount of the abatement;
2. The location of the business for which the abatement was approved;
3. If applicable, the number of employees that the business for which the abatement was approved employs or will employ;
4. Whether the business for which the abatement was approved is a new business or an existing business; and
5. Any other information that the Office determines to be useful.

Sec. 5.5. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An owner of a business or a person who intends to locate or expand a business in this State may apply to the Office of Economic Development for a partial abatement from one or more of the property taxes or local sales and use taxes imposed on an aircraft or a component of an aircraft. An application for a partial abatement for local sales and use taxes may include a request for a partial abatement of the taxes as applied to:

- (a) Purchases made by the business;
- (b) Purchases made from the business, for which the business has agreed to pay the local sales and use taxes; or
- (c) Both purchases by and from the business.

2. Notwithstanding the provisions of any law to the contrary and except as otherwise provided in subsection 3, the Office of Economic Development shall approve an application for a partial abatement if the Office makes the following determinations:

- (a) The applicant has executed an agreement with the Office which:
 - (1) Complies with the requirements of NRS 360.755; and
 - (2) States that the business will, after the date on which a certificate of eligibility for the partial abatement is issued pursuant to subsection 5, continue in operation in this State for a period specified by the Office, which must be not less than 5 years;
- (b) The business is registered pursuant to the laws of this State or the applicant commits to obtaining a valid business license and all other permits required by the county, city or town in which the business operates;
- (c) The business owns, operates, manufactures, services or utilizes aircraft or components of aircraft;
- (d) If the business is:
 - (1) A new business, that it will have five or more full-time employees on the payroll of the business not later than 1 year after receiving its certificate of eligibility for a partial abatement; or
 - (2) An existing business, that it will increase its number of full-time employees on the payroll of the business in this State by 3 percent or

three employees, whichever is greater, not later than 1 year after receiving its certificate of eligibility for a partial abatement; and

(e) The business meets at least one of the following requirements:

(1) The business will make a new capital investment of at least \$250,000 in this State not later than 1 year after receiving its certificate of eligibility for a partial abatement;

(2) The business will maintain and possess in this State tangible personal property having a value of not less than \$5,000,000 during the period of partial abatement;

(3) The average hourly wage that will be paid by the business to its employees in this State during the period of partial abatement is not less than 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; or

(4) The business develops, refines or owns a patent or other intellectual property, or has been issued a type certificate by the Federal Aviation Administration pursuant to 14 C.F.R. Part 21.

3. The Office of Economic Development:

(a) Shall approve or deny an application submitted pursuant to this section and notify the applicant of its decision not later than 45 days after receiving the application.

(b) Shall not:

(1) Consider an application for a partial abatement unless the Office has requested a letter of acknowledgment of the request for the partial abatement from any affected county, school district, city or town and has complied with the requirements of NRS 360.757; or

(2) Approve a partial abatement for any applicant for a period of more than 10 years.

4. The Office of Economic Development shall not approve a partial abatement of property taxes for a business whose physical property is collectively valued and centrally assessed pursuant to NRS 361.320 and 361.3205 unless the business is regulated under 14 C.F.R. Part 125 or 135.

5. If the Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the partial abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the appropriate county treasurer.

6. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

7. If a business whose partial abatement has been approved pursuant to this section and whose partial abatement is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (a) of subsection 2,

→ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the appropriate county treasurer, the amount of the partial abatement that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the partial abatement required to be repaid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

8. The Office of Economic Development may adopt such regulations as the Office determines to be necessary to carry out the provisions of this section.

9. The Nevada Tax Commission may adopt such regulations as the Commission determines are necessary to carry out the provisions of this section.

10. An applicant for a partial abatement who is aggrieved by a final decision of the Office of Economic Development may petition a court of competent jurisdiction to review the decision in the manner provided in chapter 233B of NRS.

11. If the Office of Economic Development approves an application for a partial abatement of local sales and use taxes pursuant to this section:

(a) The Office of Economic Development shall specify whether the partial abatement applies to taxes due on purchases made by the business or purchases made from the business, or both. If the partial abatement applies to purchases made from the business for which the business has agreed to pay the local sales and use taxes, the business may apply the partial abatement and pay the taxes on behalf of the purchaser.

(b) The partial abatement must be equal to that portion of the combined rate of all the local sales and use taxes payable by the business each year which exceeds 0.25 percent.

(c) The Department shall issue to the business a document certifying the partial abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of ~~(2.6)~~ 2.25 percent.

(d) The State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the

business for the period of the partial abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

12. As used in this section:

(a) "Aircraft" means any fixed-wing, rotary-wing or unmanned aerial vehicle.

(b) "Component of an aircraft" means any:

(1) Component of the physical structure of an aircraft;

(2) Mechanical, electrical or other system of an aircraft, including, without limitation, any component thereof; and

(3) Part, engine, machinery, tool, chemical, gas or equipment used to manufacture, maintain, test, repair, overhaul or assemble an aircraft or component of an aircraft.

(c) "Local sales and use taxes" means any taxes imposed on the gross receipts of any retailer from the sale of tangible personal property sold at retail, or stored, used or otherwise consumed, in any political subdivision of this State, except the taxes imposed by the Sales and Use Tax Act.

(d) "Property taxes" means any taxes levied by the State or a local government pursuant to the provisions of chapter 361 of NRS.

Sec. 6. The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property or excise tax on the sale, storage, use or other consumption of tangible personal property sold at retail:

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

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

Sec. 7. 1. This section, sections 1 to 5, inclusive, and 6 of this act becomes effective on July 1, 2013, and ~~expires~~ expire by limitation on June 30, 2033.

2. Section 5.5 of this act becomes effective on July 1, 2015, and expires by limitation on June 30, 2033.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 985 to Senate Bill No. 385 offers some clarifying language and sets the rate at 2.60 percent.

Amendment adopted.

Bill read third time.

Remarks by Senator Roberson.

Thank you, Mr. President. Senate Bill No. 385 provides certain tax abatements to the aviation industry. It will make us more competitive with other states. The bill was brought at the request of the Governor's Office of Economic Development. I urge your support.

Roll call on Senate Bill No. 385:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Senate Bill No. 385 having received a constitutional majority, Mr. President declared it passed, as amended

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Assembly Bill No. 413.

Bill read third time.

The following amendment was proposed by the Committee on Revenue and Economic Development:

Amendment No. 974.

"SUMMARY—Revises provisions relating to taxation. (BDR 32-1010)"

"AN ACT relating to taxation; authorizing certain larger counties to impose additional taxes on fuels for motor vehicles; providing for the imposition by the State of additional taxes on fuels for motor vehicles if a ballot question authorizing such additional taxes is approved by a majority of the voters in this State; providing for the imposition by the boards of county commissioners of certain counties of additional taxes on fuels for motor vehicles if a ballot question authorizing such additional taxes is approved by a majority of the voters in the county; requiring the approval by voters of additional ballot measures to continue the imposition of the additional taxes; requiring certain persons who use special fuel in motor vehicles operated or intended to operate interstate to file certain returns with the Department of Motor Vehicles under certain circumstances; requiring the Department ~~of Motor Vehicles~~ to adopt regulations establishing a system for the ~~reimbursement and repayment~~ auditing of such returns to determine whether any amounts are owed by or to such persons pursuant to certain cooperative agreements; requiring the Department to charge and collect certain fees; authorizing the Department to enter into certain intergovernmental agreements or contracts under certain circumstances; creating an enterprise fund administered by the Director of the Department; providing for the administration, allocation, disbursement and use of the additional taxes; removing the exemption for the sale of revenue bonds secured by county fuel taxes from certain requirements; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes counties to impose certain taxes on motor vehicle fuels and special fuels used in motor vehicles. (Chapter 373 of NRS) Section 1.1 of this bill authorizes the board of county commissioners of a

county whose population is 700,000 or more and in which a regional transportation commission has been created and a county tax is imposed on motor vehicle fuel (currently Clark County) to impose, upon approval by a two-thirds majority of the members of the board, additional county taxes on motor vehicle fuel and various special fuels used in motor vehicles. Section 1.1 also authorizes the board of county commissioners to provide for annual increases in these taxes, for the period beginning on January 1, 2014, and ending on December 31, 2016, in an amount equal to the lesser of: (1) a percentage established by the ordinance imposing the tax; or (2) a percentage based on historical increases in the cost of highway and street construction. Section 1.1 additionally provides that for the period beginning on January 1, 2017: (1) the board of county commissioners must not impose any additional increases in certain taxes authorized by that section; and (2) increases in the remainder of the taxes authorized by that section may not be effectuated unless a majority of the voters in the county at the general election in November 2016 authorize the board of county commissioners to continue to provide for the annual increases.

Upon approval by a majority of the voters in the State at the general election in November 2016, section 1.2 of this bill requires the State to impose additional state taxes on motor vehicle fuel and various special fuels used in motor vehicles. Section 1.2 also authorizes the Legislature to provide for annual increases in these taxes, for the period beginning on January 1, 2017, and ending on December 31, 2026. Section 1.2 additionally provides that for the period beginning on January 1, 2027, the increases in these taxes may not be effectuated unless a majority of the voters in the State at the general election in November 2026 authorize the Legislature to continue to provide for the annual increases.

Upon approval by a majority of the voters in any county, other than Washoe County or, under certain circumstances, Clark County, at the general election in November 2016, section 1.3 of this bill requires the board of county commissioners of the county to impose additional county taxes on motor vehicle fuel and various special fuels used in motor vehicles. Section 1.3 also authorizes the board of county commissioners to provide for annual increases in these taxes, for the period beginning on January 1, 2017, and ending on December 31, 2026. Section 1.3 additionally provides that for the period beginning on January 1, 2027, the increases in these taxes may not be effectuated unless a majority of the voters in the county at the general election in November 2026 authorize the board of county commissioners to continue to provide for the annual increases.

The Department of Motor Vehicles is a party to the International Fuel Tax Agreement, a multistate agreement which facilitates the calculation and collection of certain fuel taxes from interstate trucking companies and others who use special fuel (primarily diesel fuel) in vehicles operated or intended to operate interstate. (NRS 366.175) Sections 1.7- ~~1.9~~ 1.95 of this bill require certain special fuel users to file a return with the Department and

require the Department to adopt regulations establishing a system for [the reimbursement and repayment of] auditing such returns to determine whether any amounts are owed by or to the special fuel user pursuant to the International Fuel Tax Agreement as a result of any additional taxes on special fuels authorized or required by this bill. Sections 1.7, 1.8 and 1.9 require the Department to charge and collect certain fees from the special fuel users who are required to file returns with the Department and additionally authorize the Department to enter into certain intergovernmental agreements or contracts to pay for certain costs relating to establishing and administering the system. Sections 1.75, 1.85 and 1.95 create an enterprise fund known as the Local Fuel Tax Indexing Fund into which the Department is required to deposit money received from the fees collected pursuant to sections 1.7, 1.8 and 1.9.

Sections 2-2.7 and 4-11.3 of this bill require the administration, allocation, disbursement and use of these taxes in the same manner as certain existing fuel taxes. Additionally, sections 2-2.7 require the annual review of these taxes by the regional transportation commission.

Sections 3-3.9 of this bill apply the current exemptions from fuel taxes to the taxes authorized by this bill, other than the exemption for certain undyed special fuel which is sold or used for any purpose other than to propel a motor vehicle upon the public highways.

Section 11.5 of this bill revises provisions of existing law to remove the exemption for the sale of revenue bonds that are secured by county fuel taxes from various requirements concerning the sale of bonds by competitive bid or negotiated sale.

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

Section 1. Chapter 373 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to ~~1.9~~ 1.95, inclusive, of this act.

Sec. 1.1. 1. *Except as otherwise provided in this section, in a county whose population is 700,000 or more and in which a commission has been created and a tax is imposed pursuant to NRS 373.030:*

(a) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 3.6 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 3.6 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable

percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(b) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(c) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1 cent per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1 cent per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(d) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 9 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 9 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(e) The board may by ordinance impose:

(1) *An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.455 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.455 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(f) *The board may by ordinance impose:*

(1) *An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(g) *The board may by ordinance impose:*

(1) *An excise tax on each gallon of special fuel that consists of an emulsion of water-phased hydrocarbon fuel sold in the county in an amount equal to the product obtained by multiplying 19 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 19 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(h) *The board may by ordinance impose:*

(1) *An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained*

by multiplying 22 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 22 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(i) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 21 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 21 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(j) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph (g), (h) or (i), in an amount equal to the product obtained by multiplying 27.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 27.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(k) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable

percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(l) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(m) The board may by ordinance impose:

(1) An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph (k) or (l), which is taxed by the Federal Government at a rate per gallon or gallon equivalent of 24.4 cents or more, in an amount equal to the product obtained by multiplying 24.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 5, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 24.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

2. An ordinance authorized by this section must be approved by a two-thirds majority of the members of the board. If the board adopts an ordinance authorized by this section, the ordinance must impose all of the taxes authorized by this section. Upon the adoption of such an ordinance, and except as otherwise provided in subsection 5, no further action by the

board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.

3. If the board adopts an ordinance imposing the taxes authorized by this section, the ordinance:

- (a) Must be adopted before October 1, 2013;*
- (b) Must become effective on January 1, 2014; and*
- (c) Is not affected by any changes in the population of the county which occur after the adoption of the ordinance.*

4. The applicable percentage specified by the board for the taxes imposed pursuant to this section must be the same percentage for each tax imposed pursuant to this section. Except as otherwise provided in subsection 5, the board may amend the applicable percentage by ordinance from time to time, but any such amendment must not become effective earlier than 90 days after the date of the adoption of the ordinance amending the applicable percentage. Except as otherwise provided in subsection 4 of NRS 373.120, the applicable percentage must not be amended to reduce the applicable percentage at any time that bonds are outstanding secured by the taxes imposed pursuant to this section.

5. Upon the adoption of an ordinance authorized by this section:

(a) For the period beginning on January 1, 2014, and ending on December 31, 2016, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.

(b) For the period beginning on January 1, 2017:

(1) The board shall not impose any additional annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 and imposed by the ordinance after November 8, 2016, but any annual increases in the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 and imposed by the ordinance on or before November 8, 2016, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes authorized by paragraphs (e) and (g) to (j), inclusive, of subsection 1 and imposed by the ordinance.

(2) The annual increases in the taxes authorized by paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1 and imposed by the ordinance may not be effectuated unless a question is placed on the ballot at the general election on November 8, 2016, which asks the voters in the county whether to authorize the board to impose, for the period beginning on January 1, 2017, the increases authorized by paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1 in the taxes imposed by the ordinance and the question is approved by a majority of the registered voters voting on the question. If the question is approved by a majority of such voters, no further action by the board is necessary to effectuate the annual increases in the taxes authorized by paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1 and imposed by the ordinance. If the question is not approved by a majority of such voters, the board shall not impose any additional

annual increases in the taxes authorized by paragraphs (a) to (d), inclusive, (f), (k), (l) and (m) of subsection 1 and imposed by the ordinance after November 8, 2016, but any annual increases in such taxes imposed by the ordinance on or before November 8, 2016, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by such taxes imposed by the ordinance.

6. As used in this section:

(a) "Adjusted average highway and street construction inflation index" means:

(1) For the fiscal year in which an ordinance adopted pursuant to this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero; and

(2) For each fiscal year following the fiscal year in which the ordinance becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the adjusted average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero.

(b) "Applicable percentage" means the lesser of 7.8 percent or the percentage specified by the board in any ordinance imposing a tax pursuant to this section.

(c) "Average highway and street construction inflation index" means for a fiscal year the average percentage increase in the highway and street construction inflation index for the 10 calendar years immediately preceding the beginning of that fiscal year.

(d) "Highway and street construction inflation index" means:

(1) The Producer Price Index for Highway and Street Construction until that index ceased to be published; and

(2) The Producer Price Index for Other Nonresidential Construction thereafter or, if that index ceases to be published by the United States Department of Labor, the published index that most closely measures

inflation in the costs of highway and street construction, as determined by the commission.

(e) "Special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.2. 1. In addition to any other tax imposed pursuant to chapter 365 or 366 of NRS:

(a) There is hereby imposed:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in this State in an amount equal to the product obtained by multiplying 18.455 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.455 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(b) There is hereby imposed:

(1) An excise tax on each gallon of special fuel that consists of an emulsion of water-phased hydrocarbon fuel sold in this State in an amount equal to the product obtained by multiplying 19 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 19 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(c) There is hereby imposed:

(1) An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in this State in an amount equal to the product obtained by multiplying 22 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 22 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding

fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(d) There is hereby imposed:

(1) An excise tax on each gallon of special fuel that consists of compressed natural gas sold in this State in an amount equal to the product obtained by multiplying 21 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 21 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(e) There is hereby imposed:

(1) An excise tax on each gallon of special fuel sold in this State, other than any special fuel described in paragraph (b), (c) or (d), in an amount equal to the product obtained by multiplying 27.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which this section becomes effective; and

(2) Except as otherwise provided in subsection 3, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 27.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

2. The applicable percentage for the taxes imposed pursuant to this section must be the same percentage for each tax imposed pursuant to this section. Except as otherwise provided in subsection 3, the Legislature may amend the applicable percentage from time to time, but any such amendment must not become effective earlier than 90 days after the date of the action by the Legislature amending the applicable percentage. Except as otherwise provided in section 1.5 of this act, the applicable percentage must not be amended to reduce the applicable percentage at any time that bonds are outstanding which are secured by the taxes imposed pursuant to this section.

3. For the period:

(a) Beginning on January 1, 2017, and ending on December 31, 2026, no further action by the Legislature is necessary to effectuate the annual increases in the taxes imposed by this section.

(b) Beginning on January 1, 2027, the annual increases in the taxes imposed by this section must not be effectuated unless a question is placed on the ballot at the general election on November 3, 2026, which asks the voters in this State whether to authorize the Legislature to impose, for the period beginning on January 1, 2027, the increases authorized by this section in the taxes imposed by this section and the question is approved by a majority of the registered voters in this State voting on the question. If the question is approved by a majority of such voters, no further action by the Legislature is necessary to effectuate the annual increases in the taxes imposed by this section. If the question is not approved by a majority of such voters, the Legislature shall not impose any additional annual increases in the taxes imposed by this section after November 3, 2026, but any annual increases in the taxes imposed by this section in effect on or before November 3, 2026, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes imposed by this section.

4. All money received from the taxes imposed pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. As used in this section:

(a) "Adjusted average highway and street construction inflation index" means:

(1) For the fiscal year in which this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero; and

(2) For each fiscal year following the fiscal year in which this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the adjusted average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero.

(b) "Applicable percentage" means the lesser of 7.8 percent or the percentage specified by the Legislature in any act amending the applicable percentage of a tax imposed pursuant to this section.

(c) "Average highway and street construction inflation index" means for a fiscal year the average percentage increase in the highway and street construction inflation index for the 10 calendar years immediately preceding the beginning of that fiscal year.

(d) "Highway and street construction inflation index" means:

(1) The Producer Price Index for Highway and Street Construction until that index ceased to be published; and

(2) The Producer Price Index for Other Nonresidential Construction thereafter or, if that index ceases to be published by the United States Department of Labor, the published index that most closely measures inflation in the costs of highway and street construction, as determined by the Legislature.

(e) "Special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.3. 1. In addition to any other tax imposed pursuant to this chapter:

(a) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 3.6 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 3.6 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(b) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1.75 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1.75 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable

percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(c) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 1 cent per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 1 cent per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(d) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 9 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 9 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(e) The board shall by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, sold in the county in an amount equal to the product obtained by multiplying 18.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and

(2) Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.

(f) The board shall by ordinance impose:

(1) *An excise tax on each gallon of special fuel that consists of liquefied petroleum gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(g) *The board shall by ordinance impose:*

(1) *An excise tax on each gallon of special fuel that consists of compressed natural gas sold in the county in an amount equal to the product obtained by multiplying 18.3 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 18.3 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

(h) *The board shall by ordinance impose:*

(1) *An excise tax on each gallon of special fuel sold in the county, other than any special fuel described in paragraph (f) or (g), which is taxed by the Federal Government at a rate per gallon or gallon equivalent of 24.4 cents or more, in an amount equal to the product obtained by multiplying 24.4 cents per gallon by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the ordinance becomes effective; and*

(2) *Except as otherwise provided in subsection 4, an annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in the amount determined by adding 24.4 cents per gallon to the amount of the tax imposed pursuant to subparagraph (1) during the immediately preceding fiscal year, then multiplying that sum by the lesser of the applicable percentage or the adjusted average highway and street construction inflation index for the fiscal year in which the increase becomes effective.*

2. *Upon the adoption of the ordinance required by subsection 1, and except as otherwise provided in subsection 4, no further action by the board*

is necessary to effectuate the annual increases in the taxes imposed by the ordinance.

3. The applicable percentage specified by the board for the taxes imposed pursuant to this section must be the same percentage for each tax imposed by the board pursuant to this section. Except as otherwise provided in subsection 4, the board may amend the applicable percentage by ordinance from time to time, but any such amendment must not become effective earlier than 90 days after the date of the adoption of the ordinance amending the applicable percentage. Except as otherwise provided in subsection 4 of NRS 373.120, the applicable percentage must not be amended to reduce the applicable percentage at any time that bonds are outstanding which are secured by the taxes imposed pursuant to this section.

4. Upon the adoption of an ordinance authorized by this section:

(a) For the period beginning on January 1, 2017, and ending on December 31, 2026, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance.

(b) For the period beginning on January 1, 2027, the annual increases in the taxes imposed by the ordinance may not be effectuated unless a question is placed on the ballot at the general election on November 3, 2026, which asks the voters in the county whether to authorize the board to impose, for the period beginning on January 1, 2027, the increases authorized by this section in the taxes imposed by the ordinance and the question is approved by a majority of the registered voters in the county voting on the question. If the question is approved by a majority of such voters, no further action by the board is necessary to effectuate the annual increases in the taxes imposed by the ordinance. If the question is not approved by a majority of such voters, the board shall not impose any additional annual increases in the taxes imposed by the ordinance after November 3, 2026, but any annual increases in the taxes imposed by the ordinance in effect on or before November 3, 2026, are not affected, amended, reduced or eliminated and must be continued for any period during which bonds are outstanding that are secured by the taxes imposed by the ordinance.

5. As used in this section:

(a) "Adjusted average highway and street construction inflation index" means:

(1) For the fiscal year in which an ordinance adopted pursuant to this section becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero; and

(2) For each fiscal year following the fiscal year in which the ordinance becomes effective, the percentage obtained by adding the average highway and street construction inflation index for that fiscal year to:

(I) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is greater than the applicable percentage, the remainder obtained by subtracting the applicable percentage from the adjusted average highway and street construction inflation index for the immediately preceding fiscal year; or

(II) If the adjusted average highway and street construction inflation index for the immediately preceding fiscal year is less than or equal to the applicable percentage, zero.

(b) "Applicable percentage" means the lesser of 7.8 percent or the percentage specified by the board in any ordinance imposing a tax pursuant to this section.

(c) "Average highway and street construction inflation index" means for a fiscal year the average percentage increase in the highway and street construction inflation index for the 10 calendar years immediately preceding the beginning of that fiscal year.

(d) "Highway and street construction inflation index" means:

(1) The Producer Price Index for Highway and Street Construction until that index ceased to be published; and

(2) The Producer Price Index for Other Nonresidential Construction thereafter or, if that index ceases to be published by the United States Department of Labor, the published index that most closely measures inflation in the costs of highway and street construction, as determined by the commission.

(e) "Special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.5. 1. Except as otherwise provided in subsection 2, any continuing increases in any taxes imposed pursuant to section 1.2 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations which are secured by the taxes imposed pursuant to section 1.2 of this act are issued or incurred, but the taxes imposed pursuant to section 1.2 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.

2. At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.2 of this act, the Legislature may, except as otherwise provided in paragraph (b) of subsection 3 of section 1.2 of this act:

(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.2 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant

to section 1.2 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the action by the Legislature authorized by this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.2 of this act have been paid in full.

(b) Specify a different applicable percentage, including an applicable percentage of zero, but:

(1) The applicable percentage must not exceed 7.8 percent;

(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of any action of the Legislature authorized by this subsection; and

(3) The effective date of any action by the Legislature reducing the applicable percentage must not be sooner than the later of:

(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.2 of this act are issued or incurred; or

(II) June 30 of the fiscal year that is 5 full fiscal years after the date of any action by the Legislature authorized by paragraph (a).

3. As used in this section, "applicable percentage" has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.2 of this act.

Sec. 1.7. 1. A person who uses special fuel in a motor vehicle operated or intended to operate interstate and who pays any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 of this act shall file with the Department a return for the purpose of the Department determining whether any amounts are owed by or to the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 of this act. The Department shall adopt regulations establishing a system to provide for the ~~reimbursement and repayment of~~ auditing of the records of a person who files such a return to determine whether the person is entitled to reimbursement of or owes any amounts ~~owed by any person~~ pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 of this act. The system established by the Department:

~~1.1.7~~ (a) ~~Must provide that any~~ Must ~~authorize a person who uses special fuel in motor vehicles operated or intended to operate interstate to file a request for reimbursement of any amounts owed to~~ ~~any~~ the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 of this act;

(b) Must provide that any reimbursement authorized by the Department be paid from only money received by a county pursuant to any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 of this act;

(c) Must provide that the total amount of money which must be paid by any county in any fiscal year to reimburse any amounts owed to persons who use special fuel in motor vehicles operated or intended to operate interstate

must not exceed 20 percent of the total amount of money collected by that county from any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 of this act; and

~~[2.] (d) Must not [be administered in a manner that directly or indirectly impairs adversely]~~ apply to any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding ~~[bonds issued under this chapter or other obligations incurred under this chapter.]~~ on the effective date of this section secured by those taxes or of any bonds that refund such bonds provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

2. The Department shall charge and collect a fee in an amount not to exceed \$100 for each request for reimbursement filed by a person pursuant to the system established by the Department pursuant to subsection 1. All money from the fees collected by the Department pursuant to this subsection must be deposited in the Local Fuel Tax Indexing Fund created by section 1.75 of this act.

3. The Department and a commission which has been created in a county whose population is 700,000 or more and in which a tax is imposed pursuant to section 1.1 of this act may enter into an intergovernmental agreement or contract pursuant to which:

(a) The commission agrees to pay for the costs incurred by the Department to establish the system pursuant to subsection 1 and administer the system until the amount of money received by the Department from the fees collected by the Department pursuant to subsection 2 is sufficient to pay the costs incurred by the Department to administer the system; and

(b) The Department agrees to reimburse the commission for any money paid by the commission pursuant to paragraph (a) from a portion of the money received by the Department from the fees collected by the Department pursuant to subsection 2.

4. As used in this section, "special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.75. 1. The Local Fuel Tax Indexing Fund is hereby created as an enterprise fund. The Department shall deposit in the Fund all fees collected by the Department pursuant to subsection 2 of section 1.7 of this act. The Director of the Department shall administer the Fund.

2. Money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

3. Money deposited in the Fund must only be expended:

(a) To administer the system established by the Department pursuant to section 1.7 of this act; and

(b) To reimburse a commission for any amounts paid by the commission pursuant to an intergovernmental agreement or contract entered into pursuant to subsection 3 of section 1.7 of this act.

4. The Director may maintain a reserve of not more than \$500,000 in the Fund. The reserve must be accounted for separately in the Fund and must only be expended to administer the system established by the Department pursuant to section 1.7 of this act.

5. Any balance remaining in the Fund at the end of any fiscal year:

(a) Does not revert to the State General Fund; and

(b) Must be carried forward to the next fiscal year.

Sec. 1.8. 1. A person who uses special fuel in a motor vehicle operated or intended to operate interstate and who pays any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act shall file with the Department a return for the purpose of the Department determining whether any amounts are owed by or to the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act. The Department shall adopt regulations establishing a system to provide for the ~~reimbursement and repayment of~~ auditing of the records of a person who files such a return to determine whether the person is entitled to reimbursement of or owes any amounts ~~owed by any person~~ pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act. The system established by the Department:

~~1.1~~ (a) Must ~~provide that any~~ authorize a person who uses special fuel in motor vehicles operated or intended to operate interstate to file a request for reimbursement of any amounts owed to ~~any~~ the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act;

(b) Must provide that any reimbursement authorized by the Department be paid from only money received by a county pursuant to any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act;

(c) Must provide that the total amount of money which must be paid by any county in any fiscal year to reimburse any amounts owed to persons who use special fuel in motor vehicles operated or intended to operate interstate must not exceed 20 percent of the total amount of money collected by that county from any tax imposed on special fuels pursuant to NRS 373.066 or section 1.1 or 1.3 of this act; and

~~2.2~~ (d) Must not ~~be administered in a manner that directly or indirectly impairs adversely~~ apply to any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding ~~bonds issued under this chapter or other obligations incurred under this chapter~~ on January 1, 2017, secured by those taxes or of any bonds that refund such bonds provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

2. The Department shall charge and collect a fee in an amount not to exceed \$100 for each request for reimbursement filed by a person pursuant to the system established by the Department pursuant to subsection 1. All

money from the fees collected by the Department pursuant to this subsection must be deposited in the Local Fuel Tax Indexing Fund created by section 1.85 of this act.

3. The Department and a commission which has been created in a county whose population is 700,000 or more and in which a tax is imposed pursuant to section 1.1 or 1.3 of this act may enter into an intergovernmental agreement or contract pursuant to which:

(a) The commission agrees to pay for the costs incurred by the Department to establish the system pursuant to subsection 1 and administer the system until the amount of money received by the Department from the fees collected by the Department pursuant to subsection 2 is sufficient to pay the costs incurred by the Department to administer the system; and

(b) The Department agrees to reimburse the commission for any money paid by the commission pursuant to paragraph (a) from a portion of the money received by the Department from the fees collected by the Department pursuant to subsection 2.

4. As used in this section, "special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.85. 1. The Local Fuel Tax Indexing Fund is hereby created as an enterprise fund. The Department shall deposit in the Fund all fees collected by the Department pursuant to subsection 2 of section 1.8 of this act. The Director of the Department shall administer the Fund.

2. Money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

3. Money deposited in the Fund must only be expended:

(a) To administer the system established by the Department pursuant to section 1.8 of this act; and

(b) To reimburse a commission for any amounts paid by the commission pursuant to an intergovernmental agreement or contract entered into pursuant to subsection 3 of section 1.8 of this act.

4. The Director may maintain a reserve of not more than \$500,000 in the Fund. The reserve must be accounted for separately in the Fund and must only be expended to administer the system established by the Department pursuant to section 1.8 of this act.

5. Any balance remaining in the Fund at the end of any fiscal year:

(a) Does not revert to the State General Fund; and

(b) Must be carried forward to the next fiscal year.

Sec. 1.9. 1. A person who uses special fuel in a motor vehicle operated or intended to operate interstate and who pays any tax imposed on special fuels pursuant to NRS 373.066 or section 1.3 of this act shall file with the Department a return for the purpose of the Department determining whether any amounts are owed by or to the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on

special fuels pursuant to NRS 373.066 or section 1.3 of this act. The Department shall adopt regulations establishing a system to provide for the ~~reimbursement and repayment of~~ auditing of the records of a person who files such a return to determine whether the person is entitled to reimbursement of or owes any amounts ~~owed by any person~~ pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.3 of this act. The system established by the Department:

~~1.1~~ (a) Must ~~provide that any~~ authorize a person who uses special fuel in motor vehicles operated or intended to operate interstate to file a request for reimbursement of any amounts owed to ~~any~~ the person pursuant to an agreement entered into pursuant to NRS 366.175 as a result of the imposition of any tax on special fuels pursuant to NRS 373.066 or section 1.3 of this act;

(b) Must provide that any reimbursement authorized by the Department be paid from only money received by a county pursuant to any tax imposed on special fuels pursuant to NRS 373.066 or section 1.3 of this act;

(c) Must provide that the total amount of money which must be paid by any county in any fiscal year to reimburse any amounts owed to persons who use special fuel in motor vehicles operated or intended to operate interstate must not exceed 20 percent of the total amount of money collected by that county from any tax imposed on special fuels pursuant to NRS 373.066 or section 1.3 of this act; and

~~1.2~~ (d) Must not ~~be administered in a manner that directly or indirectly impairs adversely~~ apply to any tax imposed pursuant to NRS 373.066 during the term of any bonds outstanding ~~bonds issued under this chapter or other obligations incurred under this chapter~~ on January 1, 2017, secured by those taxes or of any bonds that refund such bonds provided that the term of the refunding bonds is not longer than the term of the refunded bonds.

2. The Department shall charge and collect a fee in an amount not to exceed \$100 for each request for reimbursement filed by a person pursuant to the system established by the Department pursuant to subsection 1. All money from the fees collected by the Department pursuant to this subsection must be deposited in the Local Fuel Tax Indexing Fund created by section 1.95 of this act.

3. The Department and a commission which has been created in a county whose population is 700,000 or more and in which a tax is imposed pursuant to section 1.3 of this act may enter into an intergovernmental agreement or contract pursuant to which:

(a) The commission agrees to pay for the costs incurred by the Department to establish the system pursuant to subsection 1 and administer the system until the amount of money received by the Department from the fees collected by the Department pursuant to subsection 2 is sufficient to pay the costs incurred by the Department to administer the system; and

(b) The Department agrees to reimburse the commission for any money paid by the commission pursuant to paragraph (a) from a portion of the

money received by the Department from the fees collected by the Department pursuant to subsection 2.

4. As used in this section, "special fuel" has the meaning ascribed to it in NRS 366.060.

Sec. 1.95. 1. The Local Fuel Tax Indexing Fund is hereby created as an enterprise fund. The Department shall deposit in the Fund all fees collected by the Department pursuant to subsection 2 of section 1.9 of this act. The Director of the Department shall administer the Fund.

2. Money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

3. Money deposited in the Fund must only be expended:

(a) To administer the system established by the Department pursuant to section 1.9 of this act; and

(b) To reimburse a commission for any amounts paid by the commission pursuant to an intergovernmental agreement or contract entered into pursuant to subsection 3 of section 1.9 of this act.

4. The Director may maintain a reserve of not more than \$500,000 in the Fund. The reserve must be accounted for separately in the Fund and must only be expended to administer the system established by the Department pursuant to section 1.9 of this act.

5. Any balance remaining in the Fund at the end of any fiscal year:

(a) Does not revert to the State General Fund; and

(b) Must be carried forward to the next fiscal year.

Sec. 2. NRS 373.067 is hereby amended to read as follows:

373.067 1. Any ordinance that imposes a tax pursuant to:

(a) The provisions of paragraph (a) of subsection 1 of NRS 373.066 *or paragraph (a) of subsection 1 of section 1.1 of this act* must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180.

(b) The provisions of paragraph (b) of subsection 1 of NRS 373.066 *or paragraph (b) of subsection 1 of section 1.1 of this act* must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190.

(c) The provisions of paragraph (c) of subsection 1 of NRS 373.066 *or paragraph (c) of subsection 1 of section 1.1 of this act* must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192.

(d) Any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act* must, except as otherwise required by

subsection 6 of NRS 373.140, require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 373.030.

2. Any ordinance adopted pursuant to NRS 373.066 *or section 1.1 of this act* must:

(a) Include a provision prohibiting the imposition of any penalties and interest for the failure to make any payments of any tax imposed by the ordinance which become due within the initial 6 months after the ordinance becomes effective. This provision must apply only to taxes imposed pursuant to NRS 373.066 *or section 1.1 of this act* and must not apply to any tax imposed pursuant to any other ordinance.

(b) Require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

Sec. 2.3. NRS 373.067 is hereby amended to read as follows:

373.067 1. Any ordinance that imposes a tax pursuant to:

(a) The provisions of paragraph (a) of subsection 1 of NRS 373.066 , *paragraph (a) of subsection 1 of section 1.1 of this act or paragraph (a) of subsection 1 of section 1.3 of this act* must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180.

(b) The provisions of paragraph (b) of subsection 1 of NRS 373.066 , *paragraph (b) of subsection 1 of section 1.1 of this act or paragraph (b) of subsection 1 of section 1.3 of this act* must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190.

(c) The provisions of paragraph (c) of subsection 1 of NRS 373.066 , *paragraph (c) of subsection 1 of section 1.1 of this act or paragraph (c) of subsection 1 of section 1.3 of this act* must require the allocation, disbursement and use in the county of the proceeds of that tax in the same

proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192.

(d) Any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* must, except as otherwise required by subsection 6 of NRS 373.140, require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 373.030.

2. Any ordinance adopted pursuant to NRS 373.066 *or section 1.1 or 1.3 of this act* must:

(a) Include a provision prohibiting the imposition of any penalties and interest for the failure to make any payments of any tax imposed by the ordinance which become due within the initial 6 months after the ordinance becomes effective. This provision must apply only to taxes imposed pursuant to NRS 373.066 *or section 1.1 or 1.3 of this act* and must not apply to any tax imposed pursuant to any other ordinance.

(b) Require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

Sec. 2.7. NRS 373.067 is hereby amended to read as follows:

373.067 1. Any ordinance that imposes a tax pursuant to:

(a) The provisions of paragraph (a) of subsection 1 of NRS 373.066 *or paragraph (a) of subsection 1 of section 1.3 of this act* must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180.

(b) The provisions of paragraph (b) of subsection 1 of NRS 373.066 *or paragraph (b) of subsection 1 of section 1.3 of this act* must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190.

(c) The provisions of paragraph (c) of subsection 1 of NRS 373.066 *or paragraph (c) of subsection 1 of section 1.3 of this act* must require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192.

(d) Any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* must, except as otherwise required by subsection 6 of NRS 373.140, require the allocation, disbursement and use in the county of the proceeds of that tax in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 373.030.

2. Any ordinance adopted pursuant to NRS 373.066 *or section 1.3 of this act* must:

(a) Include a provision prohibiting the imposition of any penalties and interest for the failure to make any payments of any tax imposed by the ordinance which become due within the initial 6 months after the ordinance becomes effective. This provision must apply only to taxes imposed pursuant to NRS 373.066 *or section 1.3 of this act* and must not apply to any tax imposed pursuant to any other ordinance.

(b) Require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

Sec. 3. NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (a) to (f), inclusive, of subsection 1 of section 1.1 of this act* does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (g) to (m), inclusive, of subsection 1 of section 1.1 of this act* does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 *or section 1.1 of this act* is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

Sec. 3.1. NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (a) to (f), inclusive, of subsection 1 of section 1.1 of this act, paragraph (a) of subsection 1 of section 1.2 of this act or paragraphs (a) to (e), inclusive, of subsection 1 of section 1.3 of this act* does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (g) to (m), inclusive, of subsection 1 of section 1.1 of this act, paragraphs (b) to (e), inclusive, of subsection 1 of section 1.2 of this act or paragraphs (f), (g) and (h) of subsection 1 of section 1.3 of this act* does not apply to any sales or uses described in NRS 366.200, except to any sales or

uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 *or section 1.1, 1.2 or 1.3 of this act* is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

Sec. 3.2. NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (a) to (f), inclusive, of subsection 1 of section 1.1 of this act or paragraph (a) of subsection 1 of section 1.2 of this act* does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (g) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (b) to (e), inclusive, of subsection 1 of section 1.2 of this act* does

not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 *or section 1.1 or 1.2 of this act* is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

Sec. 3.3. NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (a) to (f), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (a) to (e), inclusive, of subsection 1 of section 1.3 of this act* does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (g) to (m), inclusive, of subsection 1 of section 1.1 of this act or*

paragraphs (f), (g) and (h) of subsection 1 of section 1.3 of this act does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 *or section 1.1 or 1.3 of this act* is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

Sec. 3.5. NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 , *paragraph (a) of subsection 1 of section 1.2 of this act or paragraphs (a) to (e), inclusive, of subsection 1 of section 1.3 of this act* does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (b) to (e), inclusive, of subsection 1 of section 1.2 of this act or paragraphs (f), (g) and (h) of subsection 1 of section 1.3 of this act* does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 *or section 1.2 or 1.3 of this act* is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

Sec. 3.7. NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 *or paragraph (a) of subsection 1 of section 1.2 of this act* does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (b) to (e), inclusive, of subsection 1 of section 1.2 of this act* does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 *or section 1.2 of this act* is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

Sec. 3.9. NRS 373.068 is hereby amended to read as follows:

373.068 1. Any tax imposed pursuant to the provisions of:

(a) Paragraphs (a) to (f), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (a) to (e), inclusive, of subsection 1 of section 1.3 of this act* does not apply to any fuel described in NRS 365.220 or 365.230.

(b) Paragraphs (g) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (f), (g) and (h) of subsection 1 of section 1.3 of this act* does not apply to any sales or uses described in NRS 366.200, except to any sales or uses described in subsection 1 of that section of any special fuel to which dye has not been added pursuant to federal law or the law of this State, of a type which is lawfully sold in this State both:

(1) As special fuel to which dye has been added pursuant to such law; and

(2) As special fuel to which dye has not been added pursuant to such law.

2. Each tax imposed pursuant to NRS 373.066 *or section 1.3 of this act* is in addition to any other motor vehicle fuel taxes and special fuel taxes imposed pursuant to the provisions of this chapter and chapters 365, 366 and 590 of NRS, except that on the effective date of an ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(b) Paragraph (b) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(c) Paragraph (c) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

(d) Paragraph (d) of subsection 1 of NRS 373.066, any tax increase imposed in that county pursuant to subparagraph (2) of paragraph (d) of subsection 1 of NRS 373.065 on the first day of the current fiscal year, and the authority to impose any additional tax increases in that county pursuant to that subparagraph on the first day of each subsequent fiscal year, expire by limitation.

Sec. 4. NRS 373.070 is hereby amended to read as follows:

373.070 1. Any fuel tax ordinance enacted under this chapter must include provisions in substance as follows:

(a) A provision imposing the additional excise tax and stating the amount of the tax per gallon of fuel.

(b) If the ordinance imposes a tax on motor vehicle fuel:

(1) Provisions identical to those contained in chapter 365 of NRS on the date of enactment of the ordinance, insofar as applicable, except that:

(I) The name of the county as taxing agency must be substituted for that of the State; and

(II) An additional supplier's license is not required.

(2) A provision that all amendments to chapter 365 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the motor vehicle fuel tax ordinance of the county.

(c) If the ordinance imposes a tax on special fuel:

(1) Provisions identical to those contained in chapter 366 of NRS on the date of enactment of the ordinance, insofar as applicable and not inconsistent with this chapter, except that:

(I) The name of the county as taxing agency must be substituted for that of the State;

(II) An additional special fuel supplier's license is not required;

(III) The ordinance must not include any provisions identical to NRS 366.175 other than the provisions relating to auditing; and

(IV) The ordinance must include provisions which carry out the requirements of paragraph (b) of subsection 1 of NRS 373.068 and which prohibit the refund of any tax paid on any taxable sales or uses described in that paragraph.

(2) A provision that all amendments to chapter 366 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the special fuel tax ordinance of the county.

(d) A provision that the county shall contract before the effective date of the county fuel tax ordinance with the Department to perform all functions incident to the administration or operation of the fuel tax ordinance of the county, including, if the ordinance is enacted pursuant to NRS 373.065 or 373.066, *or section 1.1 of this act*, the calculation of each annual increase in the tax imposed pursuant to the ordinance.

2. The provisions of this section do not subject any county fuel taxes imposed pursuant to this chapter to the provisions of NRS 366.175 or any agreement made pursuant thereto, except for those provisions of NRS 366.175 and any agreement made pursuant thereto which relate to auditing. The administration, collection and distribution of any county fuel taxes imposed pursuant to this chapter do not affect, and are not affected by, the administration, collection and distribution of any fuel taxes under any agreement made pursuant to NRS 366.175.

Sec. 4.3. NRS 373.070 is hereby amended to read as follows:

373.070 1. Any fuel tax ordinance enacted under this chapter must include provisions in substance as follows:

(a) A provision imposing the additional excise tax and stating the amount of the tax per gallon of fuel.

(b) If the ordinance imposes a tax on motor vehicle fuel:

(1) Provisions identical to those contained in chapter 365 of NRS on the date of enactment of the ordinance, insofar as applicable, except that:

(I) The name of the county as taxing agency must be substituted for that of the State; and

(II) An additional supplier's license is not required.

(2) A provision that all amendments to chapter 365 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the motor vehicle fuel tax ordinance of the county.

(c) If the ordinance imposes a tax on special fuel:

(1) Provisions identical to those contained in chapter 366 of NRS on the date of enactment of the ordinance, insofar as applicable and not inconsistent with this chapter, except that:

(I) The name of the county as taxing agency must be substituted for that of the State;

(II) An additional special fuel supplier's license is not required;

(III) The ordinance must not include any provisions identical to NRS 366.175 other than the provisions relating to auditing; and

(IV) The ordinance must include provisions which carry out the requirements of paragraph (b) of subsection 1 of NRS 373.068 and which prohibit the refund of any tax paid on any taxable sales or uses described in that paragraph.

(2) A provision that all amendments to chapter 366 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the special fuel tax ordinance of the county.

(d) A provision that the county shall contract before the effective date of the county fuel tax ordinance with the Department to perform all functions incident to the administration or operation of the fuel tax ordinance of the county, including, if the ordinance is enacted pursuant to NRS 373.065 or 373.066, *or section 1.1 or 1.3 of this act*, the calculation of each annual increase in the tax imposed pursuant to the ordinance.

2. The provisions of this section do not subject any county fuel taxes imposed pursuant to this chapter to the provisions of NRS 366.175 or any agreement made pursuant thereto, except for those provisions of NRS 366.175 and any agreement made pursuant thereto which relate to auditing. The administration, collection and distribution of any county fuel taxes imposed pursuant to this chapter do not affect, and are not affected by, the administration, collection and distribution of any fuel taxes under any agreement made pursuant to NRS 366.175.

Sec. 4.7. NRS 373.070 is hereby amended to read as follows:

373.070 1. Any fuel tax ordinance enacted under this chapter must include provisions in substance as follows:

(a) A provision imposing the additional excise tax and stating the amount of the tax per gallon of fuel.

(b) If the ordinance imposes a tax on motor vehicle fuel:

(1) Provisions identical to those contained in chapter 365 of NRS on the date of enactment of the ordinance, insofar as applicable, except that:

(I) The name of the county as taxing agency must be substituted for that of the State; and

(II) An additional supplier's license is not required.

(2) A provision that all amendments to chapter 365 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the motor vehicle fuel tax ordinance of the county.

(c) If the ordinance imposes a tax on special fuel:

(1) Provisions identical to those contained in chapter 366 of NRS on the date of enactment of the ordinance, insofar as applicable and not inconsistent with this chapter, except that:

(I) The name of the county as taxing agency must be substituted for that of the State;

(II) An additional special fuel supplier's license is not required;

(III) The ordinance must not include any provisions identical to NRS 366.175 other than the provisions relating to auditing; and

(IV) The ordinance must include provisions which carry out the requirements of paragraph (b) of subsection 1 of NRS 373.068 and which prohibit the refund of any tax paid on any taxable sales or uses described in that paragraph.

(2) A provision that all amendments to chapter 366 of NRS subsequent to the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the special fuel tax ordinance of the county.

(d) A provision that the county shall contract before the effective date of the county fuel tax ordinance with the Department to perform all functions incident to the administration or operation of the fuel tax ordinance of the county, including, if the ordinance is enacted pursuant to NRS 373.065 or 373.066, *or section 1.3 of this act*, the calculation of each annual increase in the tax imposed pursuant to the ordinance.

2. The provisions of this section do not subject any county fuel taxes imposed pursuant to this chapter to the provisions of NRS 366.175 or any agreement made pursuant thereto, except for those provisions of NRS 366.175 and any agreement made pursuant thereto which relate to auditing. The administration, collection and distribution of any county fuel taxes imposed pursuant to this chapter do not affect, and are not affected by, the administration, collection and distribution of any fuel taxes under any agreement made pursuant to NRS 366.175.

Sec. 5. NRS 373.080 is hereby amended to read as follows:

373.080 All fuel taxes collected during any month by the Department pursuant to a contract with a county must be transmitted each month by the Department to the county and the Department shall, in accordance with the terms of the contract, charge the county for the Department's services specified in this section and in NRS 373.070, except that in the case of a fuel

tax imposed pursuant to NRS 373.065 or 373.066, *or section 1.1 of this act*, the charge must not exceed 1 percent of the tax collected by the Department.

Sec. 5.3. NRS 373.080 is hereby amended to read as follows:

373.080 All fuel taxes collected during any month by the Department pursuant to a contract with a county must be transmitted each month by the Department to the county and the Department shall, in accordance with the terms of the contract, charge the county for the Department's services specified in this section and in NRS 373.070, except that in the case of a fuel tax imposed pursuant to NRS 373.065 or 373.066, *or section 1.1 or 1.3 of this act*, the charge must not exceed 1 percent of the tax collected by the Department.

Sec. 5.7. NRS 373.080 is hereby amended to read as follows:

373.080 All fuel taxes collected during any month by the Department pursuant to a contract with a county must be transmitted each month by the Department to the county and the Department shall, in accordance with the terms of the contract, charge the county for the Department's services specified in this section and in NRS 373.070, except that in the case of a fuel tax imposed pursuant to NRS 373.065 or 373.066, *or section 1.3 of this act*, the charge must not exceed 1 percent of the tax collected by the Department.

Sec. 6. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act* which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065 or paragraph (a), (b) or (c) of subsection 1 of NRS 373.066 *or paragraph (a), (b) or (c) of subsection 1 of section 1.1 of this act* which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 6.3. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~{or}~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as

the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065, ~~for~~ paragraph (a), (b) or (c) of subsection 1 of NRS 373.066, *paragraph (a), (b) or (c) of subsection 1 of section 1.1 of this act or paragraph (a), (b) or (c) of subsection 1 of section 1.3 of this act* which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 6.7. NRS 373.110 is hereby amended to read as follows:

373.110 All the net proceeds of any county fuel tax:

1. Imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* which are received by the county pursuant to NRS 373.080 must, except as otherwise provided in NRS 373.119, be deposited by the county treasurer in a fund to be known as the regional street and highway fund in the county treasury, and disbursed only in accordance with the provisions of this chapter and chapter 277A of NRS. After July 1, 1975, the regional street and highway fund must be accounted for as a separate fund and not as a part of any other fund.

2. Imposed pursuant to the provisions of paragraph (a), (b) or (c) of subsection 1 of NRS 373.065 or paragraph (a), (b) or (c) of subsection 1 of NRS 373.066 *or paragraph (a), (b) or (c) of subsection 1 of section 1.3 of this act* which are received by the county pursuant to NRS 373.080 must be allocated, disbursed and used as provided in the ordinance imposing the tax.

Sec. 7. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act* that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 7.3. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 7.7. NRS 373.119 is hereby amended to read as follows:

373.119 1. Except to the extent pledged before July 1, 1985, the board may use that portion of the revenue collected pursuant to the provisions of this chapter from any taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* that represents collections from the sale of fuel for use in boats at marinas in the county to make capital improvements or to conduct programs to encourage safety in boating. If the county does not control a body of water, where an improvement or program is appropriate, the board may contract with an appropriate person or governmental organization for the improvement or program.

2. Each marina shall report monthly to the Department the number of gallons of motor vehicle fuel sold for use in boats. The report must be made on or before the 25th day of each month for sales during the preceding month.

Sec. 8. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, *or section 1.1 of this act*, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. *Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.1 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred, but the taxes imposed pursuant to section 1.1 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.*

4. *At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.1 of this act, the board may, except as otherwise provided in subsection 5 of section 1.1 of this act, by ordinance:*

(a) *Continue the pledge of the increase in taxes imposed pursuant to section 1.1 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act have been paid in full.*

(b) *Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:*

(1) *The applicable percentage must not exceed 7.8 percent;*

(2) *The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and*

(3) *The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:*

(I) *June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred; or*

(II) *June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).*

5. *As used in this section, "applicable percentage" has the meaning ascribed to it in paragraph (b) of subsection 6 of section 1.1 of this act.*

Sec. 8.1. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, *or section 1.1, 1.2 or 1.3 of this act*, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. *Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.1 or 1.3 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred, but the taxes imposed pursuant to section 1.1 or 1.3 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.*

4. *At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.1 or 1.3 of this act, the board may, except as otherwise provided in subsection 5 of section 1.1 of this act or subsection 4 of section 1.3 of this act, as applicable, by ordinance:*

(a) *Continue the pledge of the increase in taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, have been paid in full.*

(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:

(1) The applicable percentage must not exceed 7.8 percent;

(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and

(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:

(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred; or

(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).

5. As used in this section, "applicable percentage":

(a) With regard to any tax imposed pursuant to section 1.1 of this act, has the meaning ascribed to it in paragraph (b) of subsection 6 of section 1.1 of this act.

(b) With regard to any tax imposed pursuant to section 1.3 of this act, has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.3 of this act.

Sec. 8.2. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, or section 1.1 or 1.2 of this act, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. *Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.1 or 1.3 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years*

after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred, but the taxes imposed pursuant to section 1.1 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.

4. *At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.1 of this act, the board may, except as otherwise provided in subsection 5 of section 1.1 of this act, by ordinance:*

(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.1 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act have been paid in full.

(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:

(1) The applicable percentage must not exceed 7.8 percent;

(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and

(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:

(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 of this act are issued or incurred; or

(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).

5. *As used in this section, "applicable percentage" has the meaning ascribed to it in paragraph (b) of subsection 6 of section 1.1 of this act.*

Sec. 8.3. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, or section 1.1 or

1.3 of this act, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. *Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.1 or 1.3 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred, but the taxes imposed pursuant to section 1.1 or 1.3 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.*

4. *At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.1 or 1.3 of this act, the board may, except as otherwise provided in subsection 5 of section 1.1 of this act or subsection 4 of section 1.3 of this act, as applicable, by ordinance:*

(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, have been paid in full.

(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:

(1) The applicable percentage must not exceed 7.8 percent;

(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and

(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:

(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.1 or 1.3 of this act, as applicable, are issued or incurred; or

(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).

5. *As used in this section, "applicable percentage":*

(a) With regard to any tax imposed pursuant to section 1.1 of this act, has the meaning ascribed to it in paragraph (b) of subsection 6 of section 1.1 of this act.

(b) With regard to any tax imposed pursuant to section 1.3 of this act, has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.3 of this act.

Sec. 8.5. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, *or section 1.2 or 1.3 of this act*, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. *Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.3 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred, but the taxes imposed pursuant to section 1.3 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.*

4. *At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.3 of this act, the board may, except as otherwise provided in subsection 4 of section 1.3 of this act, by ordinance:*

(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.3 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be

repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act have been paid in full.

(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:

(1) The applicable percentage must not exceed 7.8 percent;

(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and

(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:

(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred; or

(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).

5. As used in this section, "applicable percentage" has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.3 of this act.

Sec. 8.7. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, *or section 1.2 of this act*, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

Sec. 8.9. NRS 373.120 is hereby amended to read as follows:

373.120 1. No county fuel tax ordinance may be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which revenues from such ordinance have been pledged or otherwise made payable

from such revenues pursuant to this chapter have been discharged in full, but the board, with the approval of the governing body of each participating city, may at any time dissolve the commission and provide that no further obligations may be incurred thereafter.

2. The faith of the State of Nevada is hereby pledged that this chapter, NRS 365.180 to 365.200, inclusive, and 365.562, and any law supplemental thereto, including without limitation, provisions for the distribution to any county designated in NRS 373.030, 373.065 or 373.066, *or section 1.3 of this act*, of the proceeds of the fuel taxes collected thereunder will not be repealed, amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding bonds issued under this chapter or other obligations incurred under this chapter, until all obligations for which any such tax proceeds have been pledged or otherwise made payable from such tax proceeds pursuant to this chapter have been discharged in full, but the State of Nevada may at any time provide by act that no further obligations may be incurred thereafter.

3. *Except as otherwise provided in subsection 4, any continuing increases in any taxes imposed pursuant to section 1.3 of this act must not be pledged beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred, but the taxes imposed pursuant to section 1.3 of this act that are in effect on that June 30 must continue to be pledged to those bonds or other obligations until they are paid in full.*

4. *At any time after bonds are issued or other obligations incurred with a pledge of the taxes imposed pursuant to section 1.3 of this act, the board may, except as otherwise provided in subsection 4 of section 1.3 of this act, by ordinance:*

(a) Continue the pledge of the increase in taxes imposed pursuant to section 1.3 of this act beyond June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred, but not beyond June 30 of the fiscal year that is 5 full fiscal years after the adoption of the ordinance pursuant to this paragraph. The process set forth in this paragraph may be repeated until all bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act have been paid in full.

(b) Amend the ordinance imposing the tax to specify a different applicable percentage, including an applicable percentage of zero, but:

(1) The applicable percentage must not exceed 7.8 percent;

(2) The applicable percentage must not be reduced with respect to any fiscal year preceding the fiscal year following the effective date of an ordinance adopted pursuant to this subsection; and

(3) The effective date of any ordinance reducing the applicable percentage must not be sooner than the later of:

(I) June 30 of the fiscal year that is 5 full fiscal years after bonds or other obligations secured by the taxes imposed pursuant to section 1.3 of this act are issued or incurred; or

(II) June 30 of the fiscal year that is 5 full fiscal years after the date of adoption of any ordinance pursuant to paragraph (a).

5. As used in this section, "applicable percentage" has the meaning ascribed to it in paragraph (b) of subsection 5 of section 1.3 of this act.

Sec. 9. NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board or, in a county whose population is 100,000 or more, a commission, may, after the enactment of any ordinance authorized by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, *or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act*, issue revenue bonds and other revenue securities, on the behalf and in the name of the county or the commission, as the case may be:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, ~~and~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, ~~and~~ *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act* and, with respect to notes, warrants or interim debentures described in paragraphs (a) and (b) of subsection 6, the proceeds of bonds or interim debentures;

(b) Which must not be general obligations of the county or the commission or a charge on any real estate within the county; and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county or a commission as provided in subsection 2 is authorized to issue bonds or other securities without the necessity of their being authorized

at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, or, in a county whose population is 100,000 or more, a commission may, on behalf and in the name of the commission, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county or commission securities, and in connection with the undertaking or project, the board or the commission, as the case may be, may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

↪ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065 and paragraphs (a) and (b) of subsection 1 of NRS 373.066 *and paragraphs (a) and (b) of subsection 1 of section 1.1 of this act* may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board of the county consents to such use. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due,

as provided in the securities, the ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing the issuance of any bond or other revenue security under this section must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board or commission, as the case may be, of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified, if such bond or other security is issued by the county and not the commission.

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

Sec. 9.3. NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board or, in a county whose population is 100,000 or more, a commission, may, after the enactment of any ordinance authorized *or required* by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065, ~~for~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of*

this act, issue revenue bonds and other revenue securities, on the behalf and in the name of the county or the commission, as the case may be:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~and~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 ~~and~~ *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act and, with respect to notes, warrants or interim debentures described in paragraphs (a) and (b) of subsection 6, the proceeds of bonds or interim debentures;*

(b) Which must not be general obligations of the county or the commission or a charge on any real estate within the county; and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county or a commission as provided in subsection 2 is authorized to issue bonds or other securities without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, or, in a county whose population is 100,000 or more, a commission may, on behalf and in the name of the commission, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county or commission securities, and in connection with the undertaking or project, the board or the commission, as the case may be, may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

↪ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065, ~~and~~ paragraphs (a) and (b) of subsection 1 of NRS 373.066, *paragraphs (a) and (b) of subsection 1 of section 1.1 of this act and paragraphs (a) and (b) of subsection 1 of section 1.3 of this act* may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board of the county consents to such use. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing the issuance of any bond or other revenue security under this section must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board or commission, as the case may be, of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified, if such bond or other security is issued by the county and not the commission.

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other

securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

Sec. 9.7. NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions of this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board or, in a county whose population is 100,000 or more, a commission, may, after the enactment of any ordinance authorized *or required* by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, *or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*, issue revenue bonds and other revenue securities, on the behalf and in the name of the county or the commission, as the case may be:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~and~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 ~~and~~ *paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act and, with respect to notes, warrants or interim debentures described in paragraphs (a) and (b) of subsection 6, the proceeds of bonds or interim debentures;*

(b) Which must not be general obligations of the county or the commission or a charge on any real estate within the county; and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county or a commission as provided in subsection 2 is authorized to issue bonds or other securities without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, or, in a county whose population is 100,000 or

more, a commission may, on behalf and in the name of the commission, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county or commission securities, and in connection with the undertaking or project, the board or the commission, as the case may be, may otherwise proceed as provided in the Local Government Securities Law.

5. All such securities constitute special obligations payable from the net receipts of the fuel taxes designated in this chapter except as otherwise provided in NRS 373.150, and the pledge of revenues to secure the payment of the securities must be limited to those net receipts.

6. Except for:

(a) Any notes or warrants which are funded with the proceeds of interim debentures or bonds;

(b) Any interim debentures which are funded with the proceeds of bonds;

(c) Any temporary bonds which are exchanged for definitive bonds;

(d) Any bonds which are reissued or which are refunded; and

(e) The use of any profit from any investment and reinvestment for the payment of any bonds or other securities issued pursuant to the provisions of this chapter,

➔ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. Receipts of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065 and paragraphs (a) and (b) of subsection 1 of NRS 373.066 *and paragraphs (a) and (b) of subsection 1 of section 1.3 of this act* may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. Such taxes may also be used by a commission in a county whose population is 100,000 or more for the payment of bonds or other securities issued pursuant to the provisions of this chapter and may be pledged therefor if the board of the county consents to such use. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance and repair of any streets, roads or other highways nor for any purchase of equipment therefor, and the receipts of the tax levied in NRS 365.190 must not be apportioned pursuant to subsection 2 of NRS 365.560 unless, at any time the tax receipts are so apportioned, provision has been made in a timely manner for the payment of such outstanding securities as to the principal of, any prior redemption premiums due in connection with, and the interest on the securities as they become due, as provided in the securities, the ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing their issuance and any other instrument appertaining to the securities.

7. The ordinance, in the case of securities issued by a county, or the resolution, in the case of securities issued by a commission, authorizing the issuance of any bond or other revenue security under this section must describe the purpose for which it is issued at least in general terms and may describe the purpose in detail. This section does not require the purpose so stated to be set forth in the detail in which the project approved by the commission pursuant to subsection 2 of NRS 373.140 is stated, or prevent the modification by the board or commission, as the case may be, of details as to the purpose stated in the ordinance authorizing the issuance of any bond or other security after its issuance, subject to approval by the commission of the project as so modified, if such bond or other security is issued by the county and not the commission.

8. Notwithstanding any other provision of this chapter, no commission has authority to issue bonds or other securities pursuant to this chapter unless the commission has executed an interlocal agreement with the county relating to the issuance of bonds or other securities by the commission. Any such interlocal agreement must include an acknowledgment of the authority of the commission to issue bonds and other securities and contain provisions relating to the pledge of revenues for the repayment of the bonds or other securities, the lien priority of the pledge of revenues securing the bonds or other securities, and related matters.

Sec. 10. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act* must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

- (a) The priorities established by the plan;
- (b) The relation of the proposed work to other projects already constructed or authorized;
- (c) The relative need for the project in comparison with others proposed; and
- (d) The money available.

➡ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, *or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act*, except as otherwise required by

subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred under this chapter, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➔ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act* must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

Sec. 10.3. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030,

paragraph (d) of subsection 1 of NRS 373.065 , ~~for~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

- (a) The priorities established by the plan;
- (b) The relation of the proposed work to other projects already constructed or authorized;
- (c) The relative need for the project in comparison with others proposed; and
- (d) The money available.

➡ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 , ~~for~~ paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*, except as otherwise required by subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations incurred under this chapter, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➡ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

Sec. 10.7. NRS 373.140 is hereby amended to read as follows:

373.140 1. After the enactment of ordinances as authorized in NRS 277A.170 and 373.030, all street and highway construction, surfacing or resurfacing projects in the county which are proposed to be financed from any county fuel tax imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* must first be submitted to the commission.

2. If the project is within the area covered by a regional plan for transportation established pursuant to NRS 277A.210, the commission shall evaluate it in terms of:

(a) The priorities established by the plan;

(b) The relation of the proposed work to other projects already constructed or authorized;

(c) The relative need for the project in comparison with others proposed; and

(d) The money available.

➡ If the commission approves the project, the board may authorize the project, using all or any part of the proceeds of any county fuel tax authorized pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, *or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*, except as otherwise required by subsection 6 or to the extent any such use is prevented by the provisions for direct distribution required by NRS 373.150 or is prevented by any pledge to secure the payment of outstanding bonds, other securities or other obligations

incurred under this chapter, and other contractual limitations appertaining to such obligations as authorized by NRS 373.160, and the proceeds of revenue bonds or other securities issued or to be issued as provided in NRS 373.131. Except as otherwise provided in subsection 3, if the board authorizes the project, the responsibilities for letting construction and other necessary contracts, contract administration, supervision and inspection of work and the performance of other duties related to the acquisition of the project must be specified in written agreements executed by the board and the governing bodies of the cities and towns within the area covered by a regional plan for transportation established pursuant to NRS 277A.210.

3. In a county in which two or more governmental entities are represented on the commission, the governing bodies of those governmental entities may enter into a written master agreement that allows a written agreement described in subsection 2 to be executed by only the commission and the governmental entity that receives funding for the approved project. The provisions of a written master agreement must not be used until the governing body of each governmental entity represented on the commission ratifies the written master agreement.

4. If the project is outside the area covered by a plan, the commission shall evaluate it in terms of:

(a) Its relation to the regional plan for transportation established pursuant to NRS 277A.210, if any;

(b) The relation of the proposed work to other projects constructed or authorized;

(c) The relative need for the proposed work in relation to others proposed by the same city or town; and

(d) The availability of money.

➔ If the commission approves the project, the board shall direct the county treasurer to distribute the sum approved to the city or town requesting the project, in accordance with NRS 373.150.

5. In counties whose population is less than 100,000, the commission shall certify the adoption of the plan in compliance with subsections 2 and 4.

6. The proceeds of a tax imposed pursuant to any of the provisions of paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *or paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* must be expended in accordance with priorities for projects established in coordination and cooperation with the Department of Transportation.

Sec. 11. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances, or the resolution or resolutions, providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board or, in the case of bonds or other securities issued by a commission, the commission, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the

pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, *and paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act*, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.

2. If the board or, in the case of bonds or other securities issued by a commission, the commission, determines in any ordinance or resolution authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *and paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act* are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131, may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance or resolution under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

Sec. 11.1. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances, or the resolution or resolutions, providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board or, in the case of bonds or other securities issued by a commission, the commission, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of

subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.

2. If the board or, in the case of bonds or other securities issued by a commission, the commission, determines in any ordinance or resolution authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 , *paragraphs (d) to (m), inclusive, of subsection 1 of section 1.1 of this act and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131, may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance or resolution under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

Sec. 11.3. NRS 373.160 is hereby amended to read as follows:

373.160 1. The ordinance or ordinances, or the resolution or resolutions, providing for the issuance of any bonds or other securities issued under this chapter payable from the receipts from the fuel excise taxes designated in this chapter may at the discretion of the board or, in the case of bonds or other securities issued by a commission, the commission, in addition to covenants and other provisions authorized in the Local Government Securities Law, contain covenants or other provisions as to the pledge of and the creation of a lien upon the receipts of the taxes collected for the county pursuant to the provisions of NRS 373.030, paragraph (d) of

subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, *and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act*, excluding any tax proceeds to be distributed directly under the provisions of NRS 373.150, or the proceeds of the bonds or other securities pending their application to defray the cost of the project, or both such tax proceeds and security proceeds, to secure the payment of revenue bonds or other securities issued under this chapter.

2. If the board or, in the case of bonds or other securities issued by a commission, the commission, determines in any ordinance or resolution authorizing the issuance of any bonds or other securities under this chapter that the proceeds of the taxes levied and collected pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066 *and paragraphs (d) to (h), inclusive, of subsection 1 of section 1.3 of this act* are sufficient to pay all bonds and securities, including the proposed issue, from the proceeds thereof, the board or, in the case of bonds or other securities issued by a commission, the commission with the consent of the board as provided in subsection 6 of NRS 373.131, may additionally secure the payment of any bonds or other securities issued pursuant to the ordinance or resolution under this chapter by a pledge of and the creation of a lien upon not only the proceeds of any fuel tax authorized at the time of the issuance of such securities to be used for such payment in subsection 6 of NRS 373.131, but also the proceeds of any such tax thereafter authorized to be used or pledged, or used and pledged, for the payment of such securities, whether such tax be levied or collected by the county, the State of Nevada, or otherwise, or be levied in at least an equivalent value in lieu of any such tax existing at the time of the issuance of such securities or be levied in supplementation thereof.

3. The pledges and liens authorized by subsections 1 and 2 extend to the proceeds of any tax collected for use by the county on any fuel so long as any bonds or other securities issued under this chapter remain outstanding and are not limited to any type or types of fuel in use when the bonds or other securities are issued.

Sec. 11.5. NRS 350.155 is hereby amended to read as follows:

350.155 1. Except as otherwise provided in subsection 2, a municipality shall sell the bonds it issues by competitive bid if the credit rating for the bonds or any other bonds of the municipality with the same security, determined without regard to insurance for the bonds or any other independent enhancement of credit, is rated by a nationally recognized rating service as "A-," "A," "AA," "AAA," or their equivalents, 90 days before and on the day the bonds are sold and:

- (a) The bonds are general obligation bonds;
- (b) The primary security for the bonds is an excise tax; or
- (c) The bonds are issued pursuant to chapter 271 of NRS and are secured by a pledge of the taxing power and the general fund of the municipality.

2. The provisions of subsection 1 and NRS 350.175 and 350.185 do not apply to:

- (a) Any bond which is issued with a variable rate of interest.
- (b) A bond issue whose principal amount is \$1,000,000 or less.
- (c) A bond issue with a term of 3 years or less.
- (d) A bond issue for which an invitation for competitive bids was issued and for which no bids were received or all bids were rejected.
- (e) Leases, contracts for purchase by installment and certificates of participation if the obligations of the municipality thereunder will terminate when the municipality fails to appropriate money to pay that obligation for the next fiscal year.
- (f) Economic development revenue bonds issued pursuant to the city economic development revenue bond law or the county economic development revenue bond law.
- (g) Bonds sold by the municipality to:
 - (1) The United States or any agency or instrumentality thereof;
 - (2) The State of Nevada;
 - (3) Any other municipality; or
 - (4) Not more than 10 investors, each of whom certifies that he or she:
 - (I) Has a net worth of \$500,000 or more; and
 - (II) Is purchasing for investment and not for resale.
- (h) Bonds which require unusual methods of financing, if the chief administrative officer of the municipality certifies in writing that the proposed method of financing:
 - (1) Has not been used previously by any municipality in this state; and
 - (2) May provide a substantial benefit to the municipality.
- (i) Refunding bonds, if the chief administrative officer of the municipality certifies in writing that the use of a negotiated sale may provide a substantial benefit to the municipality which would not be available if the bonds were sold by competitive bid.
- (j) Bonds which are sold at a time when, because of particular conditions in the market, a negotiated sale may provide a benefit to the municipality which would not be available if the bonds were sold by competitive bid, if the chief administrative officer of the municipality so certifies in writing.
- (k) Bonds which are issued pursuant to chapter 271 of NRS and are not secured by a pledge of the taxing power and general fund of the municipality.
- (l) Revenue bonds which are issued pursuant to chapter 350A of NRS and are secured by a pledge of the allocable local revenues of the municipality.

~~[(m) Revenue bonds which are sold pursuant to chapter 373 of NRS.]~~

3. The certificate required by paragraph (h) of subsection 2 must specifically describe the proposed method of financing. The certificate required by paragraph (i) of subsection 2 must specifically describe the circumstances that may provide a substantial benefit if the refunding bonds are negotiated. The certificate required by paragraph (j) of subsection 2 must specifically describe the particular conditions in the market which indicate

that a negotiated sale of the bonds may provide a benefit to the municipality. Each certificate required pursuant to subsection 2 must be submitted to the governing body of the municipality at a regularly scheduled meeting of that body and include:

(a) The estimated amount of the benefit which will accrue to the municipality.

(b) If the municipality has a financial adviser, a written report prepared by that financial adviser which specifically describes the method of sale which will be used for the proposed financing.

4. A copy of:

(a) The certificate required by paragraph (h), (i) or (j) of subsection 2; and

(b) The report required pursuant to subsection 3,

↪ must be filed with the debt management commission of the county where the municipality is located, the county clerk and the Department of Taxation. Before entering into a contract to sell bonds, at least two-thirds of the members of the governing body of the municipality must approve the certificate.

5. If a municipality is required to sell the bonds it issues by competitive bid pursuant to the provisions of this section, it must cause an invitation for competitive bids, or notice thereof, to be published before the date of the sale in the daily or weekly version of the Bond Buyer, published at One State Street Plaza in New York City, New York, or any successor publication.

6. As used in this section, "invitation for competitive bids" means a process by which sealed bids or the reasonable equivalent thereof, as approved by the governing body of a municipality, are solicited, received and publicly opened at a specified time, place and date.

Sec. 12. If an ordinance authorized by section 1.1 of this act is not adopted before October 1, 2013:

1. A question must be placed on the ballot at the general election on November 8, 2016, in each county in this State which asks the voters whether to authorize the State to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes authorized by section 1.2 of this act and the increases in those taxes authorized by that section.

2. A question must be placed on the ballot at the general election on November 8, 2016, in each county in this State other than Washoe County, which asks the voters in the county whether to authorize the board of county commissioners of the county to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes authorized by section 1.3 of this act and the additional annual increases in those taxes authorized by that section.

Sec. 13. If an ordinance authorized by section 1.1 of this act is adopted before October 1, 2013:

1. A question must be placed on the ballot at the general election on November 8, 2016, in each county in this State which asks the voters whether to authorize the State to impose, for the period beginning on January 1, 2017,

and ending on December 31, 2026, the taxes authorized by section 1.2 of this act and the increases in those taxes authorized by that section.

2. A question must be placed on the ballot at the general election on November 8, 2016, in each county in this State other than Clark County and Washoe County, which asks the voters in the county whether to authorize the board of county commissioners of the county to impose, for the period beginning on January 1, 2017, and ending on December 31, 2026, the taxes authorized by section 1.3 of this act and the additional annual increases in those taxes authorized by that section.

Sec. 14. 1. This section and sections 1, 1.1, 1.7, 1.75, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 11.5 of this act become effective upon passage and approval.

2. Section 12 of this act becomes effective on October 1, 2013, if and only if a board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013.

3. Section 13 of this act becomes effective on October 1, 2013, if and only if a board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013.

4. Sections 1.2, 1.5, 3.2 and 8.2 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 13 of this act is approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 13 of this act is not approved by a majority of the registered voters in every county in this State voting on the question.

5. Sections 1.2, 1.3, 1.5, 1.8, 1.85, 2.3, 3.1, 4.3, 5.3, 6.3, 7.3, 8.1, 9.3, 10.3 and 11.1 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 13 of this act is approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 13 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

6. Sections 1.3, 1.8, 1.85, 2.3, 3.3, 4.3, 5.3, 6.3, 7.3, 8.3, 9.3, 10.3 and 11.1 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners adopts an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 13 of this act is not approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 13 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

7. Sections 1.2, 1.5, 3.7 and 8.7 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 12 of this act is approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 12 of this act is not approved by a majority of the registered voters in every county in this State voting on the question.

8. Sections 1.2, 1.3, 1.5, 1.9, 1.95, 2.7, 3.5, 4.7, 5.7, 6.7, 7.7, 8.5, 9.7, 10.7 and 11.3 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 12 of this act is approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 12 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

9. Sections 1.3, 1.9, 1.95, 2.7, 3.9, 4.7, 5.7, 6.7, 7.7, 8.9, 9.7, 10.7 and 11.3 of this act become effective on January 1, 2017, if:

(a) A board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013;

(b) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 1 of section 12 of this act is not approved by a majority of the registered voters in this State voting on the question; and

(c) The question placed on the ballot at the general election on November 8, 2016, pursuant to subsection 2 of section 12 of this act is approved by a majority of the registered voters in any county in this State voting on the question.

10. Sections 1.1, 1.7, 1.75, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of this act expire by limitation on October 1, 2013, if a board of county commissioners does not adopt an ordinance authorized by section 1.1 of this act before October 1, 2013.

Senator Kihuen moved the adoption of the amendment.

Remarks by Senator Kihuen.

Thank you, Mr. President. Amendment No. 974 to Assembly Bill No. 413 changes the approval required from a majority vote to a two-thirds majority vote for a Board of County Commissioners to approve the imposition of additional tax on gasoline and special fuels sold in a county whose population is 700,000 or more. The amendment specifies that the total amount of money which must be paid by any county in any fiscal year to reimburse any amount owed to persons, who use special fuels in motor vehicles, must not exceed 20 percent of the total amount of money collected by the county from any tax imposed on fuels pursuant to Section 66 of Chapter 373 of *Nevada Revised Statutes* or the index and prohibitions in the bill. I urge your support.

Amendment adopted.

Bill read third time.

Remarks by Senators Kihuen and Manendo.

SENATOR KIHUEN:

Thank you, Mr. President. I rise in support of Assembly Bill No. 413 which allows a Board of County Commissioners in a county, whose population is 700,000 or more, to impose an additional tax on gasoline and special fuels sold in the county. Imposition of the additional rate requires approval by two-thirds majority of the county commission no later than October 1, 2013. This bill is great for Clark County. I urge your support.

SENATOR MANENDO:

Thank you, Mr. President. I rise in support of Assembly Bill No. 413. It is critical for infrastructure and long-term investment in southern Nevada. There are more than 140 projects that need to be built, and each one will have a direct impact on southern Nevada, creating much-needed jobs. I urge your passage.

Senators Roberson, Smith and Hammond moved the previous question.

Motion carried.

The question being on passage of Assembly Bill No. 413.

Roll call on Assembly Bill No. 413:

YEAS—17.

NAYS—Cegavske, Gustavson, Settlemeyer—3.

EXCUSED—Woodhouse.

Assembly Bill No. 413 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Senate Bill No. 473.

Bill read third time.

The following amendment was proposed by Senator Smith:

Amendment No. 977.

"SUMMARY—Revises provisions relating to ~~certain internal service funds~~ the State Administrative Manual. (BDR 18-1128)"

"AN ACT relating to ~~[state financial administration; requiring interest and income earned on the money in certain internal service funds to be credited to the funds; changing the name of the Department of Administration's Communications Fund to the Department of Administration's Mail Services Fund;]~~ the State Government; revising provisions relating to the State Administrative Manual and the adoption of internal policies and procedures by the State Board of Examiners; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law ~~[provides for the establishment of the Department of Administration's Operating Fund for Administrative Services, the Fund for Information Services, the Personnel Operating Fund, the Buildings and Grounds Operating Fund, the Fund for Insurance Premiums, the State Purchasing Fund, the Motor Pool Fund, the State Printing Fund and the Department of Administration's Communications Fund. (NRS 232.219, 242.211, 284.110, 331.101, 331.187, 333.120, 336.110, 344.090, 378.143)]~~ This bill requires interest and income earned on the money in each of these funds to be credited to the fund after deducting any applicable charges. Section 9 of this bill changes the name of the Department of Administration's Communications Fund to the Department of Administration's Mail Services Fund. ~~[establishes a procedure for the adoption and review of regulations by state administrative agencies. (Chapter 233B of NRS) Exempted from the definition of a "regulation," and from that procedure, are internal policies and procedures of an agency which are used solely to train or provide guidance to employees of an agency and are not used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation. (NRS 233B.038) The Department of Administration currently publishes the State Administrative Manual, a compilation of policies adopted by the State Board of Examiners which govern the internal operation of agencies of the Executive Department of the State Government. Assembly Bill No. 16 of this session provides specific statutory authority and notice requirements for adopting, amending and repealing such policies. This bill amends Assembly Bill No. 16 to: (1) clarify that the State Board of Examiners is authorized to adopt internal policies as such policies are defined in existing law; and (2) provide that the special provisions of Assembly Bill No. 16 prevail over the general provisions of the Nevada Administrative Procedure Act to the extent of any conflict between those provisions.]~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 232.219 is hereby amended to read as follows:~~

~~232.219 1. The Department of Administration's Operating Fund for Administrative Services is hereby created as an internal service fund.~~

~~2. The operating budget of each of the following entities must include an amount representing that entity's share of the operating costs of the central accounting function of the Department:~~

- ~~(a) State Public Works Division;~~
- ~~(b) Budget Division;~~
- ~~(c) Purchasing Division;~~
- ~~(d) Hearings Division;~~
- ~~(e) Risk Management Division;~~
- ~~(f) Division of Internal Audits;~~
- ~~(g) Division of Human Resource Management;~~
- ~~(h) Division of Enterprise Information Technology Services;~~
- ~~(i) Division of State Library and Archives; and~~
- ~~(j) If separately established, the Motor Pool Division.~~

~~3. All money received for the central accounting services of the Department must be deposited in the State Treasury for credit to the Operating Fund.~~

~~4. All expenses of the central accounting function of the Department must be paid from the Fund as other claims against the State are paid.~~

~~5. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund.~~ (Deleted by amendment.)

Sec. 2. ~~[NRS 242.211 is hereby amended to read as follows:~~

~~242.211 1. The Fund for Information Services is hereby created as an internal service fund. Money from the Fund must be paid out on claims as other claims against the State are paid. The claims must be made in accordance with budget allotments and are subject to postaudit examination and approval.~~

~~2. All operating, maintenance, rental, repair and replacement costs of equipment and all salaries of personnel assigned to the Division must be paid from the Fund.~~

~~3. Each agency using the services of the Division shall pay a fee for that use to the Fund, which must be set by the Administrator in an amount sufficient to reimburse the Division for the entire cost of providing those services, including overhead. Each using agency shall budget for those services. All fees, proceeds from the sale of equipment and any other money received by the Division must be deposited with the State Treasurer for credit to the Fund.~~

~~4. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund.~~ (Deleted by amendment.)

Sec. 3. ~~[NRS 284.110 is hereby amended to read as follows:~~

~~284.110 1. The Personnel Operating Fund is hereby created as an internal service fund.~~

~~2. The Division may accept on behalf of the State any grant or contribution, federal or otherwise, made to assist in meeting the costs of carrying out the purposes of this chapter. All such grants and contributions must be deposited with the State Treasurer to the credit of the Personnel Operating Fund.~~

~~3. All costs of administering the provisions of this chapter must be paid out of the Personnel Operating Fund on claims in the same manner as other claims against the State are paid.~~

~~4. The interest and income earned on the money in the Personnel Operating Fund must, after deducting any applicable charges, be credited to the Fund. (Deleted by amendment.)~~

Sec. 4. ~~[NRS 331.101 is hereby amended to read as follows:~~

~~331.101 1. The Buildings and Grounds Operating Fund is hereby created as an internal service fund.~~

~~2. All costs of administering the provisions of NRS 331.010 to 331.145, inclusive, must be paid out of the Buildings and Grounds Operating Fund as other claims against the State are paid.~~

~~3. The interest and income earned on the money in the Buildings and Grounds Operating Fund must, after deducting any applicable charges, be credited to the Fund. (Deleted by amendment.)~~

Sec. 5. ~~[NRS 331.187 is hereby amended to read as follows:~~

~~331.187 1. There is created in the State Treasury the Fund for Insurance Premiums as an internal service fund to be maintained for use by the Risk Management Division of the Department of Administration and the Attorney General.~~

~~2. Each state agency shall deposit in the Fund:~~

~~(a) An amount equal to its insurance premium and other charges for potential liability, self-insured claims, other than self-insured tort claims, and administrative expenses, as determined by the Risk Management Division; and~~

~~(b) An amount for self-insured tort claims and expenses related to those claims, as determined by the Attorney General.~~

~~3. Each county shall deposit in the Fund an assessment for the employees of the district court of that county, excluding district judges, unless the county enters into a written agreement with the Attorney General to:~~

~~(a) Hold the State of Nevada harmless and assume liability and costs of defense for the employees of the district court;~~

~~(b) Reimburse the State of Nevada for any liability and costs of defense that the State of Nevada incurs for the employees of the district court; or~~

~~(c) Include the employees of the district court under the county's own insurance or other coverage.~~

~~4. Expenditures from the Fund must be made by the Risk Management Division or the Attorney General to an insurer for premiums of state agencies as they become due or for deductibles, self-insured property and tort claims or claims pursuant to NRS 41.0349. If the money in the Fund is insufficient to pay a tort claim, it must be paid from the Reserve for Statutory Contingency Account.~~

~~5. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund.~~

~~6. As used in this section, "assessment" means an amount determined by the Risk Management Division and the Attorney General to be equal to the share of a county for:~~

- ~~(a) Applicable insurance premiums;~~
- ~~(b) Other charges for potential liability and tort claims; and~~
- ~~(c) Expenses related to tort claims.] (Deleted by amendment.)~~

~~Sec. 6. [NRS 333.120 is hereby amended to read as follows:~~

~~333.120 1. The State Purchasing Fund, in the sum of \$1,250,000 is hereby created as an internal service fund for the use of the Administrator in purchasing supplies, materials and equipment and services.~~

~~2. Except as otherwise provided in subsection 3, the Administrator may withdraw from the State Purchasing Fund an amount not to exceed \$150,000 per year and is hereby authorized to expend that amount to pay the cost to the Purchasing Division of providing methods for purchasing or leasing pursuant to this chapter by the use of forms in electronic format through a computer system or network or through the Internet, or its successor, if any.~~

~~3. The Administrator shall not withdraw money pursuant to subsection 2 if the withdrawal would reduce the balance of the State Purchasing Fund below \$500,000.~~

~~4. If the Administrator makes a withdrawal pursuant to subsection 2, the maximum balance of the State Purchasing Fund is permanently reduced by the amount of the withdrawal.~~

~~5. The interest and income earned on the money in the State Purchasing Fund must, after deducting any applicable charges, be credited to the Fund.] (Deleted by amendment.)~~

~~Sec. 7. [NRS 336.110 is hereby amended to read as follows:~~

~~336.110 1. The Motor Pool Fund is hereby created as an internal service fund. No money in the Fund may revert to the State General Fund at any time. Money from the Motor Pool Fund must be paid out on claims as other claims against the State are paid. The claims must be made in accordance with budget and quarterly work allotments and subject to postaudit examination and approval.~~

~~2. All operating, maintenance and repair costs for vehicles assigned to the State Motor Pool must be paid from the Motor Pool Fund and the accounting for depreciation must be accomplished in that Fund.~~

~~3. All agencies using vehicles of the State Motor Pool shall pay a fee for the use and a proportionate share of operational costs in an amount determined by the Executive Officer. The formula for spreading costs of operation may be adjusted from time to time as may be necessary to replace worn vehicles, pay vehicle costs and defray the costs of Motor Pool operation.~~

~~4. All fees, including amounts on account of depreciation accrued, costs and other money received by the State Motor Pool, including all proceeds~~

~~from the sale of vehicles, must be deposited with the State Treasurer for credit to the Fund.~~

~~5. The interest and income earned on the money in the Motor Pool Fund must, after deducting any applicable charges, be credited to the Fund.] (Deleted by amendment.)~~

Sec. 8. ~~[NRS 344.090 is hereby amended to read as follows:~~

~~344.090 1. The State Printing Fund is created as an internal service fund.~~

~~2. The State Printing Fund consists of the money appropriated to carry out the provisions of this chapter and all money received in the State Printing Fund from any source in payment of all printing, reproduction and binding done in the State Printing Office.~~

~~3. The interest and income earned on the money in the State Printing Fund must, after deducting any applicable charges, be credited to the State Printing Fund.] (Deleted by amendment.)~~

Sec. 9. ~~[NRS 378.143 is hereby amended to read as follows:~~

~~378.143 1. The Department of Administration's [Communications] Mail Services Fund is hereby created as an internal service fund. The Fund is a continuing fund, and its money may not revert to the State General Fund at any time.~~

~~2. Claims against the Fund which are approved by the State Library and Archives Administrator must be paid as other claims against the State are paid.~~

~~3. Claims must be made in accordance with budget and quarterly work allotments and subject to postaudit examination and approval.~~

~~4. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund.] (Deleted by amendment.)~~

Sec. 10. ~~[NRS 378.146 is hereby amended to read as follows:~~

~~378.146 1. All revenue resulting from:~~

~~(a) Postage sold to state officers, departments and agencies; and~~

~~(b) Charges for proportionate costs of mail service operation;~~

~~must be deposited in the State Treasury for credit to the [Communications] Mail Services Fund created by NRS 378.143.~~

~~2. The formula for spreading costs of operation must be adjusted from time to time to preserve the Fund at not less than its initial level.] (Deleted by amendment.)~~

Sec. 10.3. Section 1 of Assembly Bill No. 16 of this session is hereby amended to read as follows:

Section 1. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[The State Administrative Manual is hereby created.]~~ The Director, or the Chief of the Budget Division of the Department if the Director does not serve as the Chief, shall compile and publish ~~fin the State Administrative Manual any]~~ an administrative manual consisting of the internal policies and

procedures adopted or amended by the State Board of Examiners pursuant to ~~NRS 353.040~~ section 2.3 of this act.

2. The Department shall cause a copy of the current version of the administrative manual compiled and published pursuant to subsection 1 to be posted on the primary Internet website maintained by the State Government. The copy must be accessible through a conspicuous link to the manual that appears on the main page of that website.

3. In addition to complying with the requirements of NRS 241.020, the Director or the Chief, as applicable, shall, not later than 30 days before presenting to the State Board of Examiners any policy or procedure for adoption, amendment or repeal, cause notice of the proposed action to be posted on the Internet website used by the State Board of Examiners to provide public notice of its meetings. The notice must:

(a) Be accessible through a conspicuous link that appears on the main page of that website;

(b) Include the full text of the policy or procedure proposed to be adopted, amended or repealed, clearly setting forth any language proposed for addition to or deletion from the policy or procedure;

(c) Solicit the submission of written comments by any interested person to the Director or the Chief, as applicable, for transmittal to the State Board of Examiners, concerning its proposed action and set forth the address for the submission of such comments and the deadline for submission applicable pursuant to subsection ~~3~~ 4; and

(d) Set forth the date on which the adoption, amendment or repeal of the policy or procedure becomes effective if action is taken as proposed.

~~3~~ 4. Any written comments submitted to the Director or the Chief, as applicable, pursuant to subsection ~~2~~ 3 must be submitted not later than 5 working days before the meeting at which the proposed adoption, amendment or repeal is to be considered by the State Board of Examiners and must be entered into the record of the Board.

Sec. 10.5. Assembly Bill No. 16 of this session is hereby amended by adding thereto new sections to be designated as sections 2.1 and 2.3, immediately following section 2, to read as follows:

Sec. 2.1. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140, the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

(n) The Silver State Health Insurance Exchange.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; ~~and~~

(d) NRS 90.800 for the use of summary orders in contested cases ~~and~~; *and*

(e) Section 1 of this act for the adoption, amendment and repeal of internal policies and procedures by the State Board of Examiners pursuant to section 2.3 of this act.

↪ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in

the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184;

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694; or

(d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 2.3. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Examiners may adopt, amend and repeal internal policies and procedures, not inconsistent with applicable law, to train or provide guidance to employees of any agency, bureau, board, commission, department, division or any other unit of the Executive Department of the State Government except employees of:

(a) Any board which is exempt from the provisions of this chapter pursuant to NRS 353.005;

(b) The Board of Regents of the University of Nevada; or

(c) The Nevada System of Higher Education.

2. As used in this section, "internal policies and procedures" does not include any policy or procedure used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation.

Sec. 10.7. Section 2.5 of Assembly Bill No. 16 of this session is hereby repealed.

Sec. 11. This act becomes effective ~~on July 1, 2013,~~ upon passage and approval.

TEXT OF REPEALED SECTION

Section 2.5 of Assembly Bill No. 16 of this session:

Sec. 2.5. NRS 353.040 is hereby amended to read as follows:

353.040 The State Board of Examiners shall have authority to establish ~~[rules and regulations]~~ *policies and procedures* for its government not inconsistent with law.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 977 to Senate Bill No. 473 establishes a procedure for the adoption and review of regulations by State administrative agencies, and makes various other changes.

Amendment adopted.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Senate Bill No. 473 makes sure the relationships between the *State Administrative Manual*, the *Nevada Administrative Code* and *Nevada Revised Statutes* are consistent with one another.

Roll call on Senate Bill No. 473:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Senate Bill No. 473 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

UNFINISHED BUSINESS

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Manendo, Spearman and Gustavson as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 508.

GENERAL FILE AND THIRD READING

Assembly Bill No. 33.

Bill read third time.

Remarks by Senator Settelmeyer.

Thank you, Mr. President. I rise in support of Assembly Bill No. 33 which revises provisions governing the partial abatement of certain taxes concerning energy-efficient buildings. It is good for businesses. Existing buildings will qualify for green energy-type credits. I urge your support.

Roll call on Assembly Bill No. 33:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 33 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 38.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 986.

"SUMMARY—Makes various changes concerning the abatement or deferment of certain taxes imposed on a new or expanded business. (BDR 32-296)"

"AN ACT relating to economic development; revising the provisions governing the partial abatement of certain taxes imposed on a new or expanded business; revising the provisions governing a deferment of the payment of the sales and use taxes due on certain property purchased by a new or expanded business; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Office of Economic Development to grant a partial abatement of property taxes, business taxes and sales and use taxes to a business that locates or expands in this State and meets certain qualifications for the abatement. (NRS 274.310, 274.320, 360.750, 361.0687, 363B.120, 374.357, 701A.210) Section 2 of this bill repeals those qualifications that apply solely to a business that furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product. Sections 3, 4, 8 and 9 of this bill make various changes to those qualifications, including changes in the number of employees required and a requirement that any employees or capital investments used to qualify for the abatement must be retained at the location of the business for the first 5 years. Sections 6.5, 7.3, 8, 9 and 9.5 of this bill establish the maximum duration and amount of the property tax and sales and use tax abatements available to a business that is or will be located in a historically underutilized business zone, a redevelopment area, an area eligible for a community development block grant or an enterprise community. Section 5 of this bill, which expires by limitation on June 30, 2017, temporarily extends the maximum duration and amount of the property tax abatement available to a business that is or will be located in an activated foreign trade zone in this State.

Existing law authorizes the Office of Economic Development to grant to a new or expanded business in this State a deferment of the payment of sales and use taxes due on purchases of capital goods for a sales price of \$100,000 or more. (NRS 372.397, 374.402) Sections 6 and 7 of this bill make various changes to the qualifications for such a deferment, including an increase in the required sales price to \$1 million and a requirement to retain the property at the location of the business in this State for the 5-year duration of the deferment, and require the taxpayer to begin making partial payments of the deferred taxes within 1 year after the deferment is granted.

Existing law authorizes the Director of the Office of Energy, in consultation with the Office of Economic Development, to grant a partial abatement of property taxes and local sales and use taxes to certain renewable energy facilities that locate in this State and meet certain qualifications for the abatement. (NRS 701A.300-701A.390) Section 10 of this bill revises those qualifications to require that the capital investments used to qualify for the abatement must be retained at the location of the facility for the first 5 years.

Section 13 of this bill causes the tax abatements authorized pursuant to the amendatory provisions of this bill to cease to be effective on July 1, 2032.

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

Section 1. NRS 360.225 is hereby amended to read as follows:

360.225 1. During the course of an investigation undertaken pursuant to NRS 360.130 of a person claiming:

(a) A partial abatement of property taxes pursuant to NRS 361.0687;

- (b) An exemption from taxes pursuant to NRS 363B.120;
- (c) A deferral of the payment of taxes on the sale of ~~[capital goods]~~ *eligible property* pursuant to NRS 372.397 or 374.402; or
- (d) An abatement of taxes on the gross receipts from the sale, storage, use or other consumption of eligible machinery or equipment pursuant to NRS 374.357,

→ the Department shall investigate whether the person meets the eligibility requirements for the abatement, partial abatement, exemption or deferral that the person is claiming.

2. If the Department finds that the person does not meet the eligibility requirements for the abatement, exemption or deferral which the person is claiming, the Department shall report its findings to the Office of Economic Development and take any other necessary actions.

Sec. 2. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Office of Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Office of Economic Development shall approve an application for a partial abatement if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which ~~[a certificate of eligibility for]~~ the abatement ~~[is issued pursuant to subsection 4,]~~ *becomes effective*, continue in operation in this State for a period specified by the Office, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office by regulation pursuant to subsection 8.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.

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

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office by regulation pursuant to subsection 8.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Office by regulation pursuant to subsection 8.

~~{(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:~~

~~(1) The business will have 10 or more full time employees on the payroll of the business by the fourth quarter that it is in operation.~~

~~(2) Establishing the business will require the business to make a capital investment of at least \$500,000 in this State.~~

~~(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:~~

~~(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and~~

~~(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Office by regulation pursuant to subsection 8.]~~

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall not consider an application for a partial abatement unless the Office has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Office determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), ~~{(e), (f) or (g)}~~ (e) or (f) of subsection 2;

(2) Make the requirements set forth in paragraph (d), ~~{(e), (f) or (g)}~~ (e) or (f) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the abatement to:

- (a) The Department;
- (b) The Nevada Tax Commission; and
- (c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

5. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

- (a) To meet the requirements set forth in subsection 2; or
- (b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,
→ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

7. A county treasurer:

- (a) Shall deposit any money that he or she receives pursuant to subsection 6 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and
- (b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

8. The Office of Economic Development:

- (a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and
- (b) May adopt such other regulations as the Office of Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

9. The Nevada Tax Commission:

- (a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph ~~[(d), (e) or (g)]~~ (d) or (e) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

10. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 3. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Office of Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Office of Economic Development shall approve an application for a partial abatement if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which ~~a certificate of eligibility for the abatement is issued pursuant to subsection 4,~~ *the abatement becomes effective*, continue in operation in this State for a period specified by the Office, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have ~~[75]~~ 50 or more full-time employees on the payroll of the business by the fourth *calendar* quarter ~~[that it is in operation.]~~ *following the calendar quarter in which the abatement becomes effective who will be employed at the location of the business in that county or city until at*

least the date which is 5 years after the date on which the abatement becomes effective.

(2) Establishing the business will require the business to make , *not later than the date which is 2 years after the date on which the abatement becomes effective*, a capital investment of at least \$1,000,000 in this State ~~[-]~~ *in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.*

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will , *by the fourth calendar quarter following the calendar quarter in which the abatement becomes effective*, provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office by regulation pursuant to subsection 8.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have ~~[-5]~~ 10 or more full-time employees on the payroll of the business by the fourth *calendar quarter* ~~that it is in operation.]~~ *following the calendar quarter in which the abatement becomes effective who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.*

(2) Establishing the business will require the business to make , *not later than the date which is 2 years after the date on which the abatement becomes effective*, a capital investment of at least \$250,000 in this State ~~[-]~~ *in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.*

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

(I) The business will , *by the fourth calendar quarter following the calendar quarter in which the abatement becomes effective*, provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Office by regulation pursuant to subsection 8.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) ~~[The]~~ For a business in:

(I) A county whose population is 100,000 or more or a city whose population is 60,000 or more, the business will, by the fourth calendar quarter following the calendar quarter in which the abatement becomes effective, increase the number of employees on its payroll in that county or city by 10 percent more than it employed in the fiscal year immediately preceding the fiscal year in which the abatement becomes effective or by twenty-five employees, whichever is greater, who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective; or

(II) A county whose population is less than 100,000 or a city whose population is less than 60,000, the business will, by the fourth calendar quarter following the calendar quarter in which the abatement becomes effective, increase the number of employees on its payroll in that county or city by 10 percent more than it employed in the ~~[immediately preceding]~~ fiscal year immediately preceding the fiscal year in which the abatement becomes effective or by six employees, whichever is greater ~~[]~~, who will be employed at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective.

(2) The business will expand by making a capital investment in this State, not later than the date which is 2 years after the date on which the abatement becomes effective, in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the ~~[immediately preceding]~~ fiscal year ~~[]~~ immediately preceding the fiscal year in which the abatement becomes effective, and the capital investment will be in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will , *by the fourth calendar quarter following the calendar quarter in which the abatement becomes effective*, provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Office by regulation pursuant to subsection 8.

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall not consider an application for a partial abatement unless the Office has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) May, if the Office determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e) or (f) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e) or (f) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

5. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

➡ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount

due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

7. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 6 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

8. The Office of Economic Development:

(a) Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement; and

(b) May adopt such other regulations as the Office of Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

9. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d) or (e) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

10. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 3.5. NRS 360.757 is hereby amended to read as follows:

360.757 1. The Office of Economic Development shall not take any action on an application for any abatement of taxes pursuant to NRS 274.310, 274.320, 274.330 or 360.750 or any other specific statute unless the Office:

(a) Takes that action at a public ~~hearing~~ *meeting* conducted for that purpose; and

(b) At least 30 days before the ~~hearing~~ *meeting*, provides notice of the application to:

(1) The governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the pertinent business is or will be located;

(2) The governing body of any other political subdivision that could be affected by the abatement; and

(3) The general public.

2. The notice required by this section must set forth the date, time and location of the ~~hearing~~ *meeting* at which the Office of Economic Development will consider the application.

3. The Office of Economic Development shall adopt regulations relating to the notice required by this section.

Sec. 4. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Office of Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Office of Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will, *not later than the date which is 2 years after the date on which the abatement becomes effective*, make a capital investment in the county or city of ~~at~~ :

(I) At least \$50,000,000 if the business is an industrial or manufacturing business ; or ~~at~~

(II) At least \$5,000,000 if the business is not an industrial or manufacturing business ~~at~~ ,

↪ *in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective*; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will, *not later than the date which is 2 years after the date on which the abatement becomes effective*, make a capital investment in the county or city of ~~at~~ :

(I) At least \$5,000,000 if the business is an industrial or manufacturing business ; or ~~at~~

(II) At least \$500,000 if the business is not an industrial or manufacturing business ~~at~~ ,

↪ *in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective*; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as

established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

3. Except as otherwise provided in NRS 701A.210, if a partial abatement from the taxes imposed by this chapter is approved by the Office of Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Office of Economic Development shall notify the county assessor of the county in which the business is *or will be* located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Office granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

Sec. 5. NRS 361.0687 is hereby amended to read as follows:

361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Office of Economic Development for a partial abatement from the taxes imposed by this chapter.

2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Office of Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:

(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:

(1) The business will, not later than the date which is 2 years after the date on which the abatement becomes effective, make a capital investment in the county or city of:

(I) At least ~~[\$50,000,000]~~ \$5,000,000 if the business is an industrial or manufacturing business; or

(II) At least ~~[\$5,000,000]~~ \$1,000,000 if the business is not an industrial or manufacturing business,

➤ in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective; and

(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.

(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:

(1) The business will, not later than the date which is 2 years after the date on which the abatement becomes effective, make a capital investment in the county or city of:

(I) At least ~~[\$5,000,000]~~ \$1,000,000 if the business is an industrial or manufacturing business; or

(II) At least ~~[\$500,000]~~ \$250,000 if the business is not an industrial or manufacturing business,

➤ in capital assets that will be retained at the location of the business in that county or city until at least the date which is 5 years after the date on which the abatement becomes effective; and

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

3. Except as otherwise provided in *subsection 4 and* NRS 701A.210, if a partial abatement from the taxes imposed by this chapter is approved by the Office of Economic Development pursuant to NRS 360.750:

(a) The partial abatement must:

(1) Be for a duration of at least 1 year but not more than 10 years;

(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and

(3) Be administered and carried out in the manner set forth in NRS 360.750.

(b) The Executive Director of the Office of Economic Development shall notify the county assessor of the county in which the business is or will be located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Office granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.

4. *Except as otherwise provided in NRS 701A.210, if a partial abatement from the taxes imposed by this chapter is approved by the Office of Economic Development pursuant to NRS 360.750 for a business which is or will be located in a foreign trade zone in this State, the partial abatement must:*

(a) Be for a duration of at least 1 year but not more than 5 years; and

(b) Not exceed 75 percent of the taxes on personal property payable by a business each year pursuant to this chapter.

5. *As used in this section, "foreign trade zone" means an activated foreign trade zone established, operated and maintained in accordance with chapter 237A of NRS and any applicable federal laws.*

Sec. 6. NRS 372.397 is hereby amended to read as follows:

372.397 1. ~~[Payment of the tax on the sale of capital goods for a sales price of \$100,000 or more may be deferred without interest in accordance with this section. If the sales price is:~~

~~(a) At least \$100,000 but less than \$350,000, the tax must be paid within 12 months.~~

~~(b) At least \$350,000 but less than \$600,000, the tax must be paid within 24 months.~~

~~(c) At least \$600,000 but less than \$850,000, the tax must be paid within 36 months.~~

~~(d) At least \$850,000 but less than \$1,000,000, the tax must be paid within 48 months.~~

~~(e) One million dollars or more, the tax must be paid within 60 months.~~

~~➔ Payment must be made in each month at a rate which is at least sufficient to result in payment of the total obligation within the permitted period.~~

2.] A person may apply to the Office of Economic Development for ~~[such]~~ a deferment ~~[.] of the payment of the tax on the sale of eligible property for a sales price of \$1,000,000 or more for use by the person in a business in this State.~~ If a purchase is made outside of the State from a retailer who is not registered with the Department, an application for a deferment must be made in advance or, if the purchase has been made, within 60 days after the date on which the tax is due. If a purchase is made in this State from a retailer who is registered with the Department and to whom the tax is paid, an application must be made within 60 days after the payment of the tax. If the application for a deferment is approved, the taxpayer is eligible for a refund of the tax paid.

~~[3.]~~ 2. The Office of Economic Development shall certify the person's eligibility for a deferment *pursuant to this section* if:

(a) *The person meets the eligibility requirements set forth in NRS 360.750 for a partial abatement of the taxes imposed on the person pursuant to chapter 374 of NRS;*

(b) *The purchase is consistent with the State Plan for Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of NRS 231.053; and*

~~[(b)]~~ (c) The Office determines that ~~[the]~~ :

(1) *The deferment is a significant factor in the decision of the person to locate or expand a business in this State* ~~[.]~~ ; and

(2) *The eligible property will be retained at the location of the person's business in this State until at least the date which is 5 years after the date on which the Office certifies the person's eligibility for the deferment.*

➔ Upon certification, the Office shall immediately forward the deferment to the Nevada Tax Commission.

~~[4.]~~ 3. Upon receipt of such a certification, the Nevada Tax Commission shall verify the sale, the price paid, ~~[and]~~ the date of the sale and ~~[assign]~~ the

applicable period for payment of the deferred tax. It may require security for the payment in an amount which does not exceed the amount of tax deferred.

~~{5.}~~ 4. *If the Office of Economic Development certifies a person's eligibility for a deferment pursuant to this section:*

(a) *Payment of the total amount of tax due on the sale of the eligible property must be deferred without interest for the 60-month period beginning on the date the Office makes that certification; and*

(b) *Payment of the tax must be made in each month, beginning not later than the date which is 1 year after the date on which the Office makes that certification, at a rate which is at least sufficient to result in payment of the total obligation within the period described in paragraph (a).*

5. The Nevada Tax Commission shall adopt regulations governing:

(a) The aggregation of related purchases which are made to expand a business, establish a new business, or renovate or replace ~~capital equipment;~~ *eligible property;* and

(b) The period within which such purchases may be aggregated.

6. *As used in this section, "eligible property" does not include any of the following capital assets:*

(a) *Buildings or the structural components of buildings;*

(b) *Equipment used by a public utility;*

(c) *Equipment used for medical treatment;*

(d) *Machinery or equipment used in mining; or*

(e) *Machinery or equipment used in gaming.*

Sec. 6.5. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person who maintains a business or intends to locate a business in a historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 in this State may, pursuant to the applicable provisions of NRS 274.310, 274.320 or 274.330, apply to the Office of Economic Development for an abatement from the taxes imposed by this chapter on the gross receipts from the sale, and the storage, use or other consumption, of eligible machinery or equipment for use by a business which has been approved for an abatement pursuant to NRS 274.310, 274.320 or 274.330.*

2. *If an application for an abatement is approved pursuant to NRS 274.310, 274.320 or 274.330:*

(a) *The taxpayer is eligible for an abatement from the tax imposed by this chapter for:*

(1) *Except as otherwise provided in subparagraph (2), a duration of not less than 1 year but not more than 5 years; or*

(2) *If the business is a data center that has invested or commits to invest during the period in which the abatement is effective, a minimum of ~~(\$200,000,000)~~ \$75,000,000 in the historically underutilized business zone,*

as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597, a duration of not less than 1 year but not more than ~~10~~ 15 years.

(b) The abatement must be administered and carried out in the manner set forth in the applicable provisions of NRS 274.310, 274.320 or 274.330.

3. As used in this section, unless the context otherwise requires:

(a) "Data center" has the meaning ascribed to it in section 7.3 of this act.

(b) "Eligible machinery or equipment" means machinery or equipment for which a deduction is authorized pursuant to 26 U.S.C. § 179. The term does not include:

- (1) Buildings or the structural components of buildings;
- (2) Equipment used by a public utility;
- (3) Equipment used for medical treatment;
- (4) Machinery or equipment used in mining; or
- (5) Machinery or equipment used in gaming.

Sec. 7. NRS 374.402 is hereby amended to read as follows:

374.402 1. ~~{Payment of the tax on the sale of capital goods for a sales price of \$100,000 or more may be deferred without interest in accordance with this section. If the sales price is:~~

~~(a) At least \$100,000 but less than \$350,000, the tax must be paid within 12 months.~~

~~(b) At least \$350,000 but less than \$600,000, the tax must be paid within 24 months.~~

~~(c) At least \$600,000 but less than \$850,000, the tax must be paid within 36 months.~~

~~(d) At least \$850,000 but less than \$1,000,000, the tax must be paid within 48 months.~~

~~(e) One million dollars or more, the tax must be paid within 60 months.~~

~~→ Payment must be made in each month at a rate which is at least sufficient to result in payment of the total obligation within the permitted period.~~

~~2.} A person may apply to the Office of Economic Development for {such} a deferment {-} of the payment of the tax on the sale of eligible property for a sales price of \$1,000,000 or more for use by the person in a business in this State. If a purchase is made outside of the State from a retailer who is not registered with the Department, an application for a deferment must be made in advance or, if the purchase has been made, within 60 days after the date on which the tax is due. If a purchase is made in this State from a retailer who is registered with the Department and to whom the tax is paid, an application must be made within 60 days after the payment of the tax. If the application for a deferment is approved, the taxpayer is eligible for a refund of the tax paid.~~

~~{3.} 2. The Office of Economic Development shall certify the person's eligibility for a deferment pursuant to this section if:~~

(a) *The person meets the eligibility requirements set forth in NRS 360.750 for a partial abatement of the taxes imposed on the person pursuant to this chapter;*

(b) *The purchase is consistent with the State Plan for Economic Development developed by the Executive Director of the Office pursuant to subsection 2 of NRS 231.053; and*

~~{(b)}~~ (c) *The Office determines that ~~{the}~~ :*

(1) *The deferment is a significant factor in the decision of the person to locate or expand a business in this State ~~{-}~~ ; and*

(2) *The eligible property will be retained at the location of the person's business in this State until at least the date which is 5 years after the date on which the Office certifies the person's eligibility for the deferment.*

➤ Upon certification, the Office shall immediately forward the deferment to the Nevada Tax Commission.

~~{4-}~~ 3. Upon receipt of such a certification, the Nevada Tax Commission shall verify the sale, the price paid, ~~{and}~~ the date of the sale and ~~{assign}~~ the applicable period for payment of the deferred tax. It may require security for the payment in an amount which does not exceed the amount of tax deferred.

~~{5-}~~ 4. *If the Office of Economic Development certifies a person's eligibility for a deferment pursuant to this section:*

(a) *Payment of the total amount of tax due on the sale of the eligible property must be deferred without interest for the 60-month period beginning on the date the Office makes that certification; and*

(b) *Payment of the tax must be made in each month, beginning not later than the date which is 1 year after the date on which the Office makes that certification, at a rate which is at least sufficient to result in payment of the total obligation within the period described in paragraph (a).*

5. The Nevada Tax Commission shall adopt regulations governing:

(a) *The aggregation of related purchases which are made to expand a business, establish a new business, or renovate or replace ~~{capital equipment;}~~ eligible property; and*

(b) *The period within which such purchases may be aggregated.*

6. *As used in this section, "eligible property" does not include any of the following capital assets:*

(a) *Buildings or the structural components of buildings;*

(b) *Equipment used by a public utility;*

(c) *Equipment used for medical treatment;*

(d) *Machinery or equipment used in mining; or*

(e) *Machinery or equipment used in gaming.*

Sec. 7.3. Chapter 274 of NRS is hereby amended by adding thereto a new section to read as follows:

"Data center" means one or more buildings located at one physical location which house a group of networked server computers for the purpose of centralizing the storage, management and dissemination of data and

information pertaining to a particular business and includes the associated telecommunications and storage systems at the location.

Sec. 7.7. NRS 274.010 is hereby amended to read as follows:

274.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 274.020 to 274.080, inclusive, *and section 7.3 of this act* have the meanings ascribed to them in those sections.

Sec. 8. NRS 274.310 is hereby amended to read as follows:

274.310 1. A person who intends to locate a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive;

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597, ➡ may submit a request to the governing body of the county, city or town in which the business would operate for an endorsement of an application by the person to the Office of Economic Development for a partial abatement of one or more of the taxes imposed pursuant to chapter 361 or 374 of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business would operate. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Office of Economic Development. The Office shall approve the application if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Administrator pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Administrator to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which states that the business will, after the date on which ~~a certificate of eligibility for~~ the abatement ~~[is issued pursuant to subsection 4.]~~ *becomes effective:*

(1) Commence operation and continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Office, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

➡ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business will operate.

(d) The applicant invested or commits to invest a minimum of \$500,000 in capital ~~[-]~~ *assets that will be retained at the location of the business in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 until at least the date which is 5 years after the date on which the abatement becomes effective.*

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business will be located.

5. *If the Office of Economic Development approves an application for a partial abatement pursuant to this section:*

(a) *The partial abatement must:*

(1) *Except as otherwise provided in subparagraph (2), be for a duration of not less than 1 year but not more than 5 years; or*

(2) *If the business is a data center that has invested or commits to invest during the period in which the abatement is effective a minimum of ~~[\$200,000,000]~~ \$75,000,000 in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597, be for a duration of not less than 1 year but not more than ~~10~~ 15 years.*

(b) *If the abatement is from the property tax imposed pursuant to chapter 361 of NRS, the partial abatement must not exceed 75 percent of the*

taxes on personal property payable by a business each year pursuant to that chapter.

6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the eligibility requirements for the partial abatement; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,

↪ the business shall repay to the Department of Taxation or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~{6.}~~ 7. The Office of Economic Development may adopt such regulations as the Office determines to be necessary or advisable to carry out the provisions of this section.

~~{7.}~~ 8. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 9. NRS 274.320 is hereby amended to read as follows:

274.320 1. A person who intends to expand a business in this State within:

(a) A historically underutilized business zone, as defined in 15 U.S.C. § 632;

(b) A redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive;

(c) An area eligible for a community development block grant pursuant to 24 C.F.R. Part 570; or

(d) An enterprise community established pursuant to 24 C.F.R. Part 597,
↪ may submit a request to the governing body of the county, city or town in which the business operates for an endorsement of an application by the person to the Office of Economic Development for a partial abatement of the taxes imposed on capital equipment pursuant to chapter 374 of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Office of Economic Development. The Office shall approve the application if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Administrator pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Administrator to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which states that the business will, after the date on which ~~a certificate of eligibility for the abatement [is issued pursuant to subsection 4:]~~ *becomes effective*:

(1) Continue in operation in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 for a period specified by the Office, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

➤ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The applicant invested or commits to invest a minimum of \$250,000 in capital equipment ~~[:] that will be retained at the location of the business in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597 until at least the date which is 5 years after the date on which the abatement becomes effective.~~

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation; and

(b) The Nevada Tax Commission.

5. If the Office of Economic Development approves an application for a partial abatement pursuant to this section:

(a) The partial abatement must:

(1) Except as otherwise provided in subparagraph (2), be for a duration of not less than 1 year but not more than 5 years; or

(2) If the business is a data center that has invested or commits to invest during the period in which the abatement is effective a minimum of ~~(\$200,000,000)~~ \$75,000,000 in the historically underutilized business zone, as defined in 15 U.S.C. § 632, redevelopment area created pursuant to NRS 279.382 to 279.685, inclusive, area eligible for a community development block grant pursuant to 24 C.F.R. Part 570 or enterprise community established pursuant to 24 C.F.R. Part 597, be for a duration of not less than 1 year but not more than ~~(10)~~ 15 years.

(b) If the abatement is from the property tax imposed pursuant to chapter 361 of NRS, the partial abatement must not exceed 75 percent of the taxes on personal property payable by a business each year pursuant to that chapter.

6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the eligibility requirements for the partial abatement; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 3,

↪ the business shall repay to the Department of Taxation the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~{6.}~~ 7. The Office of Economic Development may adopt such regulations as the Office determines to be necessary or advisable to carry out the provisions of this section.

~~{7.}~~ 8. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 9.5. NRS 274.330 is hereby amended to read as follows:

274.330 1. A person who owns a business which is located within an enterprise community established pursuant to 24 C.F.R. Part 597 in this State may submit a request to the governing body of the county, city or town in which the business is located for an endorsement of an application by the person to the Office of Economic Development for a partial abatement of one

or more of the taxes imposed pursuant to chapter 361 or 374 of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Office of Economic Development. The Office shall approve the application if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Administrator pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Administrator to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which states that the business will, after the date on which ~~a certificate of eligibility for~~ the abatement ~~[is issued pursuant to subsection 4:]~~ *becomes effective*:

(1) Continue in operation in the enterprise community for a period specified by the Office, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

➤ The agreement must bind successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) The business:

(1) Employs one or more dislocated workers who reside in the enterprise community; and

(2) Pays such employees a wage of not less than 100 percent of the federally designated level signifying poverty for a family of four persons and provides medical benefits to the employees and their dependents.

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall:

(a) Determine the percentage of employees of the business which meet the requirements of paragraph (d) of subsection 3 and grant a partial abatement equal to that percentage; and

(b) Immediately forward a certificate of eligibility for the abatement to:

- (1) The Department of Taxation;
- (2) The Nevada Tax Commission; and
- (3) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the business is located.

5. *If the Office of Economic Development approves an application for a partial abatement pursuant to this section:*

(a) *The partial abatement must:*

(1) *Except as otherwise provided in subparagraph (2), be for a duration of not less than 1 year but not more than 5 years; or*

(2) *If the business is a data center that has invested or commits to invest during the period in which the abatement is effective a minimum of ~~(\$200,000,000)~~ \$75,000,000 in the enterprise community established pursuant to 24 C.F.R. Part 597, be for a duration of not less than 1 year but not more than ~~10~~ 15 years.*

(b) *If the abatement is from the property tax imposed pursuant to chapter 361 of NRS, the partial abatement must not exceed 75 percent of the taxes on personal property payable by a business each year pursuant to that chapter.*

6. *If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:*

(a) *To meet the eligibility requirements for the partial abatement; or*

(b) *Operation before the time specified in the agreement described in paragraph (b) of subsection 3,*

↪ *the business shall repay to the Department of Taxation or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.*

~~{6-}~~ 7. *The Office of Economic Development:*

(a) *Shall adopt regulations relating to the minimum level of benefits that a business must provide to its employees to qualify for an abatement pursuant to this section.*

(b) *May adopt such other regulations as the Office determines to be necessary or advisable to carry out the provisions of this section.*

~~{7-}~~ 8. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

~~{8-}~~ 9. As used in this section, "dislocated worker" means a person who:

- (a) Has been terminated, laid off or received notice of termination or layoff from employment;
- (b) Is eligible for or receiving or has exhausted his or her entitlement to unemployment compensation;
- (c) Has been dependent on the income of another family member but is no longer supported by that income;
- (d) Has been self-employed but is no longer receiving an income from self-employment because of general economic conditions in the community or natural disaster; or
- (e) Is currently unemployed and unable to return to a previous industry or occupation.

Sec. 10. NRS 701A.365 is hereby amended to read as follows:

701A.365 1. Except as otherwise provided in subsection 2, the Director, in consultation with the Office of Economic Development, shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if the Director, in consultation with the Office of Economic Development, makes the following determinations:

(a) The applicant has executed an agreement with the Director which must:

(1) State that the facility will, after the date on which ~~{a certificate of eligibility for}~~ the abatement ~~{is issued pursuant to NRS 701A.370,}~~ *becomes effective*, continue in operation in this State for a period specified by the Director, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$10,000,000 in this State ~~{-}~~ *in capital assets that will*

be retained at the location of the facility until at least the date which is 5 years after the date on which the abatement becomes effective;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$3,000,000 in this State ~~[-]~~ *in capital assets that will be retained at the location of the facility until at least the date which is 5 years after the date on which the abatement becomes effective;*

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

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

2. The Director shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.

3. Notwithstanding the provisions of subsection 1, the Director, in consultation with the Office of Economic Development, may, if the Director, in consultation with the Office, determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

4. The Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section.

5. The Director shall submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted pursuant to this section.

Sec. 11. The Legislature hereby finds that each exemption provided by this act from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:

1. Will achieve a bona fide social or economic purpose and that the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local

government that would otherwise receive revenue from the tax from which the exemption would be granted; and

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

Sec. 12. 1. The amendatory provisions of sections 1 to 10, inclusive, of this act do not apply to or otherwise affect any abatement of taxes or deferment of the payment of taxes approved by the Office of Economic Development or the Director of the Office of Energy before July 1, 2013.

2. The expiration of section 5 of this act by limitation pursuant to section 15 of this act does not affect any abatement of taxes approved by the Office of Economic Development before July 1, 2017.

Sec. 13. Notwithstanding the provisions of NRS 274.310, 274.320, 360.750, 361.0687, 363B.120, 374.357, 701A.210 and 701A.300 to 701A.390, inclusive, a person is not, after June 30, 2032, entitled to any abatement of taxes approved by the Office of Economic Development or the Director of the Office of Energy pursuant to those provisions on or after July 1, 2013, and before July 1, 2032.

Sec. 14. The provisions of NRS 218D.355 do not apply to this act.

Sec. 15. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

(b) On July 1, 2013, for all other purposes.

2. Section 5 of this act expires by limitation on June 30, 2017.

3. Sections 3, 4, 6.5 and 7.3 to 10, inclusive, of this act expire by limitation on June 30, 2032.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 986 to Assembly Bill No. 38 reduces the threshold for qualifying for abatements from \$200 million to \$75 million, and it extends the period for the abatements to apply from 10 years to 15 years.

Amendment adopted.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Assembly Bill No. 38 is a key economic development bill. It ensures we become more competitive in recruiting businesses into the State of Nevada.

Roll call on Assembly Bill No. 38:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 38 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Assembly Bill No. 74.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 981.

"SUMMARY—Establishes provisions governing document preparation services. (BDR 19-84)"

"AN ACT relating to public affairs; requiring that document preparation services be registered with the Secretary of State; establishing qualifications for registration; requiring the filing of a bond; regulating the business practices of document preparation services; authorizing disciplinary action and other remedies in specified circumstances; providing civil and criminal penalties; ~~making an appropriation;~~ revising provisions relating to the Notary Public Training Account in the State General Fund; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person who is not an active member of the State Bar of Nevada or otherwise authorized to practice law in this State from engaging in the practice of law. (NRS 7.285) However, so long as he or she does not engage in the practice of law, there is currently no statutory provision governing a person who provides assistance in a legal matter, for compensation, to another person who is acting without the assistance of an attorney. This bill generally provides that any person engaged in the business of providing such assistance (a "document preparation service") must register with the Secretary of State and comply with various additional requirements set forth in this bill.

Section 4 of this bill defines a "document preparation service" as any person who, for compensation and at the direction of a client, provides assistance to the client in a legal matter, including, without limitation, preparing or completing a pleading or other document for the client or securing supporting documents. Section 4 excludes from this definition, among others: (1) an attorney authorized to practice law in this State, or an employee of such an attorney who is paid directly by the attorney or law firm with whom the attorney is associated and who is acting in the course and scope of that employment; (2) a governmental entity or an employee of such an entity; (3) a nonprofit, tax-exempt organization which provides legal services to persons free of charge; (4) certain legal aid offices and lawyer referral services; (5) a person who provides certain services regulated by federal law; (6) a corporation or other entity representing or acting for itself through an officer or employee, or any such officer or employee; (7) a commercial wedding chapel; (8) a person who provides legal forms or computer programs that enable another person to create legal documents; and (9) a commercial registered agent.

Section 5 of this bill broadly defines "legal matter" to mean the preparation of any will or trust, any immigration or citizenship proceeding, or any other

proceeding, filing or action affecting the legal rights, duties, obligations or liabilities of a person.

Sections 7 and 8 of this bill provide that any person wishing to engage in the business of a document preparation service must register with the Secretary of State and renew that registration annually. Section 7 establishes certain qualifications for registration and provides for the disqualification of any person who has been convicted of certain criminal offenses or has been adjudged to have engaged in certain kinds of misconduct.

Section 9 of this bill requires a document preparation service to file and maintain with the Secretary of State a cash bond or surety bond, to provide a means of indemnifying a client or other person for damage caused by fraud, incompetency or certain other misconduct, or providing payment to the Secretary of State for any civil penalty or award of attorney's fees or costs made against the document preparation service.

Sections 12-15 of this bill impose various requirements relating to advertising and the establishment of the relationship between a document preparation service and a client. Section 13.5 requires: (1) a registrant required to obtain a state business license to obtain and maintain a state business license; and (2) each registrant to conspicuously display at the registrant's place of business a copy of any state and local business license issued to the registrant or the registrant's employer. Section 15 provides that: (1) there must be a written contract between the client and the document preparation service; and (2) the contract must contain certain terms and disclosures.

Sections 16-20 of this bill set forth various required and prohibited practices applicable to a document preparation service. Section 17 provides for the return to the client of any original documents provided by the client. Section 18 requires the release of a client's file to any law enforcement agency on demand, with the authorization of the client. Section 19 imposes certain requirements relating to payments made by a client for services rendered by a document preparation service.

Section 21 of this bill authorizes the Secretary of State to adopt regulations to carry out the provisions of this bill, and also requires the Secretary of State to take certain actions to facilitate the submission of complaints relating to a document preparation service.

Section 22 of this bill authorizes the Secretary of State to investigate any suspected violation of the provisions of the bill. If a violation is found, the Secretary of State may: (1) issue a cease-and-desist order; (2) initiate disciplinary proceedings; (3) refer the matter to the Attorney General or a district attorney for the commencement of a civil action or criminal prosecution; or (4) take any combination of these actions. Pursuant to section 25 of this bill, a willful violation of any of the provisions of this bill, or of a regulation or order of the Secretary of State, is a misdemeanor except that a second or subsequent offense occurring within 5 years is a gross

misdemeanor. In addition, section 26 of this bill provides a private right of action to any person who suffers a pecuniary loss as the result of a violation.

~~[Section 28 of this bill makes an appropriation to the Office of the Secretary of State for certain purposes relating to carrying out the provisions of this bill.]~~ Existing law authorizes the Secretary of State to provide courses of study for notaries public, and to charge a fee for such instruction. The fees collected are deposited in the Notary Public Training Account in the State General Fund. (NRS 240.018) Section 27.5 of this bill requires the Secretary of State annually to reconcile the fees received and the expenses related to administering the training of notaries, and deposit any excess fees with the State Treasurer for credit to the State General Fund.

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

Section 1. Title 19 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. "Client" means a person who:

1. *Represents or otherwise acts for himself or herself in a legal matter without the services of an attorney authorized to practice law in this State; and*

2. *Receives the services of a document preparation service in that legal matter or enters into a contract with a document preparation service to receive such services.*

Sec. 4. 1. "Document preparation service" means a person who:

(a) *For compensation and at the direction of a client, provides assistance to the client in a legal matter, including, without limitation:*

(1) *Preparing or completing any pleading, application or other document for the client;*

(2) *Translating an answer to a question posed in such a document;*

(3) *Securing any supporting document, such as a birth certificate, required in connection with the legal matter; or*

(4) *Submitting a completed document on behalf of the client to a court or administrative agency; or*

(b) *Holds himself or herself out as a person who provides such services.*

2. *The term does not include:*

(a) *A person who provides only secretarial or receptionist services.*

(b) *An attorney authorized to practice law in this State, or an employee of such an attorney who is paid directly by the attorney or law firm with whom the attorney is associated and who is acting in the course and scope of that employment.*

(c) *A law student certified by the State Bar of Nevada for training in the practice of law.*

(d) *A governmental entity or an employee of such an entity who is acting in the course and scope of that employment.*

(e) *A nonprofit organization which qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c) and which provides legal services to persons free of charge, or an employee of such an organization who is acting in the course and scope of that employment.*

(f) *A legal aid office or lawyer referral service operated, sponsored or approved by a duly accredited law school, a governmental entity, the State Bar of Nevada or any other bar association which is representative of the general bar of the geographical area in which the bar association exists, or an employee of such an office or service who is acting in the course and scope of that employment.*

(g) *A military legal assistance office or a person assigned to such an office who is acting in the course and scope of that assignment.*

(h) *A person licensed by or registered with an agency or entity of the United States Government acting within the scope of his or her license or registration, including, without limitation, an accredited immigration representative and an enrolled agent authorized to practice before the Internal Revenue Service, but not including a bankruptcy petition preparer as defined by section 110 of the United States Bankruptcy Code, 11 U.S.C. § 110.*

(i) *A corporation, limited-liability company or other entity representing or acting for itself through an officer, manager, member or employee of the entity, or any such officer, manager, member or employee who is acting in the course and scope of that employment.*

(j) *A commercial wedding chapel.*

(k) *A person who provides legal forms or computer programs that enable another person to create legal documents.*

(l) *A commercial registered agent.*

(m) *A person who holds a license, permit, certificate, registration or any other type of authorization required by chapter 645 or 692A of NRS, or any regulation adopted pursuant thereto, and is acting within the scope of that authorization.*

3. *As used in this section:*

(a) *"Commercial registered agent" has the meaning ascribed to it in NRS 77.040.*

(b) *"Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.*

Sec. 5. *"Legal matter" means:*

1. *The preparation of any will or trust;*

2. *Any proceeding, filing or action affecting the immigration or citizenship status of a person and arising under:*

(a) *Immigration and naturalization law;*

(b) *An executive order or presidential proclamation; or*

(c) An action of the United States Citizenship and Immigration Services of the Department of Homeland Security, the United States Department of State or the United States Department of Labor; or

3. Any proceeding, filing or action otherwise affecting the legal rights, duties, obligations or liabilities of a person.

Sec. 6. "Registrant" means a document preparation service registered pursuant to this chapter.

Sec. 7. 1. A person who wishes to engage in the business of a document preparation service must be registered by the Secretary of State pursuant to this chapter. An applicant for registration must be a citizen or legal resident of the United States and at least 18 years of age.

2. The Secretary of State shall not register as a document preparation service any person:

(a) Who is suspended or has previously been disbarred from the practice of law in any jurisdiction;

(b) Whose registration as a document preparation service has previously been revoked by the Secretary of State;

(c) Who has previously been convicted of a gross misdemeanor pursuant to paragraph (b) of subsection 1 of section 25 of this act; or

(d) Who has, within the 10 years immediately preceding the date of the application for registration as a document preparation service, been:

(1) Convicted of a crime involving theft, fraud or dishonesty;

(2) Convicted of the unauthorized practice of law pursuant to NRS 7.285 or the corresponding statute of any other jurisdiction; or

(3) Adjudged by the final judgment of any court to have committed an act involving theft, fraud or dishonesty.

3. An application for registration as a document preparation service must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by a cash bond or surety bond meeting the requirements of section 9 of this act.

4. After the investigation of the history of the applicant is completed, the Secretary of State shall issue a certificate of registration if the applicant is qualified for registration and has complied with the requirements of this section. Each certificate of registration must bear the name of the registrant and a registration number unique to that registrant. The Secretary of State shall maintain a record of the name and registration number of each registrant.

Sec. 8. 1. The registration of a document preparation service is valid for 1 year after the date of issuance of the certificate of registration, unless the registration is suspended or revoked. Except as otherwise provided in this section, the registration may be renewed subject to the same conditions as the initial registration. An application for renewal must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by a cash bond or surety bond meeting the

requirements of section 9 of this act, unless the bond previously filed by the registrant remains on file and in effect.

2. The Secretary of State may:

(a) Conduct any investigation of a registrant that the Secretary of State deems appropriate.

(b) Require a registrant to submit a complete set of fingerprints and written permission authorizing the Secretary of State to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. After any investigation of the history of a registrant is completed, unless the Secretary of State elects or is required to deny renewal pursuant to this section or section 23 of this act, the Secretary of State shall renew the registration if the registrant is qualified for registration and has complied with the requirements of this section.

Sec. 9. 1. A registrant shall file with the Secretary of State a cash bond or surety bond in the penal sum of \$50,000 which is approved as to form by the Attorney General and conditioned to provide:

(a) Indemnification to a client or any other person who is determined in an action or proceeding to have suffered damage as a result of:

(1) An act or omission of the registrant, or an agent or employee of the registrant, which violates a provision of this chapter or a regulation or order adopted or issued pursuant thereto;

(2) A wrongful failure or refusal by the registrant, or an agent or employee of the registrant, to provide services in accordance with a contract entered into pursuant to section 15 of this act;

(3) The fraud, dishonesty, negligence or other wrongful conduct of the registrant or an agent or employee of the registrant; or

(4) An act or omission of the registrant in violation of any other federal or state law for which the return of fees, an award of damages or the imposition of sanctions have been awarded by a court of competent jurisdiction in this State; or

(b) Payment to the Secretary of State for any civil penalty or award of attorney's fees or costs of suit owing and unpaid by the registrant to the Secretary of State pursuant to this chapter.

2. No part of the bond may be withdrawn while the registration of the registrant remains in effect, or while a proceeding to suspend or revoke the registration is pending.

3. If a surety bond is filed pursuant to subsection 1:

(a) The bond must be executed by the registrant as principal and by a surety company qualified and authorized to do business in this State.

(b) The bond must cover the period of the registration of the registrant, except when the surety is released in accordance with this section.

(c) The surety shall pay any final, nonappealable judgment of a court of this State that has jurisdiction, upon receipt of written notice that the judgment is final.

(d) The bond may be continuous, but regardless of the duration of the bond, the aggregate liability of the surety does not exceed the penal sum of the bond.

(e) If the penal sum of the bond is exhausted, the surety shall give written notice to the Secretary of State and the registrant within 30 days after its exhaustion.

(f) The surety may be released after giving 30 days' written notice to the Secretary of State and the registrant, but the release does not discharge or otherwise affect any claim resulting from an act or omission which is alleged to have occurred while the bond was in effect.

4. Except as otherwise provided in this subsection, if a cash bond is filed pursuant to subsection 1, the Secretary of State may retain the bond until the expiration of 3 years after the date the registrant has ceased to do business, or 3 years after the date of the expiration or revocation of the registration, to ensure that there are no outstanding claims against the bond. A court of competent jurisdiction may order the return of the bond, or any part of the bond, at an earlier date upon evidence satisfactory to the court that there are no outstanding claims against the bond or that the part of the bond retained by the Secretary of State is sufficient to satisfy any outstanding claims. Interest on a cash bond filed pursuant to subsection 1 must accrue to the account of the depositor.

5. The registration of a registrant is suspended by operation of law when the registrant is no longer covered by a bond or the penal sum of the bond is exhausted. If the Secretary of State receives notice pursuant to subsection 3 that the penal sum of a surety bond is exhausted or that the surety is being released, the Secretary of State shall immediately notify the registrant in writing that his or her registration is suspended by operation of law until another bond is filed in the same manner and amount as the former bond.

6. The Secretary of State may reinstate the registration of a registrant whose registration has been suspended pursuant to subsection 5 if, before the current term of the registration expires, the registrant files with the Secretary of State a new bond meeting the requirements of this section.

7. Except as specifically authorized or required by this chapter, a registrant shall not make or cause to be made any oral or written reference to the registrant's compliance with the requirements of this section.

Sec. 10. 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for registration or the renewal of registration as a document preparation service pursuant to section 7 or 8 of this act must include the social security number of the applicant in the application submitted to the Secretary of State.

(b) An applicant described in paragraph (a) shall submit to the Secretary of State the statement prescribed by the Division of Welfare and Supportive

Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Secretary of State shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for registration or the renewal of registration; or

(b) A separate form prescribed by the Secretary of State.

3. Registration as a document preparation service may not be issued or renewed by the Secretary of State if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Secretary of State shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 11. 1. If the Secretary of State receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a natural person who is registered as a document preparation service, the Secretary of State shall deem the registration to be suspended at the end of the 30th day after the date on which the court order was issued unless the Secretary of State receives a letter issued to the registrant by the district attorney or other public agency pursuant to NRS 425.550 stating that the registrant has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Secretary of State shall reinstate a registration as a document preparation service that has been suspended by a district court pursuant to NRS 425.540 if the Secretary of State receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the natural person whose registration was suspended stating that the person whose registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 12. 1. Any advertisement for the services of a registrant which the registrant disseminates or causes to be disseminated must include a clear and conspicuous statement that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.

2. *The statement required by subsection 1 to be included in an advertisement must:*

- (a) Be in the same language as the rest of the advertisement; and*
- (b) Be in the form prescribed by regulation of the Secretary of State.*

3. *A person shall not disseminate or cause to be disseminated any advertisement or other statement that he or she is engaged in the business of a document preparation service in this State unless he or she has complied with all the applicable requirements of this chapter.*

Sec. 13. 1. *Each registrant shall display conspicuously in his or her place of business a copy of his or her certificate of registration and a written notice meeting the requirements of this section.*

2. *The notice must:*

(a) Be not less than 12 by 20 inches in size, and each character of text in the notice must be not less than 1 inch in height and 1 inch in width.

(b) Be written in English and in each other language in which the registrant transacts business with the registrant's clients.

(c) Contain a statement that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.

(d) Contain the full name of the registrant or, if more than one registrant is providing services at that place of business, the full name of each such registrant.

(e) Contain a list of the services provided by the registrant and the fee charged for each such service.

(f) Contain a statement that the registrant has filed with the Secretary of State a cash bond or surety bond, stating the amount and any identifying number of the bond.

Sec. 13.5. 1. *A registrant required to obtain a state business license issued by the Secretary of State pursuant to chapter 76 of NRS shall:*

(a) Obtain a state business license before offering a document preparation service; and

(b) Maintain a state business license during the period of the registrant's registration as a document preparation service.

2. *Each registrant shall display conspicuously in the registrant's place of business a copy of:*

(a) The state business license issued to the registrant or the registrant's employer, as applicable, by the Secretary of State pursuant to chapter 76 of NRS; and

(b) Any business license issued to the registrant or the registrant's employer, as applicable, by a local government in this State.

Sec. 14. 1. *Before providing any services to a client or presenting a client with the contract required by section 15 of this act, a registrant must:*

(a) Furnish the client with a written form of disclosure meeting the requirements of this section, with a copy for the client to retain; and

(b) Require the client to read and sign the disclosure, acknowledging that the client has read and understands it.

2. The disclosure must be written in English and, if different, the language in which the registrant transacts business with the client and must include:

(a) The full name, business address and telephone number and registration number of the registrant.

(b) The name and business address of the registrant's agent for service of process, if any, in this State.

(c) A statement that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.

(d) Unless the registrant is an attorney licensed to practice in another state or other jurisdiction, a statement that any communication between the client and the registrant is not protected from disclosure by any privilege.

(e) A statement that the registrant has posted or filed with the Secretary of State a cash bond or surety bond, stating the amount of the bond and any identifying number of the bond.

(f) The expiration date of:

(1) The state business license issued to the registrant or the registrant's employer, as applicable, by the Secretary of State pursuant to chapter 76 of NRS; and

(2) Any business license issued to the registrant or the registrant's employer, as applicable, by a local government in this State.

Sec. 15. 1. Before a registrant provides any services to a client, the registrant and the client must enter into a written contract meeting the requirements of this section. The registrant shall provide the client with a copy of the contract.

2. The contract must:

(a) Be written in English and, if different, in the language in which the registrant transacts business with the client, and be printed or typewritten in not less than 12-point type.

(b) Explain the services to be performed by the registrant and state the total price to be paid by the client for all such services.

(c) With respect to any document to be prepared by the registrant:

(1) State the estimated date by which the document is to be completed;

(2) Identify the court or agency with which the document is to be filed or submitted; and

(3) If applicable, identify any associated deadlines or hearing dates of the court or agency with which the document is to be filed or submitted.

(d) Include on the first page of the contract a statement in boldface type that the registrant is not an attorney authorized to practice in this State and is prohibited from providing legal advice or legal representation to any person.

(e) *Include a statement that any complaint concerning the registrant may be directed to:*

(1) If the complaint involves an alleged violation of this chapter, the Secretary of State; or

(2) If the complaint involves an allegation that the registrant is engaged in the unauthorized practice of law, the office of Bar Counsel of the State Bar of Nevada,

➔ with the toll-free telephone number and Internet address for making the complaint.

(f) State the date of the client's signature on the contract, if the client agrees to the terms of the contract.

3. A contract between a registrant and a client that does not comply with any requirement of this section is voidable by the client.

Sec. 16. Any document prepared for a client by a registrant must include, below any required signature of the client, the name, business address and telephone number and registration number of the registrant.

Sec. 17. 1. A registrant shall take reasonable measures to safeguard from loss or damage any document provided to the registrant by a client in connection with services rendered by the registrant.

2. Except as otherwise provided in subsection 3, a registrant shall immediately return to a client any original document provided by the client:

(a) Upon the request of the client;

(b) If the contract required by section 15 of this act is not signed or is cancelled for any reason; or

(c) If the document is no longer needed for the services rendered by the registrant.

3. If a copy of any original document provided by a client is sufficient for the purposes of a legal matter, the registrant shall make or cause to be made a copy of the original document and immediately return the original to the client.

4. The duties of a registrant pursuant to this section are not affected by a dispute existing between the registrant and the client over the registrant's fees or costs.

Sec. 18. 1. Upon the presentation to a registrant of a written form of authorization signed by a client, the registrant shall provide a complete copy of the client's file to an agent or employee of the Secretary of State or the Attorney General, or to an agent or employee of a law enforcement agency, without the necessity of a warrant or subpoena.

2. A registrant shall retain a copy of any document prepared for a client for not less than 3 years after the date of the last service performed for the client. At the end of that period, unless the client requests that the document be given to the client, the document may be destroyed by the registrant. Any method of destruction used by a registrant must ensure the complete and confidential destruction of the document.

Sec. 19. *A registrant shall provide a signed receipt to a client for each payment made to the registrant by the client. The receipt must be printed or typewritten on the letterhead of the registrant and must include the name, business address and telephone number, registration number and taxpayer identification number of the registrant.*

Sec. 20. *A registrant shall not:*

1. *After the date of the last service performed for a client, retain any fees or costs for services not performed or costs not incurred.*

2. *Make, orally or in writing:*

(a) *A promise of the result to be obtained by the filing or submission of any document, unless the registrant has some basis in fact for making the promise;*

(b) *A statement that the registrant has some special influence with or is able to obtain special treatment from the court or agency with which a document is to be filed or submitted; or*

(c) *A false or misleading statement to a client if the registrant knows that the statement is false or misleading or knows that the registrant lacks a sufficient basis for making the statement.*

3. *In any advertisement or written description of the registrant or the services provided by the registrant, or on any letterhead or business card of the registrant, use the term "legal aid," "legal services," "law office," "notary public," "notary," "licensed," "attorney," "lawyer" or any similar term, in English or in any other language, which implies that the registrant:*

(a) *Offers services without charge if the registrant does not do so; or*

(b) *Is an attorney authorized to practice law in this State.*

4. *Negotiate with another person concerning the rights or responsibilities of a client, communicate the position of a client to another person or convey the position of another person to a client.*

5. *Appear on behalf of a client in a court proceeding or other formal adjudicative proceeding, unless the registrant is ordered to appear by the court or presiding officer.*

6. *Provide any advice, explanation, opinion or recommendation to a client about possible legal rights, remedies, defenses, options or the selection of documents or strategies, except that a registrant may provide to a client published factual information, written or approved by an attorney, relating to legal procedures, rights or obligations.*

7. *Seek or obtain from a client a waiver of any provision of this chapter. Any such waiver is contrary to public policy and void.*

Sec. 21. 1. *In addition to the regulations which the Secretary of State is required to adopt pursuant to this chapter, the Secretary of State may adopt any other regulations necessary to carry out the provisions of this chapter.*

2. *The Secretary of State shall:*

(a) Establish a toll-free telephone number which may be used by any person to make a complaint about a registrant or an alleged violation of this chapter.

(b) Post on the Internet website of the Secretary of State information concerning making such a complaint, which must include the telephone number established pursuant to paragraph (a).

Sec. 22. 1. If the Secretary of State obtains information that a provision of this chapter or a regulation or order adopted or issued pursuant thereto has been violated by a registrant or another person, the Secretary of State may conduct or cause to be conducted an investigation of the alleged violation.

2. If, after investigation, the Secretary of State determines that a violation has occurred, the Secretary of State may:

(a) Serve, by certified mail addressed to the person who has committed the violation, a written order directing the person to cease and desist from the conduct constituting the violation. The order must notify the person that any willful violation of the order may subject the person to prosecution and criminal penalties pursuant to section 25 of this act.

(b) If a registrant has committed the violation, begin proceedings pursuant to section 23 of this act to revoke or suspend the registration of the registrant.

(c) Refer the alleged violation to the Attorney General or a district attorney for commencement of a civil action against the person pursuant to section 24 of this act.

(d) Refer the alleged violation to the Attorney General or a district attorney for prosecution of the person pursuant to section 25 of this act.

(e) Take any combination of the actions described in this subsection.

Sec. 23. 1. The Secretary of State may deny, suspend, revoke or refuse to renew the registration of any person who violates a provision of this chapter or a regulation or order adopted or issued pursuant thereto. Except as otherwise provided in subsection 2, a suspension or revocation may be imposed only after a hearing.

2. The Secretary of State shall immediately revoke the registration of a registrant upon the receipt of an official document or record showing:

(a) The entry of a judgment or conviction; or

(b) The occurrence of any other event,

➡ that would disqualify the registrant from registration pursuant to subsection 2 of section 7 of this act.

Sec. 24. 1. Upon referral by the Secretary of State, the Attorney General or the district attorney of the county in which the defendant resides or maintains a place of business may bring an action in the name of the State of Nevada in a court of competent jurisdiction:

(a) For injunctive relief against any person who violates or threatens to violate a provision of this chapter or a regulation or order adopted or issued pursuant thereto;

(b) *For the recovery of a civil penalty against the defendant of not less than \$100 or more than \$5,000 for each such violation;*

(c) *For an order directing restitution to be made by the defendant to any person who suffers pecuniary loss as a result of such a violation; or*

(d) *For any combination of the remedies described in this subsection.*

2. *Any civil penalty recovered pursuant to this section must be paid to the Secretary of State and deposited in the State General Fund.*

3. *If the court determines that the State of Nevada is the prevailing party in an action brought pursuant to this section, the court shall award the State the costs of suit and reasonable attorney's fees incurred in the action.*

Sec. 25. 1. *A person who willfully violates a provision of this chapter or a regulation or order adopted or issued pursuant thereto:*

(a) *For the first offense within the immediately preceding 5 years, is guilty of a misdemeanor.*

(b) *For a second or subsequent offense within the immediately preceding 5 years, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$10,000, or by both fine and imprisonment.*

2. *In addition to the penalties prescribed by subsection 1, the court may order a person described in that subsection to pay restitution to any person who has suffered a pecuniary loss as a result of the violation.*

3. *For the purposes of subsections 1 and 2, evidence that a person has been served with an order by the Secretary of State pursuant to section 22 of this act before the date of the alleged violation is evidence that the alleged violation is intentional if it involves a repetition or a continuation of conduct of the kind described in the order.*

Sec. 26. *Notwithstanding the provisions of sections 22 to 25, inclusive, of this act, any person who suffers a pecuniary loss as a result of a violation of this chapter or a regulation or order adopted or issued pursuant thereto by a registrant or other person may bring an action against that person in any court of competent jurisdiction and may recover the sum of \$500 or twice the amount of the pecuniary loss sustained, whichever is greater. If the court determines that the plaintiff is the prevailing party in an action brought pursuant to this section, the court shall award the plaintiff the costs of suit and reasonable attorney's fees incurred in the action.*

Sec. 27. *The provisions of this chapter do not:*

1. *Authorize the practice of law by any person who is not an active member of the State Bar of Nevada or otherwise authorized to practice law in this State; or*

2. *Prohibit a person from representing or otherwise acting for himself or herself in a legal matter without the services of an attorney.*

Sec. 27.5. NRS 240.018 is hereby amended to read as follows:

240.018 1. The Secretary of State may:

(a) Provide courses of study for the mandatory training of notaries public. Such courses of study must include at least 4 hours of instruction relating to the functions and duties of notaries public.

(b) Charge a reasonable fee to each person who enrolls in a course of study for the mandatory training of notaries public.

2. A course of study provided pursuant to this section must comply with the regulations adopted pursuant to subsection 1 of NRS 240.017.

3. The following persons are required to enroll in and successfully complete a course of study provided pursuant to this section:

(a) A person applying for appointment as a notary public for the first time.

(b) A person renewing his or her appointment as a notary public, if the appointment has expired for a period greater than 1 year.

(c) A person renewing his or her appointment as a notary public, if during the immediately preceding 4 years the person has been fined for failing to comply with a statute or regulation of this State relating to notaries public.

➡ A person who holds a current appointment as a notary public is not required to enroll in and successfully complete a course of study provided pursuant to this section if the person is in compliance with all of the statutes and regulations of this State relating to notaries public.

4. The Secretary of State shall deposit the fees collected pursuant to paragraph (b) of subsection 1 in the ~~following manner~~

~~(a) Seventy five percent of the fees collected must be deposited in the State General Fund.~~

~~(b) Twenty five percent of the fees collected must be deposited in the~~ Notary Public Training Account which is hereby created in the State General Fund. The Account must be administered by the Secretary of State. Any interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward. All claims against the Account must be paid as other claims against the State are paid. The money in the Account may be expended:

~~{{(1)}} (a)~~ To pay for expenses related to providing courses of study for the mandatory training of notaries public, including, without limitation, the rental of rooms and other facilities, advertising, travel and the printing and preparation of course materials; or

~~{{(2)}} (b)~~ For any other purpose authorized by the Legislature.

5. At the end of each fiscal year, the Secretary of State shall reconcile the amount of the fees collected pursuant to paragraph (b) of subsection 1 and the expenses related to administering the training of notaries public pursuant to this chapter and deposit any excess fees received with the State Treasurer for credit to the State General Fund.

Sec. 28. ~~1. There is hereby appropriated from the State General Fund to the Office of the Secretary of State the sum of \$150,000 for the~~

~~development of internal and external applications on the Internet website of the Office of the Secretary of State to carry out the provisions of this act.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2015, by the Office of the Secretary of State or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2015, by either the Office of the Secretary of State or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2015.]~~
(Deleted by amendment.)

Sec. 29. 1. This ~~section and section 28 of this act become effective upon passage and approval.~~

~~2. Sections 1 to 27, inclusive, of this act become]~~ act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On ~~January~~ March 1, 2014, for all other purposes.

~~[3.]~~ 2. Sections 10 and 11 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
↪ are repealed by the Congress of the United States.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Amendment No. 981 to Assembly Bill No. 74 extends some of the implementation dates with the Secretary of State. It also addresses various other concerns that were raised in Committee.

Amendment adopted.

Bill read third time.

Remarks by Senator Kieckhefer.

Thank you, Mr. President. Assembly Bill No. 74 of requires individuals engaged in the business of providing document preparation services to register with the Secretary of State. It protects against predatory practices by people who think they may be getting legal advice when they are not. It tries to protect the citizens of this State.

Roll call on Assembly Bill No. 74:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 74 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered reprinted, re-engrossed and transmitted to the Assembly.

Assembly Bill No. 503.

Bill read third time.

Remarks by Senator Spearman.

Thank you, Mr. President. Assembly Bill No. 503 authorizes a local government's governing body to loan or transfer money in an enterprise fund, if the ending fund balance of the general fund of the local government at the end of a fiscal year is less than 9 percent of the local government's total expenditures, from the general fund during that fiscal year. The authority to use the enterprise fund for these purposes applies only to a local government that has, during each of the five fiscal years immediately preceding the effective date of this act, made certain loans or transfers relative to an enterprise fund. Any local government that loans or transfers money in an enterprise fund must also provide a report to the Legislature on or before January 15, 2015. The Audit Division of the Legislative Counsel Bureau is required to review and provide comments on the report to the 78th Session of the Nevada Legislature when it convenes. This measure is effective upon passage and approval and expires by limitation on June 30, 2017.

Roll call on Assembly Bill No. 503:

YEAS—20.

NAYS—None.

EXCUSED—Woodhouse.

Assembly Bill No. 503 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 165.

The following Assembly Amendment was read:

Amendment No. 964.

"SUMMARY—Provides for transferable tax credits to attract film and other productions to Nevada. (BDR 32-781)"

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

Legislative Counsel's Digest:

Section 8 of this bill authorizes a producer that produces a film, television or other media production in this State to apply, on or before December 31, 2017, to the Office of Economic Development for a certificate of transferable tax credits. Section 8 requires the Office to approve

transferable tax credits for such a producer if, in addition to certain other requirements: (1) the production is in the economic interest of this State; (2) at least 60 percent of the total qualified expenditures and production costs for the production will be incurred in this State; and (3) the production costs of the qualified production exceed \$500,000. Upon approval of transferable tax credits and a determination of the amount of tax credits by the Office, section 8 requires the Office to issue to the producer a certificate of transferable tax credits. Section 8 also sets forth the fees and taxes to which the transferable tax credits may be applied. Additionally, section 8 requires that, at the completion of the qualified production, the producer provide the Office with an audit of the qualified production that is certified by an independent certified public accountant in this State who is approved by the Office. Section 9 of this bill sets forth the types of qualified expenditures and production costs that may serve as a basis for transferable tax credits, and sections 10-12 of this bill provide for the calculation of the transferable tax credits. Section 12 prohibits the Office from approving any applications for transferable tax credits received on or after January 1, 2018. Section 14 of this bill requires the Office to meet certain notice requirements before holding a hearing to approve or disapprove an application for transferable tax credits. Section 16 of this bill requires a producer to repay any portion of transferable tax credits to which the producer is not entitled if the producer becomes ineligible for the tax credits after receiving the tax credits.

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

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

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

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

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

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

Sec. 3. (Deleted by amendment.)

Sec. 3.5. *"Below-the-line personnel" means a person employed to work on a qualified production after production begins and before production is completed, including, without limitation, a best boy, boom operator, camera loader, camera operator, assistant camera operator, compositor, dialogue editor, film editor, assistant film editor, focus puller, Foley operator, Foley*

editor, gaffer, grip, key grip, lighting crew, lighting board operator, lighting technician, music editor, sound editor, sound effects editor, sound mixer, steadicam operator, first assistant camera operator, second assistant camera operator, digital imaging technician, camera operator working with a director of photography, electric best boy, grip best boy, dolly grip, rigging grip, assistant key for makeup, assistant key for hair, assistant script supervisor, set construction foreperson, lead set dresser, assistant key for wardrobe, scenic foreperson, assistant propmaster, assistant audio mixer, assistant boom person, assistant key for special effects and other similar personnel. The term does not include above-the-line personnel.

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

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

2. Is licensed to transact business in this State.

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

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

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

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

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

(c) Visual effects or digital animation sequences.

(d) A television pilot program.

(e) Interstitial television programming.

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

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

(h) An infomercial.

(i) An interstitial advertisement.

(j) A music video.

(k) A documentary film or series.

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

2. The term does not include:

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

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

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

(d) A political advertisement.

(e) A sporting event.

(f) A gala or awards show.

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

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

- (a) Any tax imposed by chapters 363A and 363B of NRS;*
- (b) The gaming license fees imposed by the provisions of NRS 463.370;*
- (c) Any tax imposed pursuant to chapter 680B of NRS; or*
- (d) Any combination of the fees and taxes described in paragraphs (a), (b) and (c).*

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

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

- (a) Submit an application that meets the requirements of subsection 4;*
- (b) Provide proof satisfactory to the Office that the qualified production is in the economic interest of the State;*
- (c) Provide proof satisfactory to the Office that 50 percent or more of the funding for the qualified production has been placed in an escrow account or trust account for the benefit of the qualified production;*
- (d) Provide proof satisfactory to the Office that at least 60 percent of the total qualified expenditures and production costs for the qualified production, including preproduction and postproduction, will be incurred in this State;*
- (e) At the completion of the qualified production, provide the Office with an audit of the qualified production that includes an itemized report of qualified expenditures and production costs which:*

(1) Shows that the qualified production incurred qualified expenditures and production costs in this State of \$500,000 or more; and

(2) Is certified by an independent certified public accountant in this State who is approved by the Office;

(f) Pay the cost of the audit required by paragraph (e); and

(g) Meet any other requirements prescribed by regulation pursuant to this section.

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

- (a) A script, storyboard or synopsis of the qualified production;*
- (b) The names of the producer, director and proposed cast;*
- (c) An estimated timeline to complete the qualified production;*

(d) *A detailed budget for the entire production, including projected expenses incurred outside of Nevada;*

(e) *Details regarding the financing of the project, including, without limitation, any information relating to a binding financing commitment, loan application, commitment letter or investment letter;*

(f) *An insurance certificate, binder or quote for general liability insurance of \$1,000,000 or more;*

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

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

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

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

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

(a) *The applicant;*

(b) *The Department; and*

(c) *The State Gaming Control Board.*

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

7. *An applicant for transferable tax credits pursuant to this section shall, upon the request of the Executive Director of the Office, furnish the*

Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 3.

8. The Office:

(a) Shall adopt regulations prescribing:

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

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

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

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

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

(m) Any other transaction, service or activity authorized in regulations adopted by the Office of Economic Development pursuant to section 8 of this act.

2. Expenditures and costs:

(a) Related to:

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

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

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

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

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

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

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

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

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

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

3. The Office may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 13. (Deleted by amendment.)

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

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

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

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

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

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

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

Sec. 15. (Deleted by amendment.)

Sec. 15.5. 1. *For the purpose of encouraging local economic development, the governing body of a city or county may, on or before December 31, 2017, grant to a producer of a qualified production for which a certificate of eligibility for transferable tax credits has been approved pursuant to section 8 of this act an abatement of all or any percentage of the*

amount of any permitting fee or licensing fee which the local government is authorized to impose or charge pursuant to chapter 244 or 268 of NRS.

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

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

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

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

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

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

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

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

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

1. The number of applications submitted for transferable tax credits;

2. The number of qualified productions for which transferable tax credits were approved;

3. The amount of transferable tax credits approved;

4. The amount of transferable tax credits used;

5. The amount of transferable tax credits transferred;

6. The amount of transferable tax credits taken against each allowable fee or tax, including the actual amount used and outstanding, in total and for each qualified production;

7. *The total amount of the qualified expenses and production costs incurred by each qualified production and the portion of those expenses and costs that were incurred in Nevada;*

8. *The number of persons in Nevada employed by each qualified production and the amount of wages paid to those persons; and*

9. *The period during which each qualified production was in Nevada and employed persons in Nevada.*

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

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

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

Senator Kihuen moved that the Senate concur in the Assembly Amendment No. 964 to Senate Bill No. 165.

Motion carried by a constitutional majority.

Bill ordered enrolled.

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

Senate in recess at 11:37 p.m.

SENATE IN SESSION

At 11:45 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Assembly Bill No. 239, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chair*

GENERAL FILE AND THIRD READING

Assembly Bill No. 239.

Bill read third time.

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

Amendment No. 991.

"SUMMARY—Makes various changes relating to energy. (BDR 58-224)"

"AN ACT relating to energy; authorizing the Director of the Office of Energy to charge and collect certain fees from applicants for certain energy-related tax incentives; revising provisions relating to eligibility for

and approval of applicants for certain energy-related tax incentives; revising permissible uses of money in the Renewable Energy Fund; revising provisions relating to land use planning and the granting by local governments of permits for the construction of certain utility projects; establishing the Economic Development Electric Rate Rider Program; requiring the Public Utilities Commission of Nevada, in consultation with the Office of Economic Development, to administer the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Director of the Office of Energy to grant partial abatements of certain taxes to eligible applicants. (NRS 701A.110, 701A.115, 701A.360, 701A.390) Sections 1, 2 and 7 of this bill authorize the Director to charge and collect a fee from each applicant in an amount not to exceed the actual cost to the Director of processing the application. Section 3 of this bill removes from the list of persons who are eligible for a partial abatement of certain taxes a person who operates a facility for the transmission of electricity generated from renewable energy or geothermal resources. Section 4 of this bill revises the authority of a board of county commissioners relating to the approval of an application for a partial abatement of taxes submitted by a person who operates a facility for the generation of electricity from renewable energy. Section 4 additionally revises provisions governing the wages and benefits that must be provided to employees working on the construction of such a facility. Section 6 of this bill removes the requirement that a certain percentage of the property taxes collected from a person who is receiving a partial abatement of taxes which would otherwise be allocated and distributed to local governments be deposited in the Renewable Energy Fund.

Section 7.5 of this bill revises the permissible uses by the Director of money in the Renewable Energy Fund.

Sections 10-21 of this bill establish the Economic Development Electric Rate Rider Program, a 5-year program to encourage the location or relocation of new commercial and industrial businesses in this State by providing discounted rates for electricity to eligible participants. Section 14 requires the Public Utilities Commission of Nevada, in consultation with the Office of Economic Development, to administer the Program. Section 14 additionally requires the Commission to establish an amount of electric generating capacity, not to exceed 50 megawatts, that each electric utility in this State is required to set aside for allocation pursuant to the Program. Section 15 authorizes a person who, in anticipation of the incentive provided pursuant to the Program, locates or intends to locate a new commercial or industrial business in this State to submit an application to the Office of Economic Development to participate in the Program. Section 15 requires an applicant to obtain initial approval and a letter of eligibility from the Office. Once an applicant has obtained initial approval and a letter of eligibility from the Office, section 16 requires the Commission to establish the discounted rates

for electricity available to the applicant and to establish and approve the terms of the contract which the applicant must enter into with an electric utility. Section 17 provides that an electric utility is required to recover the amount of the discount provided to a participant from the deferred energy account of the electric utility. Section 21 requires the Commission to prepare and submit a report to the Legislature concerning the Program.

Section 21.5 of this bill provides that a public utility is not required to include a utility facility, the construction of which has been approved by the Commission, in the integrated resource plan of the utility if the facility is not intended to serve customers in this State and the cost of the facility will not be included in the rates charged by the utility.

Existing law requires a person who wishes to obtain a permit for a utility facility to file certain applications with the Commission if a federal agency is required to conduct an environmental analysis of the proposed utility facility. (NRS 704.870) Sections 23 and 24 of this bill require such a person to file a notice with the Commission not later than the date on which the person files with the appropriate federal agency.

Sections 27.1-27.9 of this bill revise provisions relating to land use permits for the construction of certain utility projects. Section 27.5 requires a planning commission or governing body that is required to prepare and adopt a master plan to include in the master plan an aboveground utility plan. Section 27.7 requires each governing body of a local government to establish a process for the issuance of: (1) permits for the construction of aboveground utility projects; (2) special use permits for the construction of aboveground utility projects which are to be constructed outside of the corridors identified in the master plan; and (3) special use permits for the construction of renewable energy generation projects with a nameplate capacity of 10 megawatts or more. Section 27.9 provides that an applicant for such a special use permit may appeal certain decisions of the planning commission or governing body concerning the application to the Public Utilities Commission of Nevada.

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

Section 1. NRS 701A.110 is hereby amended to read as follows:

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

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

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

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

(b) The owner of the property:

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

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

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

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

(II) Department of Taxation;

(III) County assessor;

(IV) County treasurer;

(V) Office of Economic Development;

(VI) Board of county commissioners; and

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

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

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

(a) Department of Taxation;

(b) County assessor;

(c) County treasurer; and

(d) Office of Economic Development.

3. The Director may, with the assistance of the Chief of the Budget Division and the Department of Taxation, publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and on each affected local government. If the Director publishes a fiscal note that estimates the fiscal impact of the partial abatement on local government, the Director shall forward a copy of the fiscal note to each affected local government. As soon as practicable after receiving a copy of a certificate of

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

4. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

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

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

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

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

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

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

(2) County assessor;

(3) County treasurer; and

(4) Office of Economic Development.

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

5. If a partial abatement terminates pursuant to paragraph (c) of subsection 4, the owner of the property to which the partial abatement applied shall repay to the county treasurer the amount of the exemption that was allowed pursuant to this section before the date of that termination. The owner shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

6. The Director, in consultation with the Office of Economic Development, shall adopt regulations:

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

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

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

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

7. The Director shall:

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

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

8. *The Director may charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to this section. The amount of the fee must not exceed the actual cost to the Director for processing the application and evaluating the proof submitted by the applicant pursuant to subsection 1 and making the determination concerning eligibility for the partial abatement required by subsection 2.*

9. As used in this section:

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

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

(c) "Taxes imposed for public education" means:

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

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

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

Sec. 2. NRS 701A.115 is hereby amended to read as follows:

701A.115 1. Except as otherwise provided in this section, the Director of the Office of Energy shall grant a partial abatement from the portion of taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on an existing building or other structure which is renovated for use by a manufacturer if:

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

(b) The applicant:

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

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

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

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

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

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

(d) The manufacturer:

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

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

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

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

(II) Department of Taxation;

(III) County assessor;

(IV) County treasurer;

(V) Office of Economic Development;

(VI) Board of county commissioners; and

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

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

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

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

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

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

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

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

4. The partial abatement:

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

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

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

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

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

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

other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

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

(2) County assessor;

(3) County treasurer; and

(4) Office of Economic Development.

5. The Director shall adopt regulations:

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

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

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

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

6. *The Director may charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to this section. The amount of the fee must not exceed the actual cost to the Director for processing the application and evaluating the proof submitted by the applicant pursuant to subsection 1 and making the determination concerning eligibility for the partial abatement required by subsection 2.*

7. As used in this section:

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

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

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

(d) "Taxes imposed for public education" means:

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

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

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

Sec. 2.5. NRS 701A.340 is hereby amended to read as follows:

701A.340 1. "Renewable energy" means:

(a) Biomass;

(b) Fuel cells;

(c) *Geothermal energy*;

(d) Solar energy;

~~[(d)]~~ (e) Waterpower; or

~~[(e)]~~ (f) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel ~~[-, geothermal energy]~~ or nuclear energy.

Sec. 3. NRS 701A.360 is hereby amended to read as follows:

701A.360 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy ~~[-]~~ or a wholesale facility for the generation of electricity from renewable energy ~~[-, a facility for the generation of electricity from geothermal resources or a facility for the transmission of electricity produced from renewable energy or geothermal resources]~~ in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS. *An applicant may submit a copy of the application to the board of county commissioners at any time after the applicant has submitted the application to the Director.*

2. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to NRS 701A.300 to 701A.390, inclusive.

3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall forward a copy of the application to:

(a) The Chief of the Budget Division of the Department of Administration;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Office of Economic Development.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application.

5. The Director shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in subsection 3 have received a copy of the application.

Sec. 4. NRS 701A.365 is hereby amended to read as follows:

701A.365 1. Except as otherwise provided in subsection 2, the Director, in consultation with the Office of Economic Development, shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if the Director, in consultation with the Office of Economic Development, makes the following determinations:

(a) The applicant has executed an agreement with the Director which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to NRS 701A.370, continue in operation in this State for a period specified by the Director, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least ~~[30]~~ 50 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) ~~[The]~~ *Except as otherwise provided in subsection 6, the average hourly wage of the employees working on the construction of the facility will be at least ~~[150]~~ 175 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:*

(I) The employees working on the construction of the facility must be provided a health insurance plan that *is provided ~~by~~ through a third-party administrator and includes ~~an option for~~ health insurance coverage for dependents of the employees; and*

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the Director for good cause, at least ~~{30}~~ 50 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) ~~{The}~~ *Except as otherwise provided in subsection 6, the average hourly wage of the employees working on the construction of the facility will be at least ~~{150}~~ 175 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:*

(I) The employees working on the construction of the facility must be provided a health insurance plan that *is provided ~~by~~ through a third-party administrator and includes ~~an option for~~ health insurance coverage for dependents of the employees; and*

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the Director by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

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

2. The Director shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 *by a facility for the generation of process heat from solar renewable energy or a wholesale facility for the generation of electricity from ~~{geothermal resources}~~ renewable energy unless the application is approved or deemed approved pursuant to this subsection. The board of county commissioners of a county must provide notice to the Director that the board intends to consider an application and, if such notice is given, must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners ~~{must}~~ :*

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

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

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

(2) The projected financial benefits that will result to the county from the employment by the facility of the residents of this State and from capital investments by the facility in the county will not exceed the projected loss of tax revenue that will result from the abatement;

(c) Must not condition the approval of the application on a requirement that the facility ~~{for the generation of electricity from geothermal resources}~~ agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility ~~{-}~~; and

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

➡ If the board of county commissioners does not approve or deny the application within 30 days after the board receives from the Director a copy of the application, the application shall be deemed ~~{denied-}~~ approved.

3. Notwithstanding the provisions of subsection 1, the Director, in consultation with the Office of Economic Development, may, if the Director, in consultation with the Office, determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

4. The Director shall cooperate with the Office of Economic Development in carrying out the provisions of this section.

5. The Director shall submit to the Office of Economic Development an annual report, at such a time and containing such information as the Office may require, regarding the partial abatements granted pursuant to this section.

6. *The provisions of subparagraph (4) of paragraph (d) of subsection 1 and subparagraph (4) of paragraph (e) of subsection 1 concerning the average hourly wage of the employees working on the construction of a facility do not apply to the wages of an apprentice as that term is defined in NRS 610.010.*

7. *As used in this section, "wage" or "wages" has the meaning ascribed to it in NRS 338.010.*

Sec. 5. (Deleted by amendment.)

Sec. 6. NRS 701A.385 is hereby amended to read as follows:

701A.385 Notwithstanding any statutory provision to the contrary, if the Director approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, of ~~the~~:

~~1. Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:~~

~~(a) Forty five percent of that amount is deposited in the Renewable Energy Fund created by NRS 701A.450; and~~

~~(b) Fifty five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.~~

~~2. Local~~ *local* sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

Sec. 7. NRS 701A.390 is hereby amended to read as follows:

701A.390 The Director:

1. Shall adopt regulations:

(a) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive;

(b) Prescribing such requirements for an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, as will ensure that all information and other documentation necessary for the Director, in consultation with the Office of Economic Development, to make an appropriate determination is filed with the Director;

(c) Requiring each recipient of a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, to file annually with the Director such information and documentation as may be necessary for the Director to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(d) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 1 of NRS 701A.365; and

2. May adopt such other regulations as the Director determines to be necessary to carry out the provisions of NRS 701A.300 to 701A.390, inclusive.

3. *May charge and collect a fee from each applicant who submits an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive. The amount of the fee must not exceed the actual cost to the Director for processing and approving the application.*

Sec. 7.5. NRS 701A.450 is hereby amended to read as follows:

701A.450 1. The Renewable Energy Fund is hereby created.

2. The Director of the Office of Energy appointed pursuant to NRS 701.150 shall administer the Fund.

3. The interest and income earned on the money in the Fund must be credited to the Fund.

4. Not less than 75 percent of the money in the Fund must be used to offset the cost of electricity to *or the use of electricity by* retail customers of a public utility that is subject to the portfolio standard established by the Public Utilities Commission of Nevada pursuant to NRS 704.7821.

5. The Director of the Office of Energy may establish other uses of the money in the Fund by regulation.

Sec. 8. Chapter 704 of NRS is hereby amended by adding thereto the provisions set forth as sections 9 to 21.5, inclusive, of this act.

Sec. 9. (Deleted by amendment.)

Sec. 10. *As used in sections 10 to 21, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11, 12 and 13 of this act have the meanings ascribed to them in those sections.*

Sec. 11. *"Electric utility" has the meaning ascribed to it in NRS 704.187.*

Sec. 12. *"Participant" means an applicant who has received initial approval and a letter of eligibility from the Office of Economic Development pursuant to section 15 of this act and who enters into a contract approved by the Commission pursuant to section 16 of this act.*

Sec. 13. *"Program" means the Economic Development Electric Rate Rider Program established by section 14 of this act to carry out the provisions of sections 10 to 21, inclusive, of this act.*

Sec. 14. 1. *The Economic Development Electric Rate Rider Program is hereby established for the purpose of attracting new commercial and industrial businesses to this State. The Commission, in consultation with the Office of Economic Development, shall administer the Program.*

2. *Each electric utility in this State shall set aside an amount of capacity determined by the Commission for allocation to new customers pursuant to the Program, but the total amount of capacity that the Commission may require to be set aside by all electric utilities in this State pursuant to this subsection must not exceed 50 megawatts.*

Sec. 15. 1. *A person who, in anticipation of the incentive provided pursuant to the Program, locates or intends to locate a new commercial or industrial business in this State may apply to the Office of Economic Development to participate in the Program.*

2. *An application to participate in the Program must be submitted on a form approved by the Office of Economic Development and must include:*

(a) The name, business address and telephone number of the applicant;

(b) The location or proposed location of the applicant's facility and a detailed description of the facility;

(c) Proof satisfactory to the Office of Economic Development that the applicant satisfies the criteria for eligibility set forth in subsection 3;

(d) *An attestation, on a form approved by the Office of Economic Development, that but for the incentive provided pursuant to the Program, the applicant would not have located or intended to locate the business in this State; and*

(e) *Any other information required by the Office of Economic Development.*

3. *To be eligible for participation in the Program, an applicant must demonstrate that:*

(a) *The applicant is or intends to be a new commercial or industrial customer of an electric utility in this State;*

(b) *The applicant is not, and has not been during the immediately preceding 12 months, a customer of any other electric utility in this State;*

(c) *The new load to be served by the electric utility is more than 300 kilowatts;*

(d) *The electric utility has determined that the applicant's use of the load is not for a project, purpose or facility which carries an abnormal risk or is seasonal, intermittent or temporary; and*

(e) *The applicant has applied for each economic incentive, including, without limitation, any abatement or partial abatement of taxes, offered by the State or any local government for which the applicant is eligible.*

4. *Upon the receipt of a completed application, the Office of Economic Development shall consider the application and make a determination of whether the applicant satisfies the criteria for eligibility. If the Office of Economic Development determines that the applicant satisfies the criteria for eligibility, the Office of Economic Development may give initial approval to the applicant.*

5. *If the Office of Economic Development gives initial approval to an applicant, the Office of Economic Development shall:*

(a) *Provide notice of the initial approval to the applicant;*

(b) *Issue to the applicant a letter of eligibility; and*

(c) *Forward a copy of the applicant's application and letter of eligibility to the Commission.*

Sec. 16. 1. *Upon receipt of an application and letter of eligibility pursuant to paragraph (c) of subsection 5 of section 15 of this act, the Commission shall:*

(a) *Review the application;*

(b) *Establish the rates which may be charged to the applicant by the electric utility that will serve the load of the applicant; and*

(c) *In addition to the terms required by subsection 3, establish any additional terms which must be included in the contract between the applicant and the electric utility.*

2. *Before any applicant enters into a contract with an electric utility pursuant to the Program, the applicant shall:*

(a) *Provide to the electric utility that will serve the load of the applicant access to the applicant's facility or plans for the facility for the purpose of*

the electric utility making recommendations concerning the energy efficiency of the facility; and

(b) Provide proof satisfactory to the Commission that the new load under the contract will have an annual load factor of 50 percent or more for each year of the term of the contract.

3. An applicant may participate in the Program pursuant to a contract which is entered into by the applicant and the electric utility that will serve the load of the applicant and which is approved by the Commission. A contract entered into pursuant to this section must include provisions setting forth:

(a) The term of the contract, which must be 5 years;

(b) The term of the discounts applicable under the Program, which must be 4 years;

(c) The rates to be paid for electricity by the participant;

(d) That the discount approved by the Commission does not apply to up-front costs, the base tariff general rate, any otherwise applicable tariff or any taxes, surcharges, amortization or program rate elements;

(e) The deposit requirements, which must be based on the rates applicable under the second year of the contract;

(f) That the participant ceases to be eligible for any discounted rates for electricity if the participant fails to satisfy any requirements set forth in the contract or sections 10 to 21, inclusive, of this act or any regulations adopted pursuant thereto; and

(g) Any additional requirements prescribed by the Commission.

4. An electric utility shall prepare a contract to be entered into by the electric utility and a participant and submit the contract to the Commission for approval. Upon approval of the contract by the Commission, the electric utility and the applicant may enter into the contract and the applicant may participate in the Program. The Commission shall forward a copy of the approved contract to the Office of Economic Development.

Sec. 17. Notwithstanding any other provision of this chapter, an electric utility that enters into a contract with a participant pursuant to section 16 of this act shall, in the manner provided pursuant to the regulations adopted by the Commission pursuant to paragraph (c) of subsection 1 of section 20 of this act, recover through a deferred energy accounting adjustment application an amount equal to the discount provided to the participant pursuant to the contract.

Sec. 18. If the Commission determines that a participant in the Program has failed to fulfill any requirement of the contract or carry out any duty imposed pursuant to the Program, the Commission shall issue an order requiring the participant to pay to the electric utility an amount equal to the rate which would have been charged but for the participant's participation in the Program.

Sec. 19. The Office of Economic Development shall not accept an application or give initial approval to any applicant for participation in the

Program, and the Commission shall not approve an applicant for participation in the Program, after the earlier of December 31, 2017, or the date on which the capacity set aside for allocation pursuant to the Program is fully allocated.

Sec. 20. The Commission, in consultation with the Office of Economic Development:

1. Shall adopt regulations:

(a) Establishing the discounted electric rates that may be charged by an electric utility pursuant to the Program, which must be established as a percentage of the base tariff energy rate and for which:

(1) In the first year of a contract entered into pursuant to section 16 of this act, the reduction in the rates as a result of the discount must not exceed 30 percent of the base tariff energy rate;

(2) In the second year of a contract entered into pursuant to section 16 of this act, the reduction in the rates as a result of the discount must not exceed 20 percent of the base tariff energy rate;

(3) In the third year of a contract entered into pursuant to section 16 of this act, the reduction in the rates as a result of the discount must not exceed 20 percent of the base tariff energy rate; and

(4) In the fourth year of a contract entered into pursuant to section 16 of this act, the reduction in the rates as a result of the discount must not exceed 10 percent of the base tariff energy rate;

(b) Prescribing the form and content of the contract entered into pursuant to section 16 of this act;

(c) Prescribing the procedure by which an electric utility is authorized to recover through a deferred energy accounting adjustment application the amount of the discount provided to a participant in the Program; and

(d) Prescribing any additional information which must be submitted by an applicant for participation in the Program.

2. May adopt any other regulations it determines are necessary to carry out the provisions of sections 10 to 21, inclusive, of this act.

Sec. 21. The Commission shall, on or before December 31, 2014, prepare a written report concerning the Program and submit the report to the Director of the Legislative Counsel Bureau for transmittal to the 78th Session of the Legislature. The report must include, without limitation, information concerning:

1. The number of participants in the Program;

2. The amount of electricity allocated pursuant to the Program;

3. The total amount of the discounts provided pursuant to the Program; and

4. The remaining amount of electricity available for allocation pursuant to the Program.

Sec. 21.5. If the Commission approves an application submitted by a public utility pursuant to NRS 704.820 to 704.900, inclusive, for a utility facility which is not intended to serve customers in this State and the cost of

which will not be included in the rates of that public utility, the public utility is not required to include the utility facility in any plan filed pursuant to NRS 704.741.

Sec. 22. NRS 704.848 is hereby amended to read as follows:

704.848 1. "Other permitting entity" means any state or local entity:

(a) That is responsible for the enforcement of environmental laws and whose approval is required for the construction of a utility facility, including, without limitation, the State Environmental Commission, the State Department of Conservation and Natural Resources and a local air pollution control board; or

(b) Whose approval is required for granting any variance, special use permit, conditional use permit or other special exception under NRS 278.010 to 278.319, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, or 278.640 to 278.675, inclusive, or any regulation or ordinance adopted pursuant thereto, that is required for the construction of a utility facility.

2. The term does not include the Commission or the State Engineer.

Sec. 23. NRS 704.870 is hereby amended to read as follows:

704.870 1. Except as otherwise provided in subsection 2, a person who wishes to obtain a permit for a utility facility must file with the Commission an application, in such form as the Commission prescribes, containing:

(a) A description of the location and of the utility facility to be built thereon;

(b) A summary of any studies which have been made of the environmental impact of the facility; and

(c) A description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits or detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility.

➡ A copy or copies of the studies referred to in paragraph (b) must be filed with the Commission and be available for public inspection.

2. If a person wishes to obtain a permit for a utility facility and a federal agency is required to conduct an environmental analysis of the proposed utility facility, the person must:

(a) Not later than the date on which the person files with the appropriate federal agency an application for approval for the construction of the utility facility, file with the Commission and each other permitting entity ~~an application,~~ *a notice*, in such a form as the Commission or other permitting entity prescribes; ~~[-containing:~~

~~(1) A general description of the proposed utility facility; and~~

~~(2) A summary of any studies which the applicant anticipates will be made of the environmental impact of the facility;]~~ and

(b) Not later than 30 days after the issuance by the appropriate federal agency of ~~[a]~~ *either the final environmental assessment or final environmental impact statement, but not the record of decision or similar document*, relating to the construction of the utility facility:

(1) File with the Commission an ~~{amended}~~ application that complies with the provisions of subsection 1; and

(2) File with each other permitting entity an ~~{amended}~~ application for a permit, license or other approval for the construction of the utility facility.

3. A copy of each application ~~{and amended application}~~ filed with the Commission must be filed with the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

4. Each application ~~{and amended application}~~ filed with the Commission must be accompanied by:

(a) Proof of service of a copy of the application ~~{or amended application}~~ on the clerk of each local government in the area in which any portion of the facility is to be located, both as primarily and as alternatively proposed; and

(b) Proof that public notice thereof was given to persons residing in the municipalities entitled to receive notice pursuant to paragraph (a) by the publication of a summary of the application ~~{or amended application}~~ in newspapers published and distributed in the area in which the utility facility is proposed to be located.

5. Not later than 5 business days after the Commission receives an application ~~{or amended application}~~ pursuant to this section, the Commission shall issue a notice concerning the ~~{application or amended}~~ application. Any person who wishes to become a party to a permit proceeding pursuant to NRS 704.885 must file with the Commission the appropriate document required by NRS 704.885 within the time frame set forth in the notice issued by the Commission pursuant to this subsection.

Sec. 24. NRS 704.8905 is hereby amended to read as follows:

704.8905 1. Except as otherwise required to comply with federal law:

(a) Not later than 150 days after a person has filed an application regarding a utility facility pursuant to subsection 1 of NRS 704.870:

(1) The Commission shall grant or deny approval of that application; and

(2) Each other permitting entity shall, if an application for a permit, license or other approval for the construction of the utility facility was filed with the other permitting entity on or before the date on which the applicant filed the application pursuant to subsection 1 of NRS 704.870, grant or deny the application filed with the other permitting entity.

(b) Not later than 120 days after a person has filed an ~~{amended}~~ application regarding a utility facility pursuant to subsection 2 of NRS 704.870:

(1) The Commission shall grant or deny approval of the ~~{amended}~~ application; and

(2) Each other permitting entity shall, if an application for a permit, license or other approval for the construction of the utility facility was filed with the other permitting entity on or before the date on which the applicant filed with the appropriate federal agency an application for approval for the

construction of the utility facility, grant or deny the ~~amended~~ application filed with the other permitting entity.

2. The Commission or other permitting entity shall make its determination upon the record and may grant or deny the application as filed, or grant the application upon such terms, conditions or modifications of the construction, operation or maintenance of the utility facility as the Commission or other permitting entity deems appropriate.

3. The Commission shall serve a copy of its order and any opinion issued with it upon each party to the proceeding before the Commission.

Sec. 25. NRS 119.128 is hereby amended to read as follows:

119.128 An exemption pursuant to this chapter is not an exemption from the provisions of NRS 278.010 to 278.630, inclusive ~~[-]~~, and sections 27.1 to 27.9, inclusive, of this act.

Sec. 26. NRS 119.340 is hereby amended to read as follows:

119.340 The provisions of this chapter are in addition to and not a substitute for NRS 278.010 to 278.630, inclusive ~~[-]~~, and sections 27.1 to 27.9, inclusive, of this act.

Sec. 27. Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 27.1 to 27.9, inclusive, of this act.

Sec. 27.1. *As used in sections 27.1 to 27.9, inclusive, of this act, unless the context otherwise requires, "aboveground utility" means an aboveground electric transmission line which is designed to operate at 200 kilovolts or more and which has been approved for construction after October 1, 1991, by the State or Federal Government or a governing body.*

Sec. 27.5. 1. *A planning commission or governing body that is required to prepare and adopt a master plan pursuant to the provisions of this chapter shall develop and include in that plan an aboveground utility plan as described in subsection 2. The aboveground utility plan must:*

(a) In a county whose population is 700,000 or more, conform with the comprehensive regional policy plan developed pursuant to NRS 278.02528; and

(b) In a county whose population is 100,000 or more but less than 700,000, conform with the comprehensive regional plan developed pursuant to NRS 278.0272.

2. *An aboveground utility plan developed by a planning commission or governing body pursuant to this section must:*

(a) Provide a process for the designation of corridors for the construction of aboveground utility projects;

(b) Be consistent with any transmission plan prepared by the Office of Energy;

(c) To ensure the continuity of transmission corridors, be consistent with the aboveground utility plan of each adjacent jurisdiction; and

(d) Be consistent with any resource management plan prepared by the Bureau of Land Management applicable to the jurisdiction of the planning commission or governing body, including, without limitation, by ensuring

that the aboveground utility plan developed by the planning commission or governing body provides for connectivity between any noncontiguous transmission corridors identified in the plan prepared by the Bureau of Land Management.

3. In developing an aboveground utility plan, a planning commission or governing body shall:

(a) Cooperate with the Bureau of Land Management, the Office of Energy and the planning commission or governing body of each adjacent jurisdiction to ensure that the aboveground utility plan adopted by the planning commission or governing body is consistent with any resource management plan prepared by the Bureau of Land Management, any transmission plan adopted by the Office of Energy and the aboveground utility plan developed by the planning commission or governing body of each adjacent jurisdiction; and

(b) Submit a copy of the aboveground utility plan, including all maps and exhibits adopted as part of the plan, to the Public Utilities Commission of Nevada and the Office of Energy.

Sec. 27.7. Each governing body:

1. Shall establish a process for the issuance of a permit for the construction of an aboveground utility project which is located in a corridor for the construction of aboveground utility projects identified in the master plan adopted by the planning commission or governing body.

2. Shall establish a process for the issuance of a special use permit for the construction of an aboveground utility project which is not located in a corridor for the construction of aboveground utility projects identified in the master plan adopted by the planning commission or governing body. The process adopted by the governing body must include, without limitation, provisions:

(a) Requiring the planning commission or the governing body to review each completed application at a public hearing;

(b) Requiring the applicant to provide proof satisfactory to the planning commission or the governing body that the construction of the aboveground utility project does not conflict with any existing or planned infrastructure or other utility projects; and

(c) Authorizing the planning commission or the governing body to issue or deny the issuance of a special use permit for the construction of an aboveground utility project based on the proximity of the proposed site of the aboveground utility project to any school, hospital or urban residential area with a dwelling density greater than 2 units per gross acre.

3. Shall establish a process for the issuance of a special use permit for the construction of a renewable energy generation project with a nameplate capacity of 10 megawatts or more which must include, without limitation, provisions:

(a) Establishing the required contents of an application;

(b) Establishing the criteria by which the planning commission or the governing body will evaluate an application; and

(c) Requiring the planning commission or the governing body to review each completed application at a public hearing not later than 65 days after receiving the complete application.

4. May establish an expedited process for the issuance of a permit or special use permit described in subsections 1, 2 and 3 if the governing body determines that:

(a) The project will be located in an isolated or rural area; and

(b) There is minimal risk of disturbance to residents as a result of the construction of the project.

Sec. 27.9. 1. An applicant for the issuance of a special use permit for the construction of any utility project or for the construction of a renewable energy generation project with a nameplate capacity of 10 megawatts or more who:

(a) Believes that the decision of the planning commission or governing body to approve or deny the applicant's application was not timely; or

(b) Disagrees with any conditions imposed by the special use permit issued by the planning commission or governing body,

➡ may, in the manner prescribed by the Public Utilities Commission of Nevada by regulation, petition the Public Utilities Commission of Nevada to review the decision of the planning commission or governing body.

2. A petition submitted to the Public Utilities Commission of Nevada pursuant to this section must include:

(a) The name, mailing address and telephone number of the petitioner;

(b) The name of the planning commission or governing body to whom the petitioner applied for a special use permit;

(c) A statement of the decision of the planning commission or governing body from which review is sought;

(d) A statement of the resolution sought by the petitioner;

(e) A statement of the legal basis for the resolution sought by the petitioner;

(f) A copy of the application and all supporting documents submitted by the petitioner to the planning commission or governing body;

(g) A copy of each document issued by the planning commission or governing body relating to the application; and

(h) Any other information required by the Public Utilities Commission of Nevada.

3. In any proceeding before the Public Utilities Commission of Nevada concerning a petition submitted pursuant to this section, the parties:

(a) Must include:

(1) The petitioner;

(2) The planning commission or governing body whose decision is the subject of the petition; and

(3) *The Regulatory Operations Staff of the Public Utilities Commission of Nevada; and*

(b) *May include:*

(1) *The Bureau of Consumer Protection in the Office of the Attorney General, upon the filing by the Bureau of Consumer Protection of a notice to intervene; and*

(2) *Any other person or entity that participated in any proceeding before the planning commission or governing body relating to the application for the issuance of a special use permit, if the person or entity petitions the Public Utilities Commission of Nevada for, and is granted, leave to intervene.*

4. *Not later than 150 days after receiving a petition to review the decision of a planning commission or governing body, the Public Utilities Commission of Nevada shall issue an order:*

(a) *Approving the decision of the planning commission or governing body;*

(b) *Directing the planning commission or governing body to issue a special use permit with such terms and conditions as the Public Utilities Commission of Nevada determines are reasonable; or*

(c) *Directing the planning commission or governing body to modify the terms and conditions of a special use permit in the manner prescribed by the Public Utilities Commission of Nevada.*

5. *An order issued by the Public Utilities Commission of Nevada pursuant to this section is final for the purposes of judicial review.*

6. *The Public Utilities Commission of Nevada shall adopt such regulations as it determines necessary to carry out the provisions of this section.*

Sec. 28. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 29. NRS 278.016 is hereby amended to read as follows:

278.016 "Local ordinance" means an ordinance enacted by the governing body of any city or county, pursuant to the powers granted in NRS 278.010 to 278.630, inclusive ~~[-]~~, *and sections 27.1 to 27.9, inclusive, of this act.*

Sec. 30. NRS 278.02327 is hereby amended to read as follows:

278.02327 1. Any application submitted to a governing body or its designee that concerns any matter relating to land use planning pursuant to NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, or any ordinance, resolution or regulation adopted pursuant thereto, may not be accepted by the governing body or its designee if the application is incomplete.

2. The governing body or its designee shall, within 3 working days after receiving an application of the type described in subsection 1:

- (a) Review the application for completeness;
- (b) Accept the application if the governing body or its designee finds that the application is complete or return the application if the governing body or its designee finds that the application is incomplete; and
- (c) If the governing body or its designee returns the application:
 - (1) Provide to the applicant a description of the additional information required; and
 - (2) If requested by the applicant, provide to the applicant a copy of the relevant provision of the ordinance, resolution or regulation which specifically requires the additional information or an explanation of why the additional information is necessary.

Sec. 31. NRS 278.0233 is hereby amended to read as follows:

278.0233 1. Any person who has any right, title or interest in real property, and who has filed with the appropriate state or local agency an application for a permit which is required by statute or an ordinance, resolution or regulation adopted pursuant to NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* before that person may improve, convey or otherwise put that property to use, may bring an action against the agency to recover actual damages caused by:

(a) Any final action, decision or order of the agency which imposes requirements, limitations or conditions upon the use of the property in excess of those authorized by ordinances, resolutions or regulations adopted pursuant to NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* in effect on the date the application was filed, and which:

- (1) Is arbitrary or capricious; or
- (2) Is unlawful or exceeds lawful authority.

(b) Any final action, decision or order of the agency imposing a tax, fee or other monetary charge that is not expressly authorized by statute or that is in excess of the amount expressly authorized by statute.

(c) The failure of the agency to act on that application within the time for that action as limited by statute, ordinance or regulation.

2. An action must not be brought under subsection 1:

(a) Where the agency did not know, or reasonably could not have known, that its action, decision or order was unlawful or in excess of its authority.

(b) Based on the invalidation of an ordinance, resolution or regulation in effect on the date the application for the permit was filed.

(c) Where a lawful action, decision or order of the agency is taken or made to prevent a condition which would constitute a threat to the health, safety, morals or general welfare of the community.

(d) Where the applicant agrees in writing to extensions of time concerning his or her application.

(e) Where the applicant agrees in writing or orally on the record during a hearing to the requirements, limitations or conditions imposed by the action, decision or order, unless the applicant expressly states in writing or orally on

the record during the hearing that a requirement, limitation or condition is agreed to under protest and specifies which paragraph of subsection 1 provides cause for the protest.

(f) For unintentional procedural or ministerial errors of the agency.

(g) Unless all administrative remedies have been exhausted.

(h) Against any individual member of the agency.

Sec. 32. NRS 278.0235 is hereby amended to read as follows:

278.0235 No action or proceeding may be commenced for the purpose of seeking judicial relief or review from or with respect to any final action, decision or order of any governing body, commission or board authorized by NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* unless the action or proceeding is commenced within 25 days after the date of filing of notice of the final action, decision or order with the clerk or secretary of the governing body, commission or board.

Sec. 33. NRS 278.024 is hereby amended to read as follows:

278.024 1. In the region of this State for which there has been created by NRS 278.780 to 278.828, inclusive, a regional planning agency, the powers conferred by NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* upon any other authority are subordinate to the powers of such regional planning agency, and may be exercised only to the extent that their exercise does not conflict with any ordinance or plan adopted by such regional planning agency. The powers conferred by NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* shall be exercised whenever appropriate in furtherance of a plan adopted by the regional planning agency.

2. Upon the adoption by a regional planning agency created by NRS 278.780 to 278.828, inclusive, of any regional plan, any plan adopted pursuant to NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* shall cease to be effective as to the territory embraced in such regional plan. Each planning commission and governing body whose previously adopted plan is so affected shall, within 90 days after the effective date of the regional plan, initiate any necessary procedure to revise its plan and any related zoning ordinances which affect adjacent territory.

Sec. 34. NRS 278.025 is hereby amended to read as follows:

278.025 1. In any region of this State for which there has been created by interstate compact a regional planning agency, the powers conferred by NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* are subordinate to the powers of such regional planning agency, and may be exercised only to the extent that their exercise does not conflict with any ordinance or plan adopted by such regional planning agency. The powers conferred by NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* shall be exercised whenever appropriate in furtherance of a plan adopted by the regional planning agency.

2. Upon the adoption by a regional planning agency created by interstate compact of any regional plan or interim plan, any plan adopted pursuant to

NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* shall cease to be effective as to the territory embraced in such regional or interim plan. Each planning commission and governing body whose previously adopted plan is so affected shall, within 90 days after the effective date of the regional or interim plan, initiate any necessary procedure to revise its plan and any related zoning ordinances which affect adjacent territory.

Sec. 35. NRS 278.02788 is hereby amended to read as follows:

278.02788 1. If a city has a sphere of influence that is designated in the comprehensive regional plan, the city shall adopt a master plan concerning the territory within the sphere of influence. The master plan and any ordinance required by the master plan must be consistent with the comprehensive regional plan. After adoption and certification of a master plan concerning the territory within the sphere of influence and after adopting the ordinances required by the master plan, if any, the city may exercise any power conferred pursuant to NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* within its sphere of influence.

2. If the comprehensive regional plan designates that all or part of the sphere of influence of a city is a joint planning area, the master plan and any ordinance adopted by the city pursuant to subsection 1 must be consistent with the master plan that is adopted for the joint planning area.

3. Before certification of the master plan for the sphere of influence pursuant to NRS 278.028, any action taken by the county pursuant to NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* within the sphere of influence of a city must be consistent with the comprehensive regional plan.

4. A person, county or city that is represented on the governing board and is aggrieved by a final determination of the county or, after the certification of the master plan for a sphere of influence, is aggrieved by a final determination of the city, concerning zoning, a subdivision map, a parcel map or the use of land within the sphere of influence may appeal the decision to the regional planning commission within 30 days after the determination. A person, county or city that is aggrieved by the determination of the regional planning commission may appeal the decision to the governing board within 30 days after the determination. A person, county or city that is aggrieved by the determination of the governing board may seek judicial review of the decision within 25 days after the determination.

Sec. 36. NRS 278.130 is hereby amended to read as follows:

278.130 1. If the governing body of a city or county collaborates in the creation of a regional planning commission and does not create a separate city or county planning commission, the regional planning commission shall perform for the city or county all the duties and functions delegated to a city or county planning commission by the terms of NRS 278.010 to 278.630, inclusive ~~[-]~~, *and sections 27.1 to 27.9, inclusive, of this act*.

2. If a regional planning commission has duties and functions pursuant to NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* which parallel the duties and functions of a city or county planning commission, the city or county planning commission has the responsibility for making decisions pertaining to planning which have a local effect, and the regional planning commission has the responsibility for making decisions pertaining to planning which have a regional or intergovernmental effect.

Sec. 37. NRS 278.140 is hereby amended to read as follows:

278.140 1. The formation of regional planning districts is authorized and a regional planning commission may be created, in accordance with the provisions of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, in lieu of separate city or county planning commissions as may be required or authorized by NRS 278.010 to 278.630, inclusive ~~[-]~~, *and sections 27.1 to 27.9, inclusive, of this act*.

2. Regional planning districts shall consist of a portion of a political subdivision, two or more contiguous political subdivisions or contiguous portions of two or more political subdivisions.

3. All territory embraced within a regional planning district shall be contiguous, except where the regional district is composed of two or more municipalities such territories need not be contiguous.

4. In a regional planning district, a regional planning commission shall function in all respects in accordance with the provisions of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, except that the plans of the regional planning commission shall coordinate the plans of any city or county planning commission within the region.

5. Reports required by NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* to be made to a governing body of a city or a county shall be made to the governing body of each city or county within the region, and the procedure set forth in NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* for action with respect to maps or subdivisions shall not be followed by the regional planning commission for subdivisions which lie within any territory in which there exists a functioning county or city planning commission.

Sec. 38. (Deleted by amendment.)

Sec. 39. NRS 278.150 is hereby amended to read as follows:

278.150 1. The planning commission shall prepare and adopt a comprehensive, long-term general plan for the physical development of the city, county or region which in the commission's judgment bears relation to the planning thereof.

2. The plan must be known as the master plan, and must be so prepared that all or portions thereof, except as otherwise provided in subsections 3 and 4, may be adopted by the governing body, as provided in NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* as a basis for the development of the city, county or region for such reasonable period

of time next ensuing after the adoption thereof as may practically be covered thereby.

3. In counties whose population is 100,000 or more but less than 700,000, if the governing body of the city or county adopts only a portion of the master plan, it shall include in that portion a conservation plan, a housing plan and a population plan as provided in NRS 278.160.

4. In counties whose population is 700,000 or more, the governing body of the city or county shall adopt a master plan for all of the city or county that must address each of the subjects set forth in subsection 1 of NRS 278.160.

Sec. 40. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may be made the basis for the physical development thereof:

(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) Historic neighborhood preservation plan. The plan:

(1) Must include, without limitation:

(I) A plan to inventory historic neighborhoods.

(II) A statement of goals and methods to encourage the preservation of historic neighborhoods.

(2) May include, without limitation, the creation of a commission to monitor and promote the preservation of historic neighborhoods.

(e) Historical properties preservation plan. An inventory of significant historical, archaeological, paleontological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(f) Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing to individuals and families in the community, regardless of income level.

(2) An inventory of existing affordable housing in the community, including, without limitation, housing that is available to rent or own, housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government, and housing that is accessible to persons with disabilities.

(3) An analysis of projected growth and the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community for a period of at least 5 years.

(g) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(h) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(i) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(j) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

(k) Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(l) Rural neighborhoods preservation plan. In any county whose population is 700,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

(m) Safety plan. In any county whose population is 700,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

(n) School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

(o) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(p) Solid waste disposal plan. Showing general plans for the disposal of solid waste.

(q) Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(r) Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(s) Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

(t) Aboveground utility plan. Showing corridors designated for the construction of aboveground utilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or

region, and nothing contained in NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 41. NRS 278.190 is hereby amended to read as follows:

278.190 1. The commission shall endeavor to promote public interest in and understanding of the master plan and of official plans and regulations relating thereto. As a means of furthering the purpose of a master plan, the commission shall annually make recommendations to the governing body for the implementation of the plan.

2. It also shall consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and with citizens generally with relation to the carrying out of such plans.

3. The commission, and its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain necessary monuments and marks thereon.

4. In general, the commission shall have such power as may be necessary to enable it to fulfill its functions and carry out the provisions of NRS 278.010 to 278.630, inclusive ~~[-]~~, *and sections 27.1 to 27.9, inclusive, of this act*.

Sec. 42. NRS 278.200 is hereby amended to read as follows:

278.200 The master plan shall be a map, together with such charts, drawings, diagrams, schedules, reports, ordinances, or other printed or published material, or any one or a combination of any of the foregoing as may be considered essential to the purposes of NRS 278.010 to 278.630, inclusive ~~[-]~~, *and sections 27.1 to 27.9, inclusive, of this act*.

Sec. 43. NRS 278.250 is hereby amended to read as follows:

278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive ~~[-]~~, *and sections 27.1 to 27.9, inclusive, of this act*. Within the zoning district, it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:

- (a) To preserve the quality of air and water resources.
- (b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.
- (c) To consider existing views and access to solar resources by studying the height of new buildings which will cast shadows on surrounding residential and commercial developments.

(d) To reduce the consumption of energy by encouraging the use of products and materials which maximize energy efficiency in the construction of buildings.

(e) To provide for recreational needs.

(f) To protect life and property in areas subject to floods, landslides and other natural disasters.

(g) To conform to the adopted population plan, if required by NRS 278.170.

(h) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles.

(i) To ensure that the development on land is commensurate with the character and the physical limitations of the land.

(j) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.

(k) To promote health and the general welfare.

(l) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing.

(m) To ensure the protection of existing neighborhoods and communities, including the protection of rural preservation neighborhoods and, in counties whose population is 700,000 or more, the protection of historic neighborhoods.

(n) To promote systems which use solar or wind energy.

(o) To foster the coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.

4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.

5. As used in this section:

(a) "Density bonus" means an incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the master plan, in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing.

(b) "Inclusionary zoning" means a type of zoning pursuant to which a governing body requires or provides incentives to a developer who builds residential dwellings to build a certain percentage of those dwellings as affordable housing.

(c) "Minimum density zoning" means a type of zoning pursuant to which development must be carried out at or above a certain density to maintain conformance with the master plan.

Sec. 44. NRS 278.300 is hereby amended to read as follows:

278.300 1. The board of adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures.

(b) To hear and decide, in accordance with the provisions of any such regulation, requests for variances, or for interpretation of any map, or for decisions upon other special questions upon which the board is authorized by any such regulation to pass.

(c) Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any regulation enacted under NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, to authorize a variance from that strict application so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.

(d) To hear and decide requests for special use permits or other special exceptions, in such cases and under such conditions as the regulations may prescribe.

2. The majority vote of the board of adjustment is necessary to reverse any order, requirement, decision or determination of any administrative official or agency, or to decide in favor of the appellant.

Sec. 45. NRS 278.320 is hereby amended to read as follows:

278.320 1. "Subdivision" means any land, vacant or improved, which is divided or proposed to be divided into five or more lots, parcels, sites, units or plots, for the purpose of any transfer or development, or any proposed transfer or development, unless exempted by one of the following provisions:

(a) The term "subdivision" does not apply to any division of land which is subject to the provisions of NRS 278.471 to 278.4725, inclusive.

(b) Any joint tenancy or tenancy in common shall be deemed a single interest in land.

(c) Unless a method of disposition is adopted for the purpose of evading this chapter or would have the effect of evading this chapter, the term "subdivision" does not apply to:

(1) Any division of land which is ordered by any court in this State or created by operation of law;

(2) A lien, mortgage, deed of trust or any other security instrument;

(3) A security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity;

(4) Cemetery lots; or

(5) An interest in oil, gas, minerals or building materials, which are now or hereafter severed from the surface ownership of real property.

2. A common-interest community consisting of five or more units shall be deemed to be a subdivision of land within the meaning of this section, but need only comply with NRS 278.326 to 278.460, inclusive, and 278.473 to 278.490, inclusive.

3. The board of county commissioners of any county may exempt any parcel or parcels of land from the provisions of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, if:

(a) The land is owned by a railroad company or by a nonprofit corporation organized and existing pursuant to the provisions of chapter 81 or 82 of NRS which is an immediate successor in title to a railroad company, and the land was in the past used in connection with any railroad operation; and

(b) Other persons now permanently reside on the land.

4. Except as otherwise provided in subsection 5, this chapter, including, without limitation, any requirements relating to the adjustment of boundary lines or the filing of a parcel map or record of survey, does not apply to the division, exchange or transfer of land for agricultural purposes if each parcel resulting from such a division, exchange or transfer:

(a) Is 10 acres or more in size, unless local zoning laws require a larger minimum parcel size, in which case each parcel resulting from the division, exchange or transfer must comply with the parcel size required by those local zoning laws;

(b) Has a zoning classification that is consistent with the designation in the master plan, if any, regarding land use for the parcel;

(c) Can be described by reference to the standard subdivisions used in the United States Public Land Survey System;

(d) Qualifies for agricultural use assessment under NRS 361A.100 to 361A.160, inclusive, and any regulations adopted pursuant thereto; and

(e) Is accessible:

(1) By way of an existing street, road or highway;

(2) Through other adjacent lands owned by the same person; or

(3) By way of an easement for agricultural purposes that was granted in connection with the division, exchange or transfer.

5. The exemption from the provisions of this chapter, which exemption is set forth in subsection 4, does not apply with respect to any parcel resulting from the division, exchange or transfer of agricultural lands if:

(a) Such resulting parcel ceases to qualify for agricultural use assessment under NRS 361A.100 to 361A.160, inclusive, and any regulations adopted pursuant thereto; or

(b) New commercial buildings or residential dwelling units are proposed to be constructed on the parcel after the date on which the division, exchange or transfer took place. The provisions of this paragraph do not prohibit the expansion, repair, reconstruction, renovation or replacement of preexisting buildings or dwelling units that are:

(1) Dilapidated;

(2) Dangerous;

(3) At risk of being declared a public nuisance;

(4) Damaged or destroyed by fire, flood, earthquake or any natural or man-made disaster; or

(5) Otherwise in need of expansion, repair, reconstruction, renovation or replacement.

Sec. 46. NRS 278.325 is hereby amended to read as follows:

278.325 1. If a subdivision is proposed on land which is zoned for industrial or commercial development, neither the tentative nor the final map need show any division of the land into lots or parcels, but the streets and any other required improvements are subject to the requirements of NRS 278.010 to 278.630, inclusive ~~[-]~~, *and sections 27.1 to 27.9, inclusive, of this act.*

2. No parcel of land may be sold for residential use from a subdivision whose final map does not show a division of the land into lots.

3. Except as otherwise provided in subsection 4, a boundary or line must not be created by a conveyance of a parcel from an industrial or commercial subdivision unless a professional land surveyor has surveyed the boundary or line and set the monuments. The surveyor shall file a record of the survey pursuant to the requirements set forth in NRS 625.340. Any conveyance of such a parcel must contain a legal description of the parcel that is independent of the record of survey.

4. The provisions of subsection 3 do not apply to a boundary or line that is created entirely within an existing industrial or commercial building. A certificate prepared by a professional engineer or registered architect certifying compliance with the applicable law of this State in effect at the time of the preparation of the certificate and with the building code in effect at the time the building was constructed must be attached to any document which proposes to subdivide such a building.

5. A certificate prepared pursuant to subsection 4 for a building located in a county whose population is 700,000 or more must be reviewed, approved and signed by the building official having jurisdiction over the area within which the building is situated.

Sec. 47. NRS 278.326 is hereby amended to read as follows:

278.326 1. Local subdivision ordinances shall be enacted by the governing body of every incorporated city and every county, prescribing regulations which, in addition to the provisions of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* govern matters of improvements, mapping, accuracy, engineering and related subjects, but shall not be in conflict with NRS 278.010 to 278.630, inclusive ~~and~~ , *and sections 27.1 to 27.9, inclusive, of this act*.

2. The subdivider shall comply with the provisions of the appropriate local ordinance before the final map is approved.

Sec. 48. NRS 278.327 is hereby amended to read as follows:

278.327 Approval of any map pursuant to the provisions of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* does not in itself prohibit the further division of the lots, parcels, sites, units or plots described, but any such further division shall conform to the applicable provisions of those sections.

Sec. 49. NRS 278.590 is hereby amended to read as follows:

278.590 1. It is unlawful for any person to contract to sell, to sell or to transfer any subdivision or any part thereof, or land divided pursuant to a parcel map or map of division into large parcels, unless:

(a) The required map thereof, in full compliance with the appropriate provisions of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, and any local ordinance, has been recorded in the office of the recorder of each county in which the subdivision or land divided is located; or

(b) The person is contractually obligated to record the required map before title is transferred or possession is delivered, whichever is earlier, as provided in paragraph (a).

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor and is liable for a civil penalty of not more than \$300 for each lot or parcel sold or transferred.

3. This section does not bar any legal, equitable or summary remedy to which any aggrieved municipality or other political subdivision, or any person, may otherwise be entitled, and any such municipality or other political subdivision or person may file suit in the district court of the county in which any property attempted to be divided or sold in violation of any provision of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act* is located to restrain or enjoin any attempted or proposed division or transfer in violation of those sections.

Sec. 50. NRS 278.630 is hereby amended to read as follows:

278.630 1. When there is no final map, parcel map or map of division into large parcels as required by the provisions of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, then the county assessor shall:

(a) Determine any apparent discrepancies with respect to the provisions of NRS 278.010 to 278.630, inclusive ~~[-]~~, *and sections 27.1 to 27.9, inclusive, of this act;*

(b) Report his or her determinations to the governing body of the county or city in which such apparent violation occurs in writing, including, without limitation, by noting such determinations in the appropriate parcel record of the county assessor; and

(c) Not place on the tax roll or maps of the county assessor any land for which the county assessor has determined that a discrepancy exists with respect to the provisions of NRS 278.010 to 278.630, inclusive ~~[-]~~, *and sections 27.1 to 27.9, inclusive, of this act.*

2. Upon receipt of the report, the governing body shall cause an investigation to be made by the district attorney's office when such lands are within an unincorporated area, or by the city attorney when such lands are within a city, the county recorder and any planning commission having jurisdiction over the lands in question.

3. If the report shows evidence of violation of the provisions of NRS 278.010 to 278.630, inclusive, *and sections 27.1 to 27.9, inclusive, of this act*, with respect to the division of lands or upon the filing of a verified complaint by any municipality or other political subdivision or person, firm or corporation with respect to violation of the provisions of those sections, the district attorney of each county in this State shall prosecute all such violations in respective counties in which the violations occur.

Sec. 50.5. Each planning commission, as defined in NRS 278.013, and governing body, as defined in NRS 278.015, shall adopt the aboveground utility plan required by section 27.5 of this act on or before December 31, 2014.

Sec. 51. The Public Utilities Commission of Nevada shall adopt the regulations required by sections 20 and 27.9 of this act on or before December 31, 2013.

Sec. 52. Notwithstanding any other provision of law to the contrary, any application for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS submitted by an applicant pursuant to NRS 701A.360 on or after the effective date of this section is subject to the provisions of NRS 701A.360, 701A.365, 701A.370, 701A.385 and 701A.390 as amended by sections 3 to 7, inclusive, of this act, and the Director of the Office of Energy shall not, before July 1, 2013, approve any such application submitted on or after the effective date of this section but before July 1, 2013.

Sec. 52.5. The provisions of sections 27.1 to 27.9, inclusive, of this act and the amendatory provisions of sections 28 to 50, inclusive, of this act do not apply to an application for the issuance of a special use permit for the construction of a utility project, as that term is defined in NRS 278.0195, or for the construction of a renewable energy generation project, as that term is

defined in NRS 278.01735, with a nameplate capacity of 10 megawatts or more which is submitted by an applicant to a planning commission or the governing body of a local government before July 1, 2013.

Sec. 53. 1. This section and section 52 of this act become effective upon passage and approval.

2. Sections 1 to 51, inclusive, and 52.5 of this act become effective on July 1, 2013.

3. Sections 10 to 21, inclusive, of this act expire by limitation on June 30, 2018.

4. Sections 2.5 to 7, inclusive, of this act expire by limitation on June 30, 2049.

Senator Atkinson moved to withdraw Amendment No. 991.

Motion carried.

Remarks by Senator Atkinson.

Thank you, Mr. President. Assembly Bill No. 239 makes various changes to energy-related tax incentives. It authorizes the Director of the Office of Energy to charge and collect fees from each applicant for tax abatements.

Roll call on Assembly Bill No. 239:

YEAS—18.

NAYS—None.

ABSENT—Kihuen, Parks—2.

EXCUSED—Woodhouse.

Assembly Bill No. 239 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Assembly Bill No. 262, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 639 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 12, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions governing ~~child custody and visitation~~; the award of attorney's fees in certain domestic relations actions. (BDR 11-951)"

"AN ACT relating to ~~child custody~~; domestic relations; revising the provisions governing the award of attorney's fees in actions for divorce; authorizing a court to award costs and the reasonable fees of attorneys and experts to a party in certain actions concerning child custody or visitation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that in an action for divorce, the court may award a reasonable attorney's fee to either party, if those fees are in issue under the pleadings. (NRS 125.150) Section 1 of this bill provides that in an action for divorce, the court may award a reasonable attorney's fee without the requirement that attorney's fees be in issue under the pleadings.

Existing law provides that in an action to determine the parentage of a child, the court may order that the reasonable fees of counsel, experts and the child's guardian ad litem, and other costs of the action, be paid in such proportions as determined by the court. (NRS ~~126.171, 126.231~~) Existing law further provides that in an action for divorce, the court may award a

~~reasonable attorney's fee to either party, if those fees are in issue under the pleadings.~~
 (NRS 125.150) This) 126.171) Section 2 of this bill provides that in an action to determine custody or visitation with respect to a child, the court may order that the reasonable fees of counsel and experts, and other costs of the action, be paid in proportions and at times determined by the court.

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

Section 1. NRS 125.150 is hereby amended to read as follows:

125.150 Except as otherwise provided in NRS 125.155 and unless the action is contrary to a premarital agreement between the parties which is enforceable pursuant to chapter 123A of NRS:

1. In granting a divorce, the court:

(a) May award such alimony to the wife or to the husband, in a specified principal sum or as specified periodic payments, as appears just and equitable; and

(b) Shall, to the extent practicable, make an equal disposition of the community property of the parties, except that the court may make an unequal disposition of the community property in such proportions as it deems just if the court finds a compelling reason to do so and sets forth in writing the reasons for making the unequal disposition.

2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the reimbursement of that party for his or her contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

(a) The intention of the parties in placing the property in joint tenancy;

(b) The length of the marriage; and

(c) Any other factor which the court deems relevant in making a just and equitable disposition of that property.

➤ As used in this subsection, "contribution" includes, without limitation, a down payment, a payment for the acquisition or improvement of property, and a payment reducing the principal of a loan used to finance the purchase or improvement of property. The term does not include a payment of interest on a loan used to finance the purchase or improvement of property, or a payment made for maintenance, insurance or taxes on property.

3. Except as otherwise provided in NRS 125.141, whether or not application for suit money has been made under the provisions of NRS 125.040, the court may award a reasonable attorney's fee to either party to an action for divorce. ~~[if those fees are in issue under the pleadings.]~~

4. In granting a divorce, the court may also set apart such portion of the husband's separate property for the wife's support, the wife's separate property for the husband's support or the separate property of either spouse for the support of their children as is deemed just and equitable.

5. In the event of the death of either party or the subsequent remarriage of the spouse to whom specified periodic payments were to be made, all the payments required by the decree must cease, unless it was otherwise ordered by the court.

6. If the court adjudicates the property rights of the parties, or an agreement by the parties settling their property rights has been approved by the court, whether or not the court has retained jurisdiction to modify them, the adjudication of property rights, and the agreements settling property rights, may nevertheless at any time thereafter be modified by the court upon written stipulation signed and acknowledged by the parties to the action, and in accordance with the terms thereof.

7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony the spouse has been ordered to pay.

8. In addition to any other factors the court considers relevant in determining whether to award alimony and the amount of such an award, the court shall consider:

- (a) The financial condition of each spouse;
- (b) The nature and value of the respective property of each spouse;
- (c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;
- (d) The duration of the marriage;
- (e) The income, earning capacity, age and health of each spouse;
- (f) The standard of living during the marriage;
- (g) The career before the marriage of the spouse who would receive the alimony;
- (h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;
- (i) The contribution of either spouse as homemaker;
- (j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and
- (k) The physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.

9. In granting a divorce, the court shall consider the need to grant alimony to a spouse for the purpose of obtaining training or education relating to a job, career or profession. In addition to any other factors the court considers relevant in determining whether such alimony should be granted, the court shall consider:

- (a) Whether the spouse who would pay such alimony has obtained greater job skills or education during the marriage; and
- (b) Whether the spouse who would receive such alimony provided financial support while the other spouse obtained job skills or education.

10. If the court determines that alimony should be awarded pursuant to the provisions of subsection 9:

- (a) The court, in its order, shall provide for the time within which the spouse who is the recipient of the alimony must commence the training or education relating to a job, career or profession.
- (b) The spouse who is ordered to pay the alimony may, upon changed circumstances, file a motion to modify the order.
- (c) The spouse who is the recipient of the alimony may be granted, in addition to any other alimony granted by the court, money to provide for:
 - (1) Testing of the recipient's skills relating to a job, career or profession;
 - (2) Evaluation of the recipient's abilities and goals relating to a job, career or profession;
 - (3) Guidance for the recipient in establishing a specific plan for training or education relating to a job, career or profession;
 - (4) Subsidization of an employer's costs incurred in training the recipient;
 - (5) Assisting the recipient to search for a job; or
 - (6) Payment of the costs of tuition, books and fees for:
 - (I) The equivalent of a high school diploma;
 - (II) College courses which are directly applicable to the recipient's goals for his or her career; or
 - (III) Courses of training in skills desirable for employment.

11. For the purposes of this section, a change of 20 percent or more in the gross monthly income of a spouse who is ordered to pay alimony shall be deemed to constitute changed circumstances requiring a review for modification of the payments of alimony. As used in this subsection, "gross monthly income" has the meaning ascribed to it in NRS 125B.070.

~~Section 14~~ Sec. 2. Chapter 125C of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in NRS 125C.180, in an action to determine legal custody, physical custody or visitation with respect to a child, the court may order reasonable fees of counsel and experts and other costs of the proceeding to be paid in proportions and at times determined by the court.

AARON FORD

JUSTIN JONES

MARK HUTCHISON

Senate Conference Committee

LESLEY COHEN

JAMES OHRENSCHALL

MICHELE FIORE

Assembly Conference Committee

Senator Ford moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 262.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 283, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 866 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 3, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Makes various changes to provisions governing public works. (BDR 28-658)"

"AN ACT relating to public works; extending the authority for the Department of Transportation to contract with a construction manager at risk for the construction, reconstruction, improvement and maintenance of highways through June 30, 2017; amending certain requirements governing contractors involved in public works; amending certain requirements governing bidding for public works when a public body decides to contract with a construction manager at risk; prospectively repealing provisions relating to construction managers at risk; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain prime contractors who submit bids for a public work to include with the bid a list that discloses the first tier subcontractors who will perform a certain portion of the work on the public work. (NRS 338.141) Section 6 of this bill amends the provisions prescribing which subcontractors must be named on the list. Section 6 also requires the prime contractor to include on the list: (1) a description of the labor or portion of the work that the prime contractor will perform; or (2) a statement that the prime contractor will perform all work other than that being performed by a subcontractor named on the list.

Existing law allows a public body to contract with a construction manager at risk, which is a construction manager who is required to construct a public work within a guaranteed maximum price, a fixed price or a fixed price plus reimbursement for certain costs. (NRS 338.169, 338.1696) Section 7.5 of this bill limits to two per year the number of public works for which each public body in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) may enter into contracts with a construction manager at risk.

Section 8 of this bill requires a request for proposals for a construction manager at risk to include a list of the selection criteria and the relative weight thereof that will be used to rank applicants for a construction manager at risk.

Existing law requires a proposal for a construction manager at risk to include an explanation of the experience that the applicant has with projects of similar size and scope. Section 8 specifies that the explanation may include an explanation of experience by any delivery method, regardless of whether that method was the use of a construction manager at risk, and including

design-build, design-assist, negotiated work or value-engineered work. Section 8 also requires the public body or its authorized representative to make available to the public the name of each applicant who submits a proposal for a public work to be performed by a construction manager at risk.

Section 10 of this bill requires a construction manager at risk who has entered into a contract with a public body for services related to construction that are provided before actual construction begins to provide to the public body, before entering into a contract for construction of the public work, a list of the labor or portions of the work which are estimated by the construction manager at risk to exceed a certain percentage of the estimated cost of the public work.

Existing law requires a public body to appoint a panel of at least three persons, with at least two having experience in the construction industry, to rank proposals and interview the top applicants for a public work. (NRS 338.1693) Section 9 of this bill limits such a panel to seven members and requires that a majority of the panel have experience in the construction industry. Section 9 also authorizes the public body to appoint another panel, similarly comprised, to interview the top applicants.

Section 11 of this bill provides that if a public work involves predominantly horizontal construction, a construction manager at risk who enters into a contract for the construction of the public work shall perform construction work equal in value to at least 25 percent of the estimated cost of construction himself or herself, or using his or her own employees. Section 2 of this bill defines the term "horizontal construction."

Sections 12 and 13 of this bill modify requirements governing the procedure that a construction manager at risk is required to use when selecting and contracting with subcontractors.

Under existing law, the Department of Transportation may award a contract for the construction, reconstruction, improvement and maintenance of a highway to a construction manager at risk on or before June 30, 2013. Sections 5 and 5.3 of this bill authorize the Department to contract with a construction manager at risk for the construction, reconstruction, improvement and maintenance of highways through June 30, 2017. Section 5 also specifies the circumstances under which the provisions of chapter 338 of NRS apply to such contracts.

Section 14.3 of this bill requires the Department to conduct a study on the benefits to this State of entering into contracts with construction managers at risk for the construction, reconstruction, improvement or maintenance of highways and to submit that report on or before January 31, 2017, for transmittal to the 79th Session of the Legislature. Section 14.5 of this bill requires each public body to submit annually, to the Legislature or the Legislative Commission, a report on each public work for which the public body enters into a contract with a construction manager at risk. The report must include a description of the public work, the name of the construction manager at risk and a report on the progress of the public work or, if the public work has been completed, an explanation of whether the public body is satisfied with the public work and with the contractual arrangement with the construction manager at risk.

Section 14.7 of this bill repeals all of the provisions relating to construction managers at risk effective July 1, 2017.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

The Legislature hereby declares that the provisions of this section and NRS 338.169 to 338.16995, inclusive, relating to contracts involving construction managers at risk, are intended:

- 1. To promote public confidence and trust in the contracting and bidding procedures for public works established therein;*
- 2. For the benefit of the public, to promote the philosophy of obtaining the best possible value as compared to low-bid contracting; and*
- 3. To better equip public bodies to address public works that present unique and complex construction challenges.*

Sec. 2. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Division" means the State Public Works Division of the Department of Administration.

9. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

10. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

11. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

12. *"Horizontal construction" means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.*

13. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments,

and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

~~{13}~~ 14. "Offense" means failing to:

- (a) Pay the prevailing wage required pursuant to this chapter;
- (b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;
- (c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

~~{14}~~ 15. "Prime contractor" means a contractor who:

- (a) Contracts to construct an entire project;
- (b) Coordinates all work performed on the entire project;
- (c) Uses his or her own workforce to perform all or a part of the public work; and
- (d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➤ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

~~{15}~~ 16. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

~~{16}~~ 17. "Public work" means any project for the new construction, repair or reconstruction of:

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

- (1) Public buildings;
- (2) Jails and prisons;
- (3) Public roads;
- (4) Public highways;
- (5) Public streets and alleys;
- (6) Public utilities;
- (7) Publicly owned water mains and sewers;
- (8) Public parks and playgrounds;
- (9) Public convention facilities which are financed at least in part with public money; and
- (10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

~~{17}~~ 18. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~{18}~~ 19. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➤ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

~~{19}~~ 20. "Subcontract" means a written contract entered into between:

- (a) A contractor and a subcontractor or supplier; or
 - (b) A subcontractor and another subcontractor or supplier,
- for the provision of labor, materials, equipment or supplies for a construction project.

~~{20}~~ 21. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

~~{21-}~~ 22. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

23. *"Vertical construction" means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any improvement appurtenant thereto.*

~~{22-}~~ 24. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

~~{23-}~~ 25. "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 2.3. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Division" means the State Public Works Division of the Department of Administration.

9. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

10. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

11. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

~~12. ["Horizontal construction" means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.~~

~~13.]~~ "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

~~{14.}~~ 13. "Offense" means failing to:

(a) Pay the prevailing wage required pursuant to this chapter;

(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

~~{15.}~~ 14. "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his or her own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➤ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

~~{16.}~~ 15. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

~~{17.}~~ 16. "Public work" means any project for the new construction, repair or reconstruction of:

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

(1) Public buildings;

(2) Jails and prisons;

(3) Public roads;

(4) Public highways;

(5) Public streets and alleys;

(6) Public utilities;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; and

(10) All other publicly owned works and property.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

~~{18-}~~ 17. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~{19-}~~ 18. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

➤ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

~~{20-}~~ 19. "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

➤ for the provision of labor, materials, equipment or supplies for a construction project.

~~{21-}~~ 20. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

~~{22-}~~ 21. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

~~{23-}~~ "Vertical construction" means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any improvement appurtenant thereto.

~~24-}~~ 22. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

~~{25-}~~ 23. "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 2.5. NRS 338.0117 is hereby amended to read as follows:

338.0117 1. To qualify to receive a preference in bidding pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS 338.147, ~~subsection 3 of NRS 338.1693,~~ subsection 3 of NRS 338.1727 or subsection 2 of NRS 408.3886, a contractor, an applicant or a design-build team, respectively, must submit to the public body sponsoring or financing a public work a signed affidavit which certifies that, for the duration of the project:

(a) At least 50 percent of all workers employed on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will hold a valid driver's license or identification card issued by the Department of Motor Vehicles;

(b) All vehicles used primarily for the public work will be:

(1) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Registered in this State;

(c) At least 50 percent of the design professionals working on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any

subcontractor engaged on the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles;

(d) At least 25 percent of the suppliers of the materials used for the public work will be located in this State unless the public body requires the acquisition of materials or equipment that cannot be obtained from a supplier located in this State; and

(e) The contractor, applicant or design-build team and any subcontractor engaged on the public work will maintain and make available for inspection within this State his or her records concerning payroll relating to the public work.

2. Any contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 must:

(a) Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 1; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 1 is a material breach of the contract and entitles the public body to liquidated damages only as provided in subsections 5 and 6.

3. A person or entity who believes that a contractor, applicant or design-build team has obtained a preference in bidding as described in subsection 1 but has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 may file a written objection with the public body for which the contractor, applicant or design-build team is performing the public work. A written objection authorized pursuant to this subsection must set forth proof or substantiating evidence to support the belief of the person or entity that the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1.

4. If a public body receives a written objection pursuant to subsection 3, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection. If the public body determines that the objection is accompanied by the required proof or substantiating evidence or if the public body determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 exists, the public body shall determine whether the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 and the public body or its authorized representative may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.

5. A public body may recover, by civil action against the party responsible for a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1, liquidated damages as described in subsection 6 for a breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. If a public body recovers liquidated damages pursuant to this subsection for a breach of a contract for a public work, the public body shall report to the State Contractors' Board the date of the breach, the name of each entity which breached the contract and the cost of the contract. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

6. If a contractor, applicant or design-build team submits the affidavit described in subsection 1, receives a preference in bidding described in subsection 1 and is awarded the contract, the contract between the contractor, applicant or design-build team and the public body, each contract between the contractor, applicant or design-build team and a subcontractor or supplier and each contract between a subcontractor and a subcontractor or supplier must provide that:

(a) If a party to the contract causes a material breach of the contract between the contractor, applicant or design-build team and the public body as a result of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1, the party is liable to the public body for liquidated damages in the amount of 1 percent of the cost of the largest contract to which he or she is a party;

(b) The right to recover the amount determined pursuant to paragraph (a) by the public body pursuant to subsection 5 may be enforced by the public body directly against the party that causes the material breach; and

(c) No other party to the contract is liable to the public body for liquidated damages.

7. A public body that awards a contract for a public work to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 shall, on or before July 31 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. The report must include information on each contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1, including, without limitation, the name of the contractor, applicant or design-build team who was awarded the contract, the cost of the contract, a brief description of the public work and a description of the degree to which the contractor, applicant or design-build team and each subcontractor complied with the requirements of paragraphs (a) to (e), inclusive, of subsection 1.

Sec. 3. NRS 338.018 is hereby amended to read as follows:

338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~16~~ 17 of NRS 338.010.

Sec. 3.5. NRS 338.018 is hereby amended to read as follows:

338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~17~~ 16 of NRS 338.010.

Sec. 4. NRS 338.075 is hereby amended to read as follows:

338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~16~~ 17 of NRS 338.010.

Sec. 4.5. NRS 338.075 is hereby amended to read as follows:

338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~17~~ 16 of NRS 338.010.

Sec. 5. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of NRS 338.1415 and:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.16995, inclusive ~~and~~, and section 1 of this act; or
- (d) NRS 338.1711 to 338.173, inclusive.

2. *Except as otherwise provided in this subsection, subsection 3 and chapter 408 of NRS, the provisions of this chapter apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive.* The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 ~~to 338.169 to 338.16995, inclusive,~~ and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive.

3. *To the extent that a provision of this chapter precludes the granting of federal assistance or reduces the amount of such assistance with respect to a contract for the construction, reconstruction, improvement or maintenance of highways that is awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive, that provision of this chapter does not apply to the Department of Transportation or the contract.*

Sec. 5.3. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of NRS 338.1415 and:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive; *or*
- (c) ~~NRS 338.169 to 338.16995, inclusive, and section 1 of this act; or~~
- (d) NRS 338.1711 to 338.173, inclusive.

2. Except as otherwise provided in this subsection, subsection 3 and chapter 408 of NRS, the provisions of this chapter apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive.

3. To the extent that a provision of this chapter precludes the granting of federal assistance or reduces the amount of such assistance with respect to a contract for the construction, reconstruction, improvement or maintenance of highways that is awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive, that provision of this chapter does not apply to the Department of Transportation or the contract.

Sec. 5.5. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 ~~for 338.16991~~ or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the Division or the local government, the State Public Works Board or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the Board or governing body may:

- (a) Administer oaths;
- (b) Take testimony;
- (c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;
- (d) Require the production of related books, papers and documents; and
- (e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review.

Sec. 5.7. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

- (a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified

newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive; *or*

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435. ~~[-or-~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive.]~~

Sec. 6. NRS 338.141 is hereby amended to read as follows:

338.141 1. Except as otherwise provided in NRS 338.1727, each bid submitted to a public body for any public work to which paragraph (a) of subsection 1 of NRS 338.1385, ~~[-or-~~ paragraph (a) of subsection 1 of NRS 338.143 *or* NRS 408.327 applies, must include:

(a) If the public body provides a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; *or*

(b) If the public body does not provide a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. If the bid is submitted pursuant to this paragraph, within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list containing ~~the~~ :

(1) *The name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding \$250,000.*

(2) *If any one of the contractors who submitted one of the three lowest bids will employ a first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will not be paid an amount exceeding \$250,000, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid 1 percent of the prime contractor's total bid or \$50,000, whichever is greater. ~~[-and-~~*

(3) *For each first tier subcontractor whose name is listed pursuant to subparagraph (1) or (2), the number of the license issued to the first tier subcontractor pursuant to chapter 624 of NRS.*

2. The lists required by subsection 1 must include a description of the labor or portion of the work which each first tier subcontractor named in the list will provide to the prime contractor.

3. A prime contractor shall include his or her name on a list required by paragraph (a) or (b) of subsection 1. ~~[-if, as the prime contractor,] If the prime contractor will perform any [of the] work [required to be] which is more than 1 percent of the prime contractor's total bid and which is not being performed by a subcontractor listed pursuant to paragraph (a) or (b) of subsection 1 [-], the prime contractor shall also include on the list:~~

(a) *A description of the labor or portion of the work that the prime contractor will perform;*
or

(b) *A statement that the prime contractor will perform all work other than that being performed by a subcontractor listed pursuant to paragraph (a) or (b) of subsection 1.*

4. Except as otherwise provided in this subsection, if a contractor:

(a) Fails to submit the list within the required time; *or*

(b) Submits a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the Division pursuant to NRS 338.1376,
➤ the contractor's bid shall be deemed not responsive. A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the

Division pursuant to NRS 338.1376 if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 or 2 of NRS 338.13895.

5. A prime contractor shall not substitute a subcontractor for any subcontractor who is named in the bid, unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change.

(b) The substitution is approved by the public body or its authorized representative. The substitution must be approved if the public body or its authorized representative determines that:

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent;

(3) The named subcontractor fails or refuses to perform his or her subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025; or

(4) The named subcontractor is not properly licensed to provide that labor or portion of the work.

(c) If the public body awarding the contract is a governing body, the public body or its authorized representative, in awarding the contract pursuant to NRS 338.1375 to 338.139, inclusive:

(1) Applies such criteria set forth in NRS 338.1377 as are appropriate for subcontractors and determines that the subcontractor does not meet that criteria; and

(2) Requests in writing a substitution of the subcontractor.

6. If a prime contractor substitutes a subcontractor for any subcontractor who is named in the bid without complying with the provisions of subsection 5, the prime contractor shall forfeit, as a penalty to the public body that awarded the contract, an amount equal to 1 percent of the total amount of the contract.

7. If a prime contractor, ~~indicated pursuant to subsection 3 that he or she would perform a portion of work on the public work and,~~ after the submission of the bid, substitutes a subcontractor to perform ~~[such work]~~ *the work indicated pursuant to subsection 3 that the prime contractor would perform*, the prime contractor shall forfeit as a penalty to the public body that awarded the contract, the lesser of, and excluding any amount of the contract that is attributable to change orders:

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the prime contractor indicated pursuant to subsection 3 that he or she would perform on the public work.

8. As used in this section:

(a) "First tier subcontractor" means a subcontractor who contracts directly with a prime contractor to provide labor, materials or services for a construction project.

(b) "General terms" means the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor, but does not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 6.5. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required

advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of

Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive; or

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435. ~~for~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive.~~

Sec. 7. (Deleted by amendment.)

Sec. 7.5. NRS 338.169 is hereby amended to read as follows:

338.169 ~~[A]~~

1. *Subject to the provisions of subsection 2, a public body may construct a public work by:*

~~[(1)]~~ (a) Selecting a construction manager at risk pursuant to the provisions of NRS 338.1691 to 338.1696, inclusive; and

~~[(2)]~~ (b) Entering into separate contracts with a construction manager at risk:

~~[(a)]~~ (I) For preconstruction services, including, without limitation:

~~[(1)]~~ (I) Assisting the public body in determining whether scheduling or constructability problems exist that would delay the construction of the public work;

~~[(2)]~~ (II) Estimating the cost of the labor and material for the public work; and

~~[(3)]~~ (III) Assisting the public body in determining whether the public work can be constructed within the public body's budget; and

~~[(b)]~~ (2) To construct the public work.

2. *A public body in a county whose population is less than 100,000 may enter into contracts with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive, for the construction of not more than two public works in a calendar year that are discrete projects.*

Sec. 8. NRS 338.1692 is hereby amended to read as follows:

338.1692 1. A public body or its authorized representative shall advertise for proposals for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

2. A request for proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work;

(b) An estimate of the cost of construction;

(c) A description of the work that the public body expects a construction manager at risk to perform;

(d) The dates on which it is anticipated that the separate phases of the preconstruction and construction of the public work will begin and end;

(e) The date by which proposals must be submitted to the public body;

(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a proposal;

(g) The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work;

(h) A list of the selection criteria and relative weight of the selection criteria that will be used to ~~evaluate~~ rank proposals ~~for~~ pursuant to subsection 2 of NRS 338.1693;

(i) *A list of the selection criteria and relative weight of the selection criteria that will be used to rank applicants pursuant to subsection 7 of NRS 338.1693; and*

~~[(j)]~~ (j) A notice that the proposed form of the contract to assist in the preconstruction of the public work or to construct the public work, including, without limitation, the terms and general conditions of the contract, is available from the public body.

3. A proposal must include, without limitation:

(a) An explanation of the experience that the applicant has with projects of similar size and scope in both the public and private sectors ~~{-}~~ *by any delivery method, whether or not that method was the use of a construction manager at risk, and including, without limitation, ~~an explanation of the experience that the applicant has in assisting in the design of such projects~~* *design-build, design-assist, negotiated work or value-engineered work,* and an explanation of the experience that the applicant has in such projects in Nevada;

(b) The contact information for references who have knowledge of the background, character and technical competence of the applicant;

(c) Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body;

(d) Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law;

(e) A statement of whether the applicant has been:

(1) Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for proposals; and

(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333;

(f) The professional qualifications and experience of the applicant, including, without limitation, the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work;

(g) The safety programs established and the safety records accumulated by the applicant;

(h) Evidence that the applicant is licensed as a contractor pursuant to chapter 624 of NRS;

(i) The proposed plan of the applicant to manage the preconstruction and construction of the public work which sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work ~~{-}~~ *and which includes, if the public work involves predominantly horizontal construction, a statement that the applicant will perform construction work equal in value to at least 25 percent of the estimated cost of construction; and*

(j) If the project is for the design of a public work of the State, evidence that the applicant is qualified to bid on a public work of the State pursuant to NRS 338.1379.

4. *The public body or its authorized representative shall make available to the public the name of each applicant who submits a proposal pursuant to this section.*

Sec. 9. NRS 338.1693 is hereby amended to read as follows:

338.1693 1. The public body or its authorized representative shall appoint a panel consisting of at least three *but not more than seven members, ~~at least two~~* a majority of whom must have experience in the construction industry, to rank the proposals submitted to the public body by evaluating the proposals as required pursuant to subsections 2 and 3.

2. The panel *appointed pursuant to subsection 1* shall rank the proposals by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) Evaluating and assigning a score to each of the proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for proposals.

3. When ranking the proposals, the panel *appointed pursuant to subsection 1* shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

4. After the panel *appointed pursuant to subsection 1* ranks the proposals, the public body or its authorized representative shall, except as otherwise provided in subsection ~~{-}~~ 8, select at least the two but not more than the five applicants whose proposals received the highest scores for interviews.

5. *The public body or its authorized representative may appoint a separate panel to interview and rank the applicants selected pursuant to subsection 4. If a separate panel is*

appointed pursuant to this subsection, the panel must consist of at least three but not more than seven members, a majority of whom must have experience in the construction industry.

6. During the interview process, the ~~{public body or its authorized representative}~~ panel conducting the interview may require the applicants to submit a preliminary proposed amount of compensation for managing the preconstruction and construction of the public work, but in no event shall the proposed amount of compensation exceed 20 percent of the scoring for the selection of the most qualified applicant. *All presentations made at any interview conducted pursuant to this subsection or subsection 5 may be made only by key personnel employed by the applicant, as determined by the applicant, and the employees of the applicant who will be directly responsible for managing the preconstruction and construction of the public work.*

7. After conducting such interviews, the panel that conducted the interviews shall rank the applicants by using a ranking process that is separate from the process used to rank ~~{proposals}~~ the applicants pursuant to subsection 2 and is based only on information submitted during the interview process. The score to be given for the proposed amount of compensation, if any, must be calculated by dividing the lowest of all the proposed amounts of compensation by the applicant's proposed amount of compensation multiplied by the total possible points available to each applicant.

~~{5-}~~ When ranking the applicants, the panel that conducted the interviews shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

8. If the public body did not receive at least two proposals, the public body may not contract with a construction manager at risk.

~~{6-}~~ 9. Upon receipt of the final rankings of the applicants from the panel ~~{that conducted the interviews}~~, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to ~~{subsections 2, 3 and 4}~~ the provisions of this section for a contract for preconstruction services, unless the public body required the submission of a proposed amount of compensation, in which case the proposed amount of compensation submitted by the applicant must be the amount offered for the contract. If the public body or its authorized representative is unable to negotiate a contract with the most qualified applicant for an amount of compensation that the public body or its authorized representative and the most qualified applicant determine to be fair and reasonable, the public body or its authorized representative shall terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

~~{7-}~~ 10. The public body or its authorized representative shall make available to all applicants and the public the final rankings of the applicants, *as determined by the panel that conducted the interviews*, and shall provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

Sec. 10. NRS 338.1696 is hereby amended to read as follows:

338.1696 1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS 338.1693, after the public body has finalized the design for the public work, or any portion thereof sufficient to determine the provable cost of that portion, the public body shall enter into negotiations with the construction manager at risk for a contract to construct the public work or the portion thereof for the public body for:

- (a) The cost of the work, plus a fee, with a guaranteed maximum price;
- (b) A fixed price; or
- (c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work or portion thereof.

2. If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work or portion thereof, the public body shall terminate negotiations with that applicant and:

(a) May award the contract for the public work:

(1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.

(2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive; and

(b) Shall accept a bid to construct the public work from the construction manager at risk with whom the public body entered into a contract for preconstruction services.

3. *Before entering into a contract with the public body to construct a public work or a portion thereof pursuant to subsection 1, the construction manager at risk shall:*

(a) *Provide the public body with a list of the labor or portions of the work which are estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work; and*

(b) *Select each subcontractor who is to provide labor or a portion of the work which is estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work in accordance with NRS 338.16991 and 338.16995 and provide the names of each selected subcontractor to the public body.*

4. *Except as otherwise provided in subsection 13 of NRS 338.16995, a public body shall not interfere with the right of the construction manager at risk to select the subcontractor whom the construction manager at risk determines to have submitted the best proposal pursuant to NRS 338.16995.*

Sec. 11. NRS 338.16985 is hereby amended to read as follows:

338.16985 A construction manager at risk who enters into a contract for the construction of a public work pursuant to NRS 338.1696:

1. Is responsible for contracting for the services of any necessary subcontractor, supplier or independent contractor necessary for the construction of the public work and for the performance of and payment to any such subcontractors, suppliers or independent contractors.

2. If the public work involves ~~the~~ *predominantly horizontal construction*, ~~of a fixed work that is described in subsection 2 of NRS 624.215,~~ shall perform ~~not less than 25~~ *construction work equal in value to at least 25 percent of the estimated cost of construction* ~~of the fixed work~~ himself or herself, or using his or her own employees.

3. If the public work involves ~~the~~ *predominantly vertical construction*, ~~of a building or structure that is described in subsection 3 of NRS 624.215,~~ may perform himself or herself or using his or her own employees as much of the construction of the building or structure that the construction manager at risk is able to demonstrate that the construction manager at risk or his or her own employees have performed on similar projects.

Sec. 12. NRS 338.16991 is hereby amended to read as follows:

338.16991 1. To be eligible to provide labor, materials or equipment on a public work, the contract for which a public body has entered into with a construction manager at risk pursuant to NRS 338.1696, a subcontractor must be:

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Qualified pursuant to the provisions of this section to submit a proposal for the provision of labor, materials or equipment on a public work.

2. Subject to the provisions of subsections 3, 4 and 5, the construction manager at risk shall determine whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment on the public work for the purposes of paragraph (b) of subsection 1.

3. *Not earlier than 30 days after a construction manager at risk has been selected pursuant to NRS 338.1693* ~~[After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to apply to qualify to submit a meaningful and responsive proposal for the provision of labor, materials or equipment on the public work]~~ and not later than ~~[21]~~ *10 working days* before the date by which ~~[such]~~ an application must be submitted, the construction manager at risk shall advertise for ~~[such]~~ applications *from subcontractors* in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is

published in the county where the public work will be performed, the advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county. *The construction manager at risk may accept an application from a subcontractor before advertising for applications pursuant to this subsection.*

4. The criteria to be used by the construction manager at risk when determining whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment must include, and must be limited to:

(a) The monetary limit placed on the license of the applicant by the State Contractors' Board pursuant to NRS 624.220;

(b) The financial ability of the applicant to provide the labor, materials or equipment required on the public work;

(c) Whether the applicant has the ability to obtain the necessary bonding for the work required by the public body;

(d) The safety programs established and the safety records accumulated by the applicant;

(e) Whether the applicant has breached any contracts with a public body or person in this State or any other state during the 5 years immediately preceding the application;

(f) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the public work;

(g) The performance history of the applicant concerning other recent, similar public or private contracts, if any, completed by the applicant in Nevada;

(h) The principal personnel of the applicant;

(i) Whether the applicant has been disqualified from the award of any contract pursuant to NRS 338.017 or 338.13895; and

(j) The truthfulness and completeness of the application.

5. The public body or its authorized representative shall ensure that each determination made pursuant to subsection 2 is made subject to the provisions of subsection 4.

6. The construction manager at risk shall notify each applicant and the public body in writing of a determination made pursuant to subsection 2.

7. A determination made pursuant to subsection 2 that an applicant is not qualified may be appealed pursuant to NRS 338.1381 to the public body with whom the construction manager at risk has entered into a contract for the construction of the public work.

Sec. 13. NRS 338.16995 is hereby amended to read as follows:

338.16995 1. If a public body enters into a contract with a construction manager at risk for the construction of a public work pursuant to NRS 338.1696, the construction manager at risk may enter into a subcontract for the provision of labor, materials and equipment necessary for the construction of the public work only as provided in this section.

2. The provisions of this section apply only to a subcontract for which the estimated value is at least 1 percent of the total cost of the public work ~~that is~~ *or \$50,000, whichever is greater.*

3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to submit a meaningful and responsive proposal, and not later than 21 days before the date by which a proposal for the provision of labor, materials or equipment by a subcontractor must be submitted, the construction manager at risk shall notify in writing each subcontractor who was determined pursuant to NRS 338.16991 to be qualified to submit such a proposal of a request for such proposals. A copy of the notice required pursuant to this subsection must be provided to the public body.

4. The notice required pursuant to subsection 3 must include, without limitation:

(a) A description of the design for the public work and a statement indicating where a copy of the documents relating to that design may be obtained;

(b) A description of the type and scope of labor, equipment and materials for which subcontractor proposals are being sought;

(c) The dates on which it is anticipated that construction of the public work will begin and end;

(d) ~~The~~ *If a preproposal meeting regarding the scope of the work to be performed by the subcontractor is to be held, the date, time and place at which ~~the~~ the preproposal meeting will be held;*

(e) The date and time by which proposals must be received, and to whom they must be submitted;

(f) The date, time and place at which proposals will be opened for evaluation;

(g) A description of the bonding and insurance requirements for subcontractors;

(h) Any other information reasonably necessary for a subcontractor to submit a responsive proposal; and

(i) A statement in substantially the following form:

Notice: For a proposal for a subcontract on the public work to be considered:

1. The subcontractor must be licensed pursuant to chapter 624 of NRS;

2. The proposal must be timely received;

3. ~~[-The-]~~ *If a preproposal meeting regarding the scope of the work to be performed by the subcontractor is held, the subcontractor must attend the preproposal meeting; and*

4. The subcontractor may not modify the proposal after the date and time the proposal is received.

5. A subcontractor may not modify a proposal after the date and time the proposal is received.

6. To be considered responsive, a proposal must:

(a) Be timely received by the construction manager at risk; and

(b) Substantially and materially conform to the details and requirements included in the proposal instructions and for the finalized bid package for the public work, including, without limitation, details and requirements affecting price and performance.

7. The opening of the proposals must be attended by an authorized representative of the public body . ~~[-and-]~~ *The public body may require the architect or engineer responsible for the design of the public work ~~[-but-]~~ to attend the opening of the proposals. The opening of the proposals is not otherwise open to the public.*

8. At the time the proposals are opened, the construction manager at risk shall compile and provide to the public body or its authorized representative a list that includes, without limitation, the name and contact information of each subcontractor who submits a timely proposal . ~~[-and the price of the proposal submitted by the subcontractor. The list must be made available to the public upon request.]~~

9. Not ~~[-less-]~~ *more* than 10 working days after opening the proposals ~~[-]~~ *and before the construction manager at risk submits a guaranteed maximum price, a fixed price or a fixed price plus reimbursement pursuant to NRS 338.1696, the construction manager at risk shall:*

(a) Evaluate the proposals and determine which proposals are responsive.

(b) Select the subcontractor who submits the proposal that the construction manager at risk determines is the best proposal. *Subject to the provisions of subparagraphs (1), (2) and (3), if only one subcontractor submits a proposal, the construction manager at risk may select that subcontractor.* The subcontractor must be selected from among those:

(1) Who attended the preproposal meeting ~~[-]~~ *regarding the scope of the work to be performed by the subcontractor, if such a preproposal meeting was held;*

(2) Who submitted a responsive proposal; and

(3) Whose names are included on the list compiled and provided to the public body or its authorized representative pursuant to subsection 8.

(c) Inform the public body or its authorized representative which subcontractor has been selected.

10. The public body or its authorized representative shall ensure that the evaluation of proposals and selection of subcontractors are done pursuant to the provisions of this section and regulations adopted by the State Public Works Board.

11. A subcontractor selected pursuant to subsection 9 need not be selected by the construction manager at risk solely on the basis of lowest price.

12. Except as otherwise provided in ~~[-subsection-]~~ *subsections 13 ~~[-]~~ and 15,* the construction manager at risk shall enter into a subcontract with a subcontractor selected pursuant to subsection 9 to provide the labor, materials or equipment described in the request for proposals.

13. A construction manager at risk shall not substitute a subcontractor for any subcontractor selected pursuant to subsection 9 unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

(b) The substitution is approved by the public body after the selected subcontractor:

- (1) Files for bankruptcy or becomes insolvent;
- (2) After having a reasonable opportunity, fails or refuses to execute a written contract with the construction manager at risk which was offered to the selected subcontractor with the same general terms that all other subcontractors on the project were offered;
- (3) Fails or refuses to perform the subcontract within a reasonable time;
- (4) Is unable to furnish a performance bond and payment bond pursuant to NRS 339.025, if required for the public work; or
- (5) Is not properly licensed to provide that labor or portion of the work.

14. *If a construction manager at risk substitutes a subcontractor for any subcontractor selected pursuant to subsection 9 without complying with the provisions of subsection 13, the construction manager at risk shall forfeit, as a penalty to the public body, an amount equal to 1 percent of the total amount of the contract.*

15. *If a construction manager at risk does not select a subcontractor pursuant to subsection 9 to perform a portion of work on a public work, the construction manager at risk shall notify the public body that the construction manager at risk intends to perform that portion of work. If, after providing such notification, the construction manager at risk substitutes a subcontractor to perform the work, the construction manager at risk shall forfeit, as a penalty to the public body, the lesser of, and excluding any amount of the contract that is attributable to change orders:*

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the construction manager at risk selected himself or herself to perform on the public work.

16. The construction manager at risk shall make available to the public ~~[, including, without limitation,]~~ the name of each subcontractor who submits a proposal. ~~[, the final rankings of the subcontractors and shall provide, upon request, an explanation to any subcontractor who is not selected of the reasons why the subcontractor was not selected.]~~

~~[15.]~~ 17. If a public work is being constructed in phases, and a construction manager at risk selects a subcontractor pursuant to subsection 9 for the provision of labor, materials or equipment for any phase of that construction, the construction manager at risk may select that subcontractor for the provision of labor, materials or equipment for any other phase of the construction without following the requirements of subsections 3 to 11, inclusive.

18. *As used in this section, "general terms" has the meaning ascribed to it in NRS 338.141.*

Sec. 13.5. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~[338.16995,]~~ 338.168, inclusive, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work has an estimated cost which exceeds \$5,000,000.

Sec. 14. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

- (1) The length of time necessary to commence the project.
- (2) The number of workers estimated to be employed on the project.
- (3) The effectiveness of the project in reducing energy consumption.
- (4) The estimated cost of the project.

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

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

- (I) The Solar Energy Systems Incentive Program created by NRS 701B.240;
- (II) The Renewable Energy School Pilot Program created by NRS 701B.350;
- (III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or
- (IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.

(b) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Director of the Office of Energy and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection ~~424~~ 13 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (1) Biomass;
- (2) Fuel cells;
- (3) Geothermal energy;
- (4) Solar energy;
- (5) Waterpower; and
- (6) Wind.

↪ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 14.1. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

(a) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

- (1) The length of time necessary to commence the project.
- (2) The number of workers estimated to be employed on the project.
- (3) The effectiveness of the project in reducing energy consumption.
- (4) The estimated cost of the project.
- (5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

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

- (I) The Solar Energy Systems Incentive Program created by NRS 701B.240;
- (II) The Renewable Energy School Pilot Program created by NRS 701B.350;
- (III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or
- (IV) The Waterpower Energy Systems Demonstration Program created by

NRS 701B.820.

(b) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block

Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the Director of the Office of Energy and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection ~~11.3~~ 12 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (1) Biomass;
- (2) Fuel cells;
- (3) Geothermal energy;
- (4) Solar energy;
- (5) Waterpower; and
- (6) Wind.

➡ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 14.3. The Department of Transportation shall:

1. Conduct a study on the benefits to this State of entering into contracts with construction managers at risk pursuant to NRS 338.169 to 338.16995, inclusive, for the construction, reconstruction, improvement or maintenance of highways; and

2. On or before January 31, 2017, submit a report of the results of the study and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

Sec. 14.5. 1. On or before January 1 of each year, each public body that enters into a contract during the immediately preceding year with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive, for preconstruction services for or to construct a public work shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the report is submitted during an odd-numbered year.

2. The report required by subsection 1 must include, for each public work for which the public body enters into a contract with a construction manager at risk:

- (a) A description of the public work;
- (b) The name of the construction manager at risk;
- (c) If the public work has not been completed at the time the report is submitted, a report on the progress of the public work; and
- (d) If the public work has been completed at the time the report is submitted, an explanation of whether the public body is satisfied with the public work and with the contractual arrangement with the construction manager at risk.

3. As used in this section:

(a) "Public body" has the meaning ascribed to it in subsection 16 of NRS 338.010, as amended by section 2 of this act.

(b) "Public work" has the meaning ascribed to it in subsection 17 of NRS 338.010, as amended by section 2 of this act.

Sec. 14.7. NRS 338.169, 338.1691, 338.1692, 338.1693, 338.16935, 338.1696, 338.1697, 338.1698, 338.16985, 338.16991 and 338.16995 are hereby repealed.

Sec. 15. 1. This section and sections 1, 2, 3, 4, 5, 6, 7.5 to 13, inclusive, 14, 14.3 and 14.5 of this act become effective on July 1, 2013.

2. Section 1 of this act expires by limitation on June 30, 2017.

3. Sections 2.3, 2.5, 3.5, 4.5, 5.3, 5.5, 5.7, 6.5, 13.5, 14.1 and 14.7 of this act become effective on July 1, 2017.

LEADLINES OF REPEALED SECTIONS

338.169 Public body authorized to construct public work by selecting and entering into contracts with construction manager at risk.

338.1691 Qualifications for construction manager at risk.

338.1692 Advertising for proposals for construction manager at risk; contents of request for proposals; requirements for proposals.

338.1693 Procedure for selection of most qualified applicants; minimum number of proposals required; negotiation of contract for preconstruction services; availability of certain information to applicants and public.

338.16935 Contract between construction manager at risk and subcontractor for certain preconstruction services.

338.1696 Negotiation of contract for construction of public work or portion thereof with construction manager at risk; awarding of contract if public body unable to negotiate satisfactory contract with construction manager at risk.

338.1697 Authorized provision in contract with construction manager at risk for construction of public work or portion thereof for guaranteed maximum price.

338.1698 Required and authorized provisions in contract for construction of public work or portion thereof awarded to construction manager at risk.

338.16985 Duties and powers of construction manager at risk who enters into contract for construction of public work or portion thereof.

338.16991 Contract between construction manager at risk and subcontractor to provide labor, materials or equipment on project: Eligibility; procedure for determination of qualification of subcontractor to submit proposal.

338.16995 Contract between construction manager at risk and subcontractor to provide labor, materials or equipment on project: Authority to enter into; procedure for awarding subcontracts of certain estimated value; substitution of subcontractor on such subcontracts; availability of certain information to applicants and public.

PAT SPEARMAN

DAVID PARKS

PETE GOICOECHEA

Senate Conference Committee

SKIP DALY

TERESA BENITEZ-THOMPSON

IRA HANSEN

Assembly Conference Committee

Senator Spearman moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 283.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Assembly Bill No. 378, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 754 of the Senate be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 19, which is attached to and hereby made a part of this report.

Conference Amendment.

"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 property to a spendthrift trust; revising provisions governing persons who act as a distribution trustee or distribution adviser of a spendthrift trust; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a person to create a spendthrift trust, which is a trust the terms of which provide that the interest of a beneficiary may not be transferred voluntarily or involuntarily to another person. (NRS 166.020, 166.040) Under existing law, a beneficiary of a spendthrift trust may not transfer his or her interest in the trust and a creditor of the beneficiary may not satisfy the creditor's claim from the beneficiary's interest in the trust. (NRS 166.120) Existing law further authorizes the creation of self-settled spendthrift trusts, which are spendthrift trusts in which the settlor is a beneficiary. Under existing law, a self-settled

spendthrift trust may be created only if the trust is irrevocable, does not require any part of the income or principal to be distributed to the settlor and is not be intended to hinder, delay or defraud known creditors. (NRS 166.040)

Section 1.2 of this bill provides that under certain circumstances, a transfer of property to a self-settled spendthrift trust is presumed to be made with actual intent to defraud an obligee named in a family support order and is void if: (1) the transfer is made after the commencement of a domestic relations proceeding; (2) the transfer is made less than 2 years before the commencement of such a proceeding; (3) the transfer is made while the settlor is subject to certain family support orders; or (4) a court order expressly requires the settlor to transfer the property to his or her child, spouse or former spouse, or a domestic partner or former domestic partner, or for the benefit of such a person. Section 1.2 further provides that under certain circumstances, a trustee of a self-settled spendthrift trust is required to provide written notice of certain distributions from the trust to an obligee named in a family support order. Section 3 of this bill provides that the provisions of section 1.2 apply only to: (1) family support orders issued on or after October 1, 2013; (2) transfers of property to a self-settled spendthrift trust made on or after October 1, 2013; and (3) distributions from a self-settled spendthrift trust made on or after October 1, 2013.

Section 1.5 of this bill enacts provisions governing: (1) the transfer of property owned jointly by spouses or domestic partners to a self-settled spendthrift trust, which apply to a transfer of property occurring on or after October 1, 2013; and (2) the division of a self-settled spendthrift trust established jointly by spouses or domestic partners into two separate spendthrift trusts upon a divorce, an annulment, a legal separation or the termination of a domestic partnership.

Section 1.9 of this bill prohibits the settlor, certain relatives and employees of the settlor, and business entities in which the settlor or certain relatives or employees of the settlor hold certain voting power, from acting as a distribution trustee or a distribution adviser of a self-settled spendthrift trust while the settlor is subject to a family support order.

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

Section 1. Chapter 166 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 ~~and 1.2~~ to 1.5, inclusive, of this act.

Sec. 1.1. *As used in this chapter, unless the context otherwise requires, the ~~term~~ "domestic" words and terms defined in sections 1.11 to 1.16, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 1.11. *"Distribution adviser" means a person other than a trustee in whose discretion a distribution to the settlor must be approved for that distribution to be in compliance with paragraph (g) of subsection 2 of NRS 166.040, regardless of the title of such person and whether such person is acting in a fiduciary or nonfiduciary capacity.*

Sec. 1.12. *"Distribution trustee" means a trustee in whose discretion a distribution to the settlor must be approved for that distribution to be in compliance with paragraph (g) of subsection 2 of NRS 166.040.*

Sec. 1.13. *"Domestic partner" means a person who is in a domestic partnership ~~that~~ which is registered pursuant to chapter 122A of NRS and ~~that~~ which has not been terminated pursuant to that chapter.*

Sec. 1.14. *"Jointly owned property" means property transferred to a self-settled spendthrift trust that was owned jointly by spouses or domestic partners at the time of the transfer, regardless of whether such property was held in joint tenancy, as tenants by the entireties, as tenants in common or as community property, including all investments and reinvestments thereof.*

Sec. 1.15. *"Order" means an order issued by a court of competent jurisdiction of this State or an order granted by a court of competent jurisdiction outside of this State that is properly domesticated.*

Sec. 1.16. *"Self-settled spendthrift trust" means a spendthrift trust of which a settlor is a beneficiary.*

Sec. 1.2. 1. *Notwithstanding any other provision of law ~~that~~ and except as otherwise provided in subsection 2, a transfer of property to a self-settled spendthrift trust is presumed to*

be made with actual intent to defraud each obligee of a domestic relations order, and the transfer is presumed void as to each such obligee, if:

- (a) The transfer is made after the commencement of a domestic relations proceeding;
- (b) The transfer is made within the 2 years immediately preceding the commencement of a domestic relations proceeding;
- (c) The transfer is made while the settlor is subject to a family support order; or
- (d) An order, judgment or decree of a court of competent jurisdiction expressly requires the settlor to transfer the property to his or her child, spouse or former spouse, or domestic partner or former domestic partner, or to a trust for the benefit of such a person.

2. The presumption set forth in subsection 1 does not apply to a self-settled spendthrift trust that is established jointly by spouses or domestic partners and to which the provisions of section 1.5 of this act apply.

3. Regardless of whether a court order restrains a transfer of the property, the presumption set forth in subsection 1 applies to all property of either spouse or domestic partner, unless a court order expressly excludes the application of the presumption to the property.

4. In an action to determine whether a transfer of property is void pursuant to paragraph (a) or (b) of subsection 1, the 2-year limitation period set forth in NRS 166.170 does not commence until a court enters a domestic relations order.

5. An action to determine whether a transfer of property is void pursuant to paragraph (c) of subsection 1 may be brought within the period described in paragraph (a) of subsection 1 of NRS 166.170 or, if the transfer was made while the settlor was delinquent in making payments required under a family support order, within 4 years after the transfer.

6. An action to determine whether a transfer of property is void pursuant to paragraph (d) of subsection 1 may be brought within the period described in paragraph (a) of subsection 1 of NRS 166.170 or, if the transfer was made in violation of a property transfer order, within 4 years after the transfer.

7. If a transfer described in subsection 1 is determined to be void as to an obligee, the court having jurisdiction to enforce the domestic relations order may enforce the domestic relations order against the transferred property, and any investments or reinvestments thereof, as if such property were owned by the transferring settlor to the extent the court finds that the settlor has no other property or income from which the court may compel satisfaction of the domestic relations order.

8. Regardless of whether the self-settled spendthrift trust or the trustee of the self-settled spendthrift trust is a party to an action resulting in a family support order, the trustee shall, not later than 30 days before making a distribution of the income or principal of the self-settled spendthrift trust to a beneficiary who is a settlor, provide written notice of the distribution to each obligee named in the family support order, if the family support order expressly requires such notice. A written notice required by this subsection must:

- (a) State:
 - (1) The date on which the distribution will be made;
 - (2) The amount of the distribution; and
 - (3) The manner in which payment of the distribution will be made.

(b) Unless a written agreement entered into by the obligee who is required to be provided the written notice provides otherwise, be sent by personal delivery, by certified mail, return receipt requested, or by any other delivery service for which a receipt for delivery is obtained to the address provided to the trustee by the obligee required to be provided the written notice.

~~12.7~~ 9. If, after an obligee named in a family support order provides a copy of the family support order to the trustee and an address to which the written notice required by subsection ~~(2)~~ 8 is to be sent, the trustee makes a distribution of the income or principal of the self-settled spendthrift trust to a beneficiary who is a settlor and who is an obligor named in the family support order without sending the written notice required by subsection ~~(2)~~ 8, the trustee is personally liable to the obligee for the lesser of:

- (a) The amount of such distribution; and
- (b) The amount due the obligee pursuant to the family support order,

↪ unless the trustee establishes to the satisfaction of the court having jurisdiction to enforce the family support order that the information required to be provided in the written notice would not have facilitated enforcement of the family support order.

~~10. This section does not make any property which was the subject of a transfer determined to be void subject to the enforcement of any debt other than a debt owed under a domestic relations order.~~

11. As used in this section:

(a) "Child" means a person to whom a settlor of a self-settled spendthrift trust owes a parental duty of support pursuant to:

- (1) The laws of this State;
- (2) A written agreement to which the settlor is a party; or
- (3) The order of a court of competent jurisdiction.

(b) "Distribution" includes, without limitation, a distribution from a self-settled spendthrift trust to a person other than a beneficiary who is a settlor for the benefit of a beneficiary who is a settlor. The term does not include an authorization given by the trustee of a self-settled spendthrift trust for a beneficiary who is a settlor to use an asset of the self-settled spendthrift trust, the title to which remains in the trust, including, without limitation, a residence or vehicle.

(c) "Domestic relations order" means a family support order or a property transfer order.

(d) "Domestic relations proceeding" means a legal proceeding that may result in the issuance of a domestic relations order, including, without limitation, an action for divorce, annulment or separate maintenance pursuant to chapter 125 of NRS or any proceeding related to the termination of a domestic partnership that is registered pursuant to chapter 122A of NRS.

(e) "Family support order" means a judgment, decree or order of a court for the support or maintenance of a child, spouse or former spouse, or domestic partner or former domestic partner.

(f) "Obligee" means:

(1) With respect to a family support order, a child, spouse or former spouse, or domestic partner or former domestic partner to whom, or for whose benefit, a court has ordered the payment of support or maintenance.

(2) With respect to a property transfer order, a child, spouse or former spouse, or domestic partner or former domestic partner to whom, or for whose benefit, a court has ordered one or more property transfers.

(g) "Property transfer order" means an order, judgment or decree of a court which requires the transfer of property to a child, spouse or former spouse, or domestic partner or former domestic partner, or to a trust for the benefit of such a person.

~~(h) "Self-settled spendthrift trust" means a spendthrift trust of which a settlor is a beneficiary.~~

Sec. 1.3. (Deleted by amendment.)

Sec. 1.5. 1. A transfer of jointly owned property to a spendthrift trust which is made on or after October 1, 2013, is presumed void, unless both spouses or domestic partners, whichever is applicable, jointly transfer the property.

2. Any transfer of jointly owned property to a self-settled spendthrift trust which is made on or after October 1, 2013, is presumed void unless both spouses or domestic partners, whichever is applicable, have signed a written agreement, declaration or transfer document in which each spouse or domestic partner, as applicable, expressly acknowledges that any transfer of such property to a self-settled spendthrift trust waives all property rights in the property being transferred to the self-settled spendthrift trust that are inconsistent with the rights of the spouse or domestic partner as a beneficiary under the terms of the trust agreement. An agreement, declaration or transfer document required by this subsection must meet the standards that govern the actions of persons occupying relations of confidence and trust toward each other and is subject to the following:

(a) Notwithstanding any provision of chapter 162A of NRS to the contrary, a spouse or domestic partner has no authority as an agent of his or her spouse or domestic partner, as applicable, under a power of attorney, to sign a document effectuating a transfer of jointly

owned property or a written agreement, declaration or transfer document required by this subsection.

(b) If a guardian has been appointed for a spouse or domestic partner, the guardian may not sign on behalf of the ward a document effectuating a transfer of jointly owned property or a written agreement, declaration or transfer document required by this subsection unless an order of the court having jurisdiction over the guardianship proceeding expressly authorizes the guardian to sign such a document on behalf of the ward.

3. The only property interest of a beneficiary of a valid spendthrift trust is a beneficial interest in the spendthrift trust in accordance with the terms of the trust agreement and subject to the applicable laws of this State governing trusts. A self-settled spendthrift trust is not subject to termination in a domestic relations proceeding except in accordance with the terms of the trust agreement, but it may be divided into two separate trusts to the extent permitted under NRS 163.556.

4. Except as expressly provided otherwise in a trust agreement governing a self-settled spendthrift trust established jointly by spouses or domestic partners, when the settlors are divorced or legally separated, or terminate a domestic partnership, the trustee must divide the joint self-settled spendthrift trust into two separate spendthrift trusts with each spouse or domestic partner, as applicable, as the settlor of a new spendthrift trust, subject to the following:

(a) Any jointly owned property in which the spouses or domestic partners had equal ownership must be divided equally between the two spendthrift trusts, on a pro rata or non-pro rata basis based on the current fair market value thereof.

(b) Any jointly owned property in which the spouses or domestic partners had unequal ownership must be divided between the two spendthrift trusts in proportion to the contribution of each spouse or domestic partner, on a pro rata or non-pro rata basis based on the current fair market value.

(c) Any trust property that was contributed to the self-settled spendthrift trust as a settlor's separate property, together with all investments and reinvestments thereof, must be allocated to the separate spendthrift trust for that settlor.

(d) The court having jurisdiction over the division of the property of the settlors in the action for divorce, annulment, separate maintenance or termination of domestic partnership has jurisdiction over the division of property between the two spendthrift trusts, but to avoid unintended consequences under federal tax laws, the division of property between the separate spendthrift trusts must be done independently from, and without regard to, the division of nontrust property.

(e) For the purposes of NRS 166.170, each new spendthrift trust must be deemed a continuation of the original trust, and each transfer of property to a new spendthrift trust relates back to the date the property was transferred to the original trust.

(f) The provisions of the new spendthrift trusts must be the same as the terms of the trust agreement of the self-settled spendthrift trust which is being separated, except as otherwise authorized by NRS 163.556. With respect to each new spendthrift trust, unless the former spouse or domestic partner who is not the beneficiary of the new spendthrift trust consents in writing:

(1) The former spouse or former domestic partner who is not the beneficiary of the new spendthrift trust does not have any right, power or benefit with respect to that trust as a beneficiary, trustee, trust protector, agent, adviser or any other right, power or benefit, except to the extent the terms of the trust agreement specifically indicate that any such rights, powers or benefits exist even if the party is no longer the spouse or domestic partner of the settlor; and

(2) The settlor may exercise unilaterally all of the powers reserved or rights given in the original trust agreement to either settlor or to the settlors acting jointly.

Sec. 1.6. (Deleted by amendment.)

Sec. 1.9. NRS 166.015 is hereby amended to read as follows:

166.015 1. Unless the writing declares to the contrary, expressly, this chapter governs the construction, operation and enforcement, in this State, of all spendthrift trusts created in or outside this State if:

(a) All or part of the land, rents, issues or profits affected are in this State;

(b) All or part of the personal property, interest of money, dividends upon stock and other produce thereof, affected, are in this State;

(c) The declared domicile of the creator of a spendthrift trust affecting personal property is in this State; or

(d) At least one trustee qualified under subsection 2 has powers that include maintaining records and preparing income tax returns for the trust, and all or part of the administration of the trust is performed in this State.

2. If the settlor is a beneficiary of the trust ~~1-11~~:

(a) At least one trustee of a spendthrift trust must be:

~~1-11~~ (1) A natural person who resides and has his or her domicile in this State;

~~1-11~~ (2) A trust company that:

~~1-11~~ (I) Is organized under federal law or under the laws of this State or another state;

and

~~1-11~~ (II) Maintains an office in this State for the transaction of business; or

~~1-11~~ (3) A bank that:

~~1-11~~ (I) Is organized under federal law or under the laws of this State or another state;

~~1-11~~ (II) Maintains an office in this State for the transaction of business; and

~~1-11~~ (III) Possesses and exercises trust powers.

(b) At any time ~~the settlor is subject to a family support order as defined in~~ the trustee is required to give notice of a distribution to a settlor pursuant to subsection 8 of section 1.2 of this act:

(1) The following persons must not act as a distribution trustee or a distribution adviser:

(I) The settlor;

(II) The spouse or domestic partner of the settlor;

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

(IV) An employee of the settlor;

(V) A subordinate employee of the settlor or of a business entity in which the settlor is an executive; or

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

(2) Notwithstanding any provision of the trust agreement, a distribution as defined in section 1.2 of this act must not be made to the settlor unless the distribution is subject to the discretion of a distribution trustee or a distribution adviser who is not prohibited from acting as a distribution trustee or distribution adviser pursuant to subparagraph (1).

(3) The trust is not made void by:

(I) The lack of a distribution trustee or a distribution adviser; or

(II) The appointment or existence of a distribution trustee or a distribution adviser who is unable to act as a distribution trustee or a distribution adviser pursuant to subparagraph (1).

Sec. 2. (Deleted by amendment.)

Sec. 3. The provisions of section 1.2 of this act apply only to:

1. A family support order, as defined in section 1.2 of this act, issued on or after October 1, 2013.

2. A transfer of property to a self-settled spendthrift trust, as defined in section ~~1-11~~ 1.16 of this act, made on or after October 1, 2013.

3. A distribution, as defined in section 1.2 of this act, from a self-settled spendthrift trust made on or after October 1, 2013.

TICK SEGERBLOM
RUBEN KIHUEN

MARILYN DONDERO LOOP
IRENE BUSTAMANTE ADAMS
WESLEY DUNCAN

Senate Conference Committee

Assembly Conference Committee

Senator Segerblom moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 378.

Motion failed.

Mr. President:

The Conference Committee concerning Assembly Bill No. 415, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 706 of the Senate be concurred in. It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 13, which is attached to and hereby made a part of this report.

Conference Amendment.

"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~~ certain misdemeanors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a person who enters certain structures with the intent to commit grand or petit larceny, assault or battery, any felony or to obtain money by false pretenses is guilty of the crime of burglary. (NRS 205.060) Existing law also provides that a person commits the crime of petit larceny if the person intentionally steals, takes and carries, leads or drives away certain goods or property. (NRS 205.240) Section 1 of this bill removes the crime of petit larceny from the underlying offenses which constitute burglary if the petit larceny was intended to be committed in a commercial establishment during business hours and the person has not: (1) twice previously been convicted of petit larceny within the previous 7 years; or (2) previously been convicted of a felony.

Existing law prohibits a person from lodging in any building, structure or place without certain permission. (NRS 207.030) Section 1.5 of this bill further prohibits a person from lodging in such a place if the property is the subject of a notice of default and election to sell or is placed on a registry of vacant, abandoned or foreclosed property, unless the person is the owner, tenant or otherwise entitled to possession of the property.

Existing law establishes the Advisory Commission on the Administration of Justice and directs the Commission, among other duties, to identify and study the elements of this State's system of criminal justice. (NRS 176.0123, 176.0125) Section 3 of this bill authorizes the Chair of the Commission to apply for grants and accept grants, bequests, devises, donations and gifts. Section 8 of this bill requires the Commission to include certain items relating to criminal justice on an agenda for discussion and to issue a report.

Existing law provides that a misdemeanor is punishable by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 6 months, or by both a fine and imprisonment. (NRS 193.150) Section 10 of this bill authorizes each county to establish a community court pilot project within any of its justice courts located in the county to provide an alternative to sentencing a person who is charged with ~~a misdemeanor~~ certain misdemeanors. Section 11 of this bill requires the community court to evaluate each defendant to determine whether services or treatment is likely to assist the defendant to modify behavior or obtain skills that may prevent the defendant from engaging in further criminal activity. The services or treatment that the community court may order the defendant to receive may include, without limitation, treatment for alcohol or substance abuse, health education, treatment for mental health, family counseling, literacy assistance, job training, housing assistance or any other services or treatment that the community court deems appropriate. Section 11 provides that if the defendant successfully completes all conditions imposed by the community court, the sentence to which the defendant agreed upon with the justice court must not be executed or recorded. If the defendant does not successfully complete the conditions imposed, the case will be transferred back to the justice court, and the sentence must be carried out.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 205.060 is hereby amended to read as follows:

205.060 1. ~~[A]~~ *Except as otherwise provided in subsection 5, a person who, by day or night, enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable,*

outhouse or other building, tent, vessel, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, is guilty of burglary.

2. Except as otherwise provided in this section, a person convicted of burglary is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of burglary and who has previously been convicted of burglary or another crime involving the forcible entry or invasion of a dwelling must not be released on probation or granted a suspension of sentence.

3. Whenever a burglary is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car traveled during the time the burglary was committed.

4. A person convicted of burglary who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

5. *The crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny unless the person has previously been convicted:*

(a) *Two or more times for committing petit larceny within the immediately preceding 7 years; or*

(b) *Of a felony.*

Sec. 1.5. NRS 207.030 is hereby amended to read as follows:

207.030 1. It is unlawful to:

(a) Offer or agree to engage in or engage in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view;

(b) Offer or agree to engage in, engage in or aid and abet any act of prostitution;

(c) Be a pimp, panderer or procurer or live in or about houses of prostitution;

(d) Seek admission to a house upon frivolous pretexts for no other apparent motive than to see who may be therein, or to gain an insight of the premises;

(e) Keep a place where lost or stolen property is concealed;

(f) Loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act; or

(g) Lodge in any building, structure or place, whether public or private ~~[, without]~~ :

(1) *Where a notice of default and election to sell has been recorded, unless the person is the owner, tenant or entitled to the possession or control thereof;*

(2) *Which has been placed on a registry of vacant, abandoned or foreclosed property by a local government, unless the person is the owner, tenant or entitled to the possession or control thereof; or*

(3) *Without the permission of the owner or person entitled to the possession or in control thereof.*

2. A person who violates a provision of subsection 1 shall be punished:

(a) For the first violation of paragraph (a), (b) or (c) of subsection 1 and for each subsequent violation of the same paragraph occurring more than 3 years after the first violation, for a misdemeanor.

(b) For the second violation of paragraph (a), (b) or (c) of subsection 1 within 3 years after the first violation of the same paragraph, by imprisonment in the county jail for not less than 30 days nor more than 6 months and by a fine of not less than \$250 nor more than \$1,000.

(c) For the third or subsequent violation of paragraph (a), (b) or (c) of subsection 1 within 3 years after the first violation of the same paragraph, by imprisonment in the county jail for 6 months and by a fine of not less than \$250 nor more than \$1,000.

(d) For a violation of any provision of paragraphs (d) to (g), inclusive, of subsection 1, for a misdemeanor.

3. The terms of imprisonment prescribed by subsection 2 must be imposed to run consecutively.

4. A local government may enact an ordinance which regulates the time, place or manner in which a person or group of persons may beg or solicit alms in a public place or place open to the public.

Sec. 2. (Deleted by amendment.)

Sec. 3. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Chair of the Commission may apply for and accept any available grants and may accept any bequests, devises, donations or gifts from any public or private source to carry out the provisions of this section and NRS 176.0121 to 176.0129, inclusive.*

2. *Any money received pursuant to this section must be deposited in the Special Account for the Support of the Advisory Commission on the Administration of Justice, which is hereby created in the State General Fund. Interest and income earned on money in the Account must be credited to the Account. Money in the Account may only be used for the support of the Commission and its activities pursuant to this section and NRS 176.0121 to 176.0129, inclusive.*

Sec. 4. NRS 176.0121 is hereby amended to read as follows:

176.0121 As used in NRS 176.0121 to 176.0129, inclusive, *and section 3 of this act*, "Commission" means the Advisory Commission on the Administration of Justice.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. 1. The Advisory Commission on the Administration of Justice created pursuant to NRS 176.0123, shall, at a meeting held by the Commission, include as an item on the agenda a discussion of the following issues:

(a) A review of sentencing for all criminal offenses for which a term of imprisonment of more than 1 year may be imposed.

(b) An evaluation of the current system of parole, including a review of whether the current system should be maintained, amended or abolished.

(c) An evaluation of potential legislation relating to offenders for whom traditional imprisonment is not considered appropriate. In evaluating such potential legislation, the Commission shall consider current practices governing sentencing and release from imprisonment and correctional resources, including, without limitation, the capacities of local and state correctional facilities and institutions.

2. Upon review of the issues pursuant to subsection 1, the Commission shall prepare a comprehensive report including the Commission's recommended changes, the Commission's findings and any recommendations for proposed legislation. The report must be submitted to the Chair of the Senate Standing Committee on Judiciary and the Chair of the Assembly Standing Committee on Judiciary not later than June 1, 2014.

Sec. 9. As used in sections 10 and 11 of this act, "community court" means the community court that is established as part of a pilot project pursuant to section 10 of this act.

Sec. 10. 1. Each county may establish a community court pilot project within any of the justice courts located in the county to provide an alternative to sentencing a person who is charged with a misdemeanor ~~or~~ other than a misdemeanor constituting an act of domestic violence pursuant to NRS 33.018 or a violation of NRS 484C.110 or 484C.120.

2. Notwithstanding any other provision of law, a defendant charged with a misdemeanor other than a misdemeanor constituting an act of domestic violence pursuant to NRS 33.018 or a violation of NRS 484C.110 or 484C.120, may be transferred to the community court by the justice court if the defendant:

(a) Pleads guilty to the offense;

(b) Has not previously been referred to the community court;

(c) Agrees to comply with the conditions imposed by the community court; and

(d) Agrees to a sentence, including, without limitation, a period of imprisonment in the county jail, which must be carried out if the defendant does not successfully complete the conditions imposed by the community court.

3. When a defendant is transferred to the community court, sentencing must be postponed and, if the defendant successfully completes all conditions imposed by the community court, the sentence of the defendant must not be executed or appear on the record of the defendant. If the defendant does not successfully complete all conditions imposed by the community court, the sentence must be carried out.

4. A defendant who is transferred to the community court remains under the supervision of the community court and must comply with the conditions established by the community court.

5. Each county may collaborate with state and local governmental entities as well as private persons and entities to coordinate and determine the services and treatment that may be offered to defendants who are transferred to the community court.

6. A defendant does not have a right to be referred to the community court pursuant to this section. It is not intended that the establishment or operation of the community court creates any right or interest in liberty or property or establishes a basis for any cause of action against the State of Nevada, its political subdivisions, agencies, boards, commissions, departments, officers or employees. The decision by the justice court of whether to refer a defendant to the community court is not subject to appeal.

Sec. 11. 1. The community court shall provide for the evaluation of each defendant transferred to the community court to determine whether services or treatment is likely to assist the defendant to modify his or her behavior or obtain skills which may prevent the defendant from engaging in further criminal activity. Such services or treatment may include, without limitation, treatment for alcohol or substance abuse, health education, treatment for mental health, family counseling, literacy assistance, job training, housing assistance or such other services or treatment as the community court deems appropriate.

2. The community court shall provide or refer a defendant to a provider of such services or treatment. The community court may enter into contracts with persons or private entities that are qualified to evaluate defendants and provide services or treatment to defendants.

3. A defendant who is ordered by the community court to receive services or treatment shall pay for the services or treatment to the extent of his or her financial resources.

4. The justice court shall not refuse to refer a defendant to the community court based on the inability of the defendant to pay any or all of the related costs.

5. The community court shall order a defendant to perform a specified amount of community service in addition to any services or treatment to which the defendant is ordered to receive. Such community service must be performed for and under the supervising authority of a county, city, town or other political subdivision or agency of the State of Nevada or a charitable organization that renders service to the community or its residents.

6. Notwithstanding any other provision of law, if a defendant successfully completes the conditions imposed by the community court, the community court shall so certify to the justice court, and the sentence imposed pursuant to section 10 of this act must not be executed or recorded. If the defendant does not successfully complete the conditions imposed by the community court, the case must be transferred back to the justice court, and the sentence must be carried out.

AARON FORD
JUSTIN JONES

Senate Conference Committee

JASON FRIERSON
OLIVIA DIAZ
MICHELE FIORE

Assembly Conference Committee

Senator Ford moved that the Senate adopt the report of the Conference Committee concerning Assembly Bill No. 415.

Motion carried by a constitutional majority.

Mr. President:

The Conference Committee concerning Senate Bill No. 508, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 697 of the Assembly be concurred in. It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 20, which is attached to and hereby made a part of this report.

Conference Amendment.

"SUMMARY—Revises provisions relating to trains. (BDR 58-576)"

"AN ACT relating to trains; revising provisions relating to the California-Nevada Super Speed Ground Transportation System to provide for the Nevada High-Speed Rail System; repealing provisions relating to the employment of certain employees of railroad companies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for a California-Nevada Super Speed Ground Transportation Commission, charged with pursuing the development of a Super Speed Ground Transportation System connecting southern California with southern Nevada. (NRS 705.4291, 705.4293) Sections 1-3.8, 5 and 6 of this bill remove references to California's participation on the Commission and reorganize the System under the State of Nevada. Section 3 creates the Nevada High-Speed Rail Authority, and requires that the members of the Authority be appointed by the Governor ~~or the Majority Leader of the Senate and the Speaker of the Assembly.~~ Section 3.1 charges the Authority with pursuing the development of the Nevada High-Speed Rail System connecting southern California with southern Nevada. Section 3.2 gives the Authority the authority to perform various tasks related to the planning and development of the System. Section 3.3 allows the Authority to incorporate, and section 3.4 authorizes the Authority to issue bonds, notes, obligations or other evidences of borrowing to finance construction of the System. Section 3.5 requires the Governor to issue a proclamation declaring the completion of the System. Sections 3.6-3.8 and 6 provide that the provisions of law relating to the System and the Authority expire by limitation upon the proclamation of the Governor that the System has been completed. Section 5 provides staggered initial terms for the members of the Authority, and provides for the transfer to the Authority of any rights, obligations and property of the California-Nevada Super Speed Ground Transportation Commission.

Existing law requires the Legislative Counsel and the Research Director of the Legislative Counsel Bureau to work collaboratively to develop recommendations for the elimination of obsolete or antiquated provisions of the Nevada Revised Statutes. (NRS 220.085) Section 4 of this bill repeals certain obsolete provisions of existing law which prohibit the employment of certain engineers or engine drivers to run a locomotive or train and the discharging from employment of certain flaggers and trainmen. (NRS 705.240, 705.390, 705.420)

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

Section 1. NRS 705.4291 is hereby amended to read as follows:

705.4291 The Legislature finds and declares that:

1. Passage of NRS 705.4291 to 705.4296, inclusive, is a declaration of legislative intent that the ~~[States of California and Nevada jointly]~~ *State of Nevada* ~~[consider and, if justified, pursue the development]~~ *pursue the implementation* of a ~~[Super Speed Ground Transportation]~~ *High-Speed Rail System* connecting southern California with southern Nevada.

2. The System will:

- (a) Provide economic benefits to both southern California and southern Nevada.
- (b) Reduce reliance on gasoline- and diesel-fueled engines and encourage the use of alternative energy sources.
- (c) Reduce congestion on Interstate Highway No. 15 between southern California and Las Vegas.
- (d) Provide a working example for a transportation system that could play an essential role in the development of future commuter *and high-speed rail* service in the Los Angeles Basin and the Las Vegas Valley.
- (e) Provide quick and convenient transportation service for residents and visitors in southern California and southern Nevada.

Sec. 2. NRS 705.4292 is hereby amended to read as follows:

705.4292 As used in NRS 705.4291 to 705.4296, inclusive, unless the context otherwise requires:

1. ~~["Commission" means the California Nevada Super Speed Ground Transportation Commission.] "Authority" means the Nevada High-Speed Rail Authority created by NRS 705.4293.~~

2. *"High-Speed Rail System" means a system that:*

(a) Is capable of sustained speeds of at least 150 miles per hour, or the speed established by the United States Department of Transportation and the Federal Railroad Administration's plans and policies for high-speed rail express service;

(b) Carries primarily passengers;

(c) Operates on dedicated and exclusive standard gauge tracks for the purpose of high-speed rail service;

(d) Allows for interoperability with existing and planned rail systems; and

(e) Is certified by the Surface Transportation Board of the United States Department of Transportation as an interstate passenger railroad to construct and operate.

3. "Southern California" means the counties of Los Angeles, Orange, Riverside and San Bernardino.

~~3. "Super Speed Ground Transportation System" means a system that:~~

~~(a) Is capable of sustained speeds of at least 240 miles per hour;~~

~~(b) Uses magnetic levitation technology;~~

~~(c) Carries primarily passengers; and~~

~~(d) Operates on a grade-separated, dedicated guideway.]~~

Sec. 3. NRS 705.4293 is hereby amended to read as follows:

705.4293 1. There is hereby created the ~~{California Nevada Super Speed Ground Transportation Commission}~~ Nevada High-Speed Rail Authority as a separate legal entity. The governing body of the ~~{Commission}~~ Authority consists of ~~[-~~

~~(a) The members from California appointed pursuant to the law of California and the bylaws of the Commission.~~

~~(b) The same number of members from Nevada as are from California,] five members appointed by the Governor of Nevada, as follows:~~

~~(a) The Governor shall appoint one member;~~

~~(b) The Majority Leader of the Senate shall appoint two members; and~~

~~(c) The Speaker of the Assembly shall appoint two members.~~

~~2. The members must be residents of the State of Nevada and must be appointed based upon their knowledge, expertise or experience in the areas of rail transportation and high-speed rail service.~~

2. ~~{The}~~ After their initial terms, the members ~~{from Nevada}~~ serve for terms of 4 years and may be reappointed ~~at the pleasure of the Governor.~~

3. The ~~{Commission}~~ Authority shall elect one of its members as Chair.

Sec. 3.1. NRS 705.42935 is hereby amended to read as follows:

705.42935 The ~~{Commission}~~ Authority is hereby designated as an agency of the State of Nevada for the purposes of carrying out the provisions of NRS 705.4291 to 705.4296, inclusive.

Sec. 3.2. NRS 705.4294 is hereby amended to read as follows:

705.4294 ~~{1. The Commission may:~~

~~(a) Subject to the provisions of subsection 2, secure} The Authority may:~~

1. Secure a right-of-way and award a franchise for the construction and operation of a ~~{Super Speed Ground Transportation}~~ High-Speed Rail System principally following the route of Interstate Highway No. 15 between Las Vegas, Nevada, and a point in southern California.

~~{(b)}~~ 2. Acquire or gain control or use of land for rights-of-way, stations and ancillary uses through purchase, gift, lease, use permit or easement.

~~{(c)}~~ 3. Conduct engineering and other studies related to the selection and acquisition of rights-of-way and the selection of a franchisee, including, but not limited to, environmental impact studies, socioeconomic impact studies and financial feasibility studies. All local, state and federal environmental requirements must be met by the ~~{Commission}.~~

~~(d) Evaluate alternative technologies, systems and operators for a Super Speed Ground Transportation System, and select~~ Authority.

4. ~~Select a franchisee to construct and operate the [Super Speed Ground Transportation] High-Speed Rail System between southern California and Las Vegas.~~

~~[(e)] 5. Establish criteria for the award of the franchise [~~

~~(f)] , which must include, without limitation:~~

~~(a) The extent to which environmental studies have been completed;~~

~~(b) The level of private investment that has been made or committed;~~

~~(c) Construction readiness; and~~

~~(d) Pending or completed permit applications to implement a High-Speed Rail System.~~

6. Accept grants, gifts, fees and allocations from Nevada or its political subdivisions, the Federal Government, foreign governments and any private source.

~~[(g)] 7. Issue debt, but this debt does not constitute an obligation of the [State of California or the] State of Nevada, or any of [their] its political subdivisions.~~

~~[(h)] 8. Hire an Executive Officer, other staff and any consultants deemed appropriate.~~

~~[(i) Select the exact route and terminal sites.~~

~~[(j)] 9. Obtain, or assist the selected franchisee in obtaining, all necessary permits and certificates from governmental entities in California and Nevada [~~

~~2. Before the:~~

~~(a) Commission or a franchisee begins construction in Nevada; and~~

~~(b) Receipt of any final certificates and permits necessary for the construction or use of a public right of way;~~

~~the route and terminals selected by the Commission must be approved by the appropriate local, regional and state governmental entities in Nevada which have jurisdiction over the route and terminals located in this state. As a condition of awarding a franchise, the Commission shall require the franchisee to comply with this subsection.~~

~~3. Before the:~~

~~(a) Commission or a franchisee begins construction in California; and~~

~~(b) Receipt of any final certificates and permits necessary for the construction or use of a public right of way;~~

~~the route and terminals selected by the Commission must be approved by the appropriate local, regional and state governmental entities in California which have jurisdiction over the route and terminals located in that state. As a condition of awarding a franchise, the Commission shall require the franchisee to comply with this subsection.] , recognizing the preemptive federal authority of the Surface Transportation Board of the United States Department of Transportation over interstate passenger railroads.~~

10. Negotiate, enter into and execute all necessary local, regional and state governmental agreements to allow for the construction and implementation of the High-Speed Rail System.

Sec. 3.3. NRS 705.4295 is hereby amended to read as follows:

705.4295 1. The ~~[Commission]~~ Authority may incorporate under the general incorporation laws of either this state or the State of California, whichever the ~~[Commission]~~ Authority determines to be in its best interests. Copies of its proceedings, records and acts, when authenticated, are admissible in evidence in all courts of either State and are prima facie evidence of the truth of all statements therein.

2. The members of the ~~[Commission]~~ Authority and its agents and employees are not liable for any damages that result from any act or omission in the performance of their duties or the exercise of their powers pursuant to NRS 705.4291 to 705.4296, inclusive.

Sec. 3.4. NRS 705.42955 is hereby amended to read as follows:

705.42955 1. The ~~[Commission]~~ Authority, or a corporation formed by the ~~[Commission]~~ Authority pursuant to the laws of this state or the State of California, as the ~~[Commission]~~ Authority deems appropriate, may issue bonds, notes, obligations or other evidences of borrowing to finance all or a part of the construction of all or a part of the ~~[Super Speed Ground Transportation] High-Speed Rail System. For purposes of issuing bonds, notes, obligations or other evidences of borrowing pursuant to this section, the [Commission] Authority and any corporation formed by the [Commission] Authority are constituted authorities for the purposes of~~

regulations enacted by the Internal Revenue Service pursuant to 26 U.S.C. §§ 103 and 141 to 150, inclusive.

2. Bonds, notes, obligations or other evidences of borrowing issued by the ~~{Commission}~~ Authority or any corporation formed by the ~~{Commission}~~ Authority which are issued to finance all or any part of the construction of all or a part of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System may be payable from and secured by:

(a) A pledge of property of the ~~{Commission}~~ Authority or a corporation formed by the ~~{Commission}~~ Authority pursuant to this section;

(b) A pledge of any revenue of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System, including revenue from fares, revenue from advertising and all other revenue of the System; and

(c) A pledge of any other money made available to the ~~{Commission}~~ Authority or a corporation formed by the ~~{Commission}~~ Authority pursuant to this section by:

(1) Grants from the Federal Government or any other federal funds as may be available to pay costs of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System or debt service on any borrowing;

(2) Any company, public or private; or

(3) Any local government or governmental entity in this state or in the State of California pursuant to an intergovernmental agreement or otherwise.

3. The ~~{Commission}~~ Authority may enter into agreements with any person, local government or governmental entity for the provision of resources or assistance to the ~~{Commission}~~ Authority or a corporation formed by the ~~{Commission}~~ Authority concerning the financing of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System.

4. The ~~{Commission}~~ Authority or any corporation formed by the ~~{Commission}~~ Authority pursuant to this section may issue obligations to refund any obligations issued pursuant to the provisions of this section and NRS 705.4291 to 705.4296, inclusive, for any purpose the ~~{Commission}~~ Authority determines to be sufficient.

5. Nothing in this section authorizes the ~~{Commission}~~ Authority or any corporation formed by the ~~{Commission}~~ Authority to obligate this state or the State of California or any political subdivision thereof unless such State or political subdivision has obligated itself to the ~~{Commission}~~ Authority or a corporation created by the ~~{Commission}~~ Authority through an intergovernmental agreement.

6. ~~{Unless a specific statute of this state or the State of California requires otherwise, upon dissolution of the Commission, all property of the Commission must be distributed between this state and the State of California in an equitable manner as agreed upon by the States.}~~

~~7.}~~ The creation, perfection, priority and enforcement of any lien on pledged revenue or other money established to secure any bond, note, obligation or other evidence of borrowing issued pursuant to this section, must be as specified in this section and in the instruments approved by the ~~{Commission}~~ Authority pertaining to that bond, note, obligation or other evidence of borrowing. It is the purpose of this section to provide expressly for the creation, perfection, priority and enforcement of a security interest created by the ~~{Commission}~~ Authority in pledged revenues or other money in connection with bonds, notes, obligations or other evidences of borrowing issued pursuant to this section, as provided for in paragraph (n) of subsection 4 of NRS 104.9109. Any lien on pledged revenue or other money created to secure any bond, note, obligation or other evidence of borrowing issued pursuant to this section has priority over any lien thereon created pursuant to the provisions of chapter 104 of NRS unless otherwise provided in the instrument creating the lien to secure such bond, note, obligation or other evidence of borrowing issued pursuant to the provisions of this section.

Sec. 3.5. NRS 705.4296 is hereby amended to read as follows:

705.4296 The Governor shall declare, by public proclamation on the date of completion of the ~~{Super Speed Ground Transportation}~~ High-Speed Rail System connecting southern California with Southern Nevada, that the System has been completed.

Sec. 3.53. NRS 709.050 is hereby amended to read as follows:

709.050 1. The board of county commissioners may grant to any person, company, corporation or association the franchise, right and privilege to construct, install, operate and maintain street railways, electric light, heat and power lines, gas and water mains, telephone and

telegraph lines, and all necessary or proper appliances used in connection therewith or appurtenant thereto, in the streets, alleys, avenues and other places in any unincorporated town in the county, and along the public roads and highways of the county, when the applicant complies with the terms and provisions of NRS 709.050 to 709.170, inclusive.

2. The board of county commissioners shall not:

(a) Impose any terms or conditions on a franchise granted pursuant to subsection 1 for the provision of telecommunication service or interactive computer service other than terms or conditions concerning the placement and location of the telephone or telegraph lines and fees imposed for a business license or the franchise, right or privilege to construct, install or operate such lines.

(b) Require a company that provides telecommunication service or interactive computer service to obtain a franchise if it provides telecommunication service over the telephone or telegraph lines owned by another company.

3. As used in NRS 709.050 to 709.170, inclusive:

(a) "Interactive computer service" has the meaning ascribed to it in 47 U.S.C. § 230(f)(2), as that section existed on January 1, 2007.

(b) "Street railway" means:

(1) A system of public transportation operating over fixed rails on the surface of the ground; or

(2) An overhead or underground system, other than a monorail, used for public transportation.

➡ The term does not include a ~~{super speed ground transportation system}~~ *High-Speed Rail System* as defined in NRS 705.4292.

(c) "Telecommunication service" has the meaning ascribed to it in NRS 704.028.

4. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

Sec. 3.57. NRS 709.290 is hereby amended to read as follows:

709.290 1. The county commissioners, town trustees, supervisors or other governing body directly entrusted with the management of affairs of any town or city in this State are authorized to sell to the highest responsible bidder any franchise for a street railway through and over any street or streets of such town, according to the provisions of NRS 709.310.

2. As used in NRS 709.290 to 709.360, inclusive, "street railway" means:

(a) A system of public transportation operating over fixed rails on the surface of the ground; or

(b) An overhead or underground system, other than a monorail, used for public transportation.

➡ The term does not include a ~~{Super Speed Ground Transportation}~~ *High-Speed Rail System* as defined in NRS 705.4292.

3. As used in this section, "monorail" has the meaning ascribed to it in NRS 705.650.

Sec. 3.6. Section 3.5 of chapter 88, Statutes of Nevada 2001, as added by section 7 of chapter 2, Statutes of Nevada 2003, at page 6, is hereby amended to read as follows:

Sec. 3.5. NRS 705.4291, 705.4292, 705.4293, 705.4294, 705.4295 and 705.4296 expire by limitation:

1. One year after the date on which the governor declares by public proclamation that the ~~{super speed ground transportation system}~~ *High-Speed Rail System* connecting southern California with southern Nevada has been completed; or

2. On the date all borrowing made pursuant to section 1 of this act is retired, whichever is later.

Sec. 3.7. Section 4 of chapter 88, Statutes of Nevada 2001, at page 560, is hereby amended to read as follows:

Sec. 4. 1. This act becomes effective on July 1, 2001.

2. Sections 1 and 2 of this act expire by limitation:

(a) One year after the date on which the governor declares by public proclamation that the ~~{super speed ground transportation system}~~ *High-Speed Rail System* connecting southern California with southern Nevada has been completed; or

(b) On the date all borrowing made pursuant to section 1 of this act is retired, whichever is later.

Sec. 3.8. Section 5 of chapter 209, Statutes of Nevada 2003, at page 1173, is hereby amended to read as follows:

Sec. 5. 1. This act becomes effective on July 1, 2003.

2. Sections 1 to 4, inclusive, of this act expire by limitation:

(a) One year after the date on which the Governor declares by public proclamation that the ~~Super Speed Ground Transportation~~ *High-Speed Rail* System connecting southern California with southern Nevada has been completed; or

(b) On the date all borrowing made pursuant to NRS 705.42955 is retired, whichever is later.

Sec. 4. NRS 705.240, 705.390 and 705.420 are hereby repealed.

Sec. 5. On the effective date of this act:

1. The rights, obligations and property of the State of Nevada in the California-Nevada Super Speed Ground Transportation Commission, if any, become the rights, obligations and property of the Nevada High-Speed Rail Authority.

2. The terms of the Nevada members of the California-Nevada Super Speed Ground Transportation Commission expire. The initial appointments to the Nevada High-Speed Rail Authority must be made as follows:

(a) The Governor shall appoint one member to a term beginning on October 1, 2013, and ending on September 30, 2015; ~~and~~

(b) The ~~Majority Leader of the Senate and the Speaker of the Assembly shall each appoint~~

~~(1) One member to a term~~ Governor shall appoint two members to terms beginning on October 1, 2013, and ending on September 30, 2016; and

~~f (2) One member to a term~~

(c) The Governor shall appoint two members to terms beginning on October 1, 2013, and ending on September 30, 2017.

3. Any agreements entered into by the California-Nevada Super Speed Ground Transportation Commission terminate.

Sec. 6. 1. This act becomes effective upon passage and approval.

2. Sections 1 to 3.5, inclusive, of this act expire by limitation:

(a) One year after the date on which the Governor declares by public proclamation that the High-Speed Rail System connecting southern California with southern Nevada has been completed; or

(b) On the date all borrowing made pursuant to NRS 705.42955 is retired, whichever is later.

TEXT OF REPEALED SECTIONS

705.240 Engineer required to be able to read timetables and ordinary handwriting; penalty.

1. It shall be unlawful for any person, as an officer of a corporation or otherwise, knowingly to employ an engineer or engine driver to run a locomotive or train on any railway if such engineer or engine driver cannot read timetables and ordinary handwriting.

2. It shall be unlawful for any person who cannot read timetables and ordinary handwriting to act as an engineer or run a locomotive or train on any railway.

3. Any person who violates any provision of this section shall be guilty of a gross misdemeanor.

705.390 Protection of flagger and trainman employed on certain dates from discharge or loss of employment. No person employed as a flagger on any railroad in this State on April 1, 1963, may be discharged or lose such employment by reason of the provisions of chapter 176, Statutes of Nevada 1963. No person holding seniority as a trainman on any railroad in this State on July 1, 1985, may be discharged or lose such employment by reason of the provisions of chapter 358, Statutes of Nevada 1985. But if a flagger or a trainman retires, terminates or voluntarily leaves such employment, the railroad company need not replace the position so vacated.

705.420 Penalty. Any railroad company or receiver of any railroad company, and any person engaged in the business of common carrier doing business in the State of Nevada, which

violates any of the provisions of NRS 705.390 is liable to the Public Utilities Commission of Nevada for a penalty of \$500 for each violation.

MARK MANENDO

PAT SPEARMAN

DONALD GUSTAVSON

Senate Conference Committee

RICHARD CARRILLO

JAMES HEALEY

JIM WHEELER

Assembly Conference Committee

Senator Manendo moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 508.

Motion carried by a constitutional majority.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 3, 2013

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 162.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 162.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 9.

Resolution read.

The following amendment was proposed by Senator Smith:

Amendment No. 988.

"SUMMARY—Directs the Legislative Commission to appoint a committee to conduct an interim study regarding working conditions at state correctional institutions and facilities [.] and relating to the supervision of offenders. (BDR R-1223)"

"SENATE CONCURRENT RESOLUTION—Directing the Legislative Commission to appoint a committee to conduct an interim study regarding working conditions at state correctional institutions and facilities [.] and relating to the supervision of offenders."

WHEREAS, Our State needs safe, secure, efficient and effective correctional institutions and facilities for the proper functioning of our State's criminal justice system and for the maintenance of a well-functioning society in our State; and

WHEREAS, Safe, secure, efficient and effective correctional institutions and facilities cannot exist without the dedicated, hard-working correctional officers, employees and other persons who work in these potentially difficult, stressful and dangerous environments; and

WHEREAS, The correctional officers, employees and other persons who work at this State's correctional institutions and facilities cannot do their work efficiently and effectively and maintain safe and secure environments

in these institutions and facilities without appropriate staffing levels at the institutions and facilities, without well-designed policies and procedures governing the entire system of institutions and facilities and without well-monitored and supportive management practices in place at each institution and facility; and

WHEREAS, Appropriate staffing levels and the proper functioning of our State's criminal justice system can be significantly impacted by the systems, policies and procedures which govern the parole or probation of offenders in our State; and

WHEREAS, The staffing levels at this State's correctional institutions and facilities, the policies and procedures ~~governing~~ affecting this State's system of correctional institutions and facilities, including, without limitation, those affecting parole or probation of offenders, and the management practices at each institution and facility all dramatically affect working conditions and the proper functioning of our State's criminal justice system and should be regularly examined to ensure that they remain appropriate and effective for the physical safety and psychological support of correctional officers, employees and other persons who work at this State's correctional institutions and facilities, in addition to ensuring that they remain appropriate and effective in providing safe, secure, efficient and effective correctional institutions and facilities for all offenders, all other persons associated with the institutions and facilities and all other members of the public; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the Legislative Commission is hereby directed to appoint a committee to conduct an interim study of ~~the~~ :

1. The working conditions at this State's correctional institutions and facilities to ensure that:

~~1-1~~ (a) The staffing levels are adequate and appropriate;

~~1-2~~ (b) The system-wide policies and procedures are appropriate and effective;

~~1-3~~ (c) Appropriate and effective management practices are in place to protect the physical safety and to support the psychological well-being of all correctional officers, employees and other persons who work at the institutions and facilities; and

~~1-4~~ (d) The system as a whole is providing the safe, secure, efficient and effective correctional institutions and facilities this State needs and deserves; and

2. The systems, policies and procedures which govern the supervision of offenders in our State to ensure that they are appropriate and effective; and be it further

RESOLVED, That, as soon as practicable after July 1, 2013, the Legislative Commission shall appoint a committee composed of three members of the Senate and three members of the Assembly to conduct the

study, one of whom must be appointed by the Commission to serve as Chair of the committee; and be it further

RESOLVED, That the committee shall consult with and solicit input from persons and organizations with expertise in matters relevant to ~~[this State's correctional institutions and facilities,]~~ the study including, without limitation, consulting with and soliciting input from correctional officers, employees and other persons who work at the institutions and facilities ~~[,]~~ , as well as persons who have experience relating to the supervision of offenders; and be it further

RESOLVED, That ~~[in studying this State's correctional institutions and facilities, the committee shall consider, without limitation,]~~ the study must include, without limitation:

1. ~~[Other.]~~ A review of other states' laws, staffing levels, policies, procedures and management practices relating to correctional institutions and facilities; ~~and]~~

2. ~~[The.]~~ Consideration of advisability of using staffing committees comprised of both persons who hold managerial positions and persons who hold nonmanagerial positions to develop staffing plans and to make recommendations for policies, procedures and management practices relating to this State's correctional institutions and facilities;

3. A survey of the parole systems of this State and other states and territories of the United States;

4. A review of data from states that replaced discretionary parole systems with determinate sentencing systems;

5. A review of whether the Division of Parole and Probation of the Department of Public Safety or any of its functions or duties should be reorganized or transferred to the Department of Corrections; and

6. A review of any other matter relating to the supervision of offenders that the committee determines is relevant to the study; and be it further

RESOLVED, That the committee appointed by the Legislative Commission to conduct this interim study shall submit a report of its findings, including, without limitation, any proposed changes to staffing levels, policies, procedures or management practices relating to this State's correctional institutions and facilities, and policies and procedures relating to the supervision of offenders and any recommendations for legislation, to the 78th Session of the Nevada Legislature; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to each member of the Board of State Prison Commissioners and to the Director of the Department of Corrections.

Senator Spearman moved the adoption of the amendment.

Remarks by Senators Spearman and Settelmeyer.

SENATOR SPEARMAN:

Thank you, Mr. President. Amendment No. 988 to Senate Concurrent Resolution No. 9 merges Senate Bill No. 347 with Senate Concurrent Resolution No. 9 so it becomes one study.

SENATOR SETTELMEYER:

Thank you, Mr. President. I rise in opposition to Senate Concurrent Resolution No. 9. The information we have received from Greg Cox of Nevada Department of Corrections indicated a study has already been approved by the Association of State Correctional Administrators overseen by the National Institute of Correctional Officers. This study will look at all shifts and all facilities, except camps; the training session for those involved in the process is set to begin this coming July. The letter I am looking at is dated March 11, 2013. The idea of doing the study contemplated in Senate Concurrent Resolution No. 9 is duplicative. Given that staffing lies solely within the purview of the Board of State Prison Commissioners under Section 21 of Chapter 209 of *Nevada Revised Statutes*, and that authority is under Section 21 of Article V of the *Nevada Constitution*. The Board of State Prison Commissioners include the Governor, the Secretary of State and the Attorney General. I do not believe we have the power to be conducting the study. I urge your no vote.

Amendment adopted.

Senator Smith moved that all necessary rules be suspended, that the reprinting of Senate Concurrent Resolution No. 9 be dispensed with, that the Secretary be authorized to insert Amendment No. 988 adopted by the Senate, and that the resolution be placed on the Resolution File, and considered next.

Motion carried.

Resolution read.

Senator Jones moved the adoption of the resolution.

Resolution adopted.

Resolution ordered reprinted, re-engrossed and transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bills Nos. 1, 31, 50, 67, 80, 228, 311, 344, 362, 370, 408, 414, 419, 436, 444, 480, 499.

REMARKS FROM THE FLOOR

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

SENATOR KIECKHEFER:

Thank you, Mr. President. I would like to say thank you to all of my colleagues for your service to the State of Nevada. Despite some bills that did not quite make it, we made some significant strides—especially in education—this Session. We passed a balanced budget that puts more than half a billion dollars back into our K-12 education system; that is one thing I am particularly proud of. There are things that happened this Session that many did not think were possible. I enjoyed hearing Senator Segerblom and Senator Hutchison sitting next to each other arguing on behalf of medical marijuana dispensaries; it was not something I thought would happen when we arrived here for start of Session.

I want to compliment the Senate Leadership. I thank my leader, Senator Roberson, for what he did to bring our Caucus together, take positions and drive the conversation this Session. I think he did a fabulous job.

SENATOR DENIS:

Thank you, Mr. President. As we complete the 77th Legislative Session, I believe it is appropriate and essential that we take a few moments to reflect on our many accomplishments in the area of public policy. On the first day of Session, I said we had a great deal of work to do to build a better Nevada, and that we would accomplish this work if we worked together for the

best interests of this great State. I welcomed all of our new members and said that we expected great things from them. We have done a great work. We have worked together. Everyone rose to the challenge.

With limited revenues and a tight budget, this Legislature was able to work together this Session and move forward in a number of important areas. Of course this progress could not have been accomplished without the cooperation and support of Governor Brian Sandoval. I thank him for all he has done for our great State this Session, and I look forward to working with him in the months and years to come.

I would like to highlight a few examples of good public policy approved this Session. Several bills this year addressed Nevada's gaming industry which continues to be the economic engine which drives this State. Early in the Session we were the first state in the nation to allow online interactive gaming with Assembly Bill No. 114. Just a few days ago, we approved a bill that would ban sports betting kiosks in bars, taverns and other establishments holding only restricted gaming licenses—Senate Bill No. 416.

This Session education was one of the most important topics of the Legislature. As we all know, the future of our great State and nation depends so much on the education we provide to our children. We agreed with the Governor that Full-Day Kindergarten be expanded. We also provided for the first time State funds for English Language Learners. We addressed the reform of high school testing requirements. We established a new funding formula for higher education. The Legislature also passed legislation aimed at improving academic achievement including changes to the school accountability system and graduation requirements. Most recently we continued the work of the 2011 Legislature in creating a robust teacher-evaluation system.

The 2013 Legislature followed up on efforts made during the 2011 Legislative Session by passing and referring two significant constitutional amendment proposals to the voters for final action in November 2014: one would create a much-needed appellate court system in Nevada; while the other would eliminate the provision that limits the ability of the State to tax fairly the net proceeds of mines. By not acting on the Initiative Proposal to establish a Margins Tax by law, this proposal will also be decided by the voters in 2014.

In addition to the enhanced funding we provided this Session to extend Medicaid benefits to more Nevadans, we also passed important related legislation. For example, Assembly Bill No. 221 requires the Director of the Department of Health and Human Services to consider measures to revise the manner in which payments are reviewed and made to providers under Medicaid for the Children's Health Insurance Program. Assembly Bill No. 1 requires the Director of the Department of Health and Human Services to include the State Plan for Medicaid, a requirement that the State covers certain costs for emergency care including dialysis provided to patients with kidney failure.

In a bold effort to improve public safety on our streets and highways, we approved legislation that would allow persons who are in the United States undocumented to obtain a driver's authorization card through Senate Bill No. 303. Many undocumented residents in Nevada currently drive even though they do not have a driver's license or insurance. This new program will enable such persons to pass the driving test at the Department of Motor Vehicles, pay an annual fee for the card and also require liability insurance for their vehicles.

Senate Bill No. 321 established for the first time the Nevada Homeowners' Bill of Rights. This measure also provides additional safeguards to homeowners concerning the foreclosure process, much like the California Homeowners' Bill of Rights. The Nevada law ends the practice of dual tracking which has been a common practice of banks to proceed with foreclosure at the same time as they are supposed to work on a loan modification with the homeowner. In addition, the bill requires single point-of-contact servicing requirements and eliminates paper and phone calls that typically delay efforts to get loan modifications approved.

The results of several other policies we passed, such as infant screening for congenital heart defects through submitting data on pulse oximetry screening results, will benefit the State. We also approved the creation of the State Task Force for the Prevention of Sexual Abuse of Children. We approved legislation that prevents insurance companies from making different coverage limits between certain orally-administered forms of chemotherapy and other forms of chemotherapy; that bill also limits copayments, deductibles and co-insurance amounts for orally-administered chemotherapy to no more than \$100 per prescription.

We expanded the list of hate crimes. We approved an important bill related to genetic marker analysis which contains provisions to strengthen an existing State law known as Brianna's Law, Senate Bill No. 243. The bill also established a State DNA database, imposes an administrative assessment upon a defendant convicted of any crime and requires a biological specimen be obtained from a person arrested for a felony. This new law will also establish the Subcommittee to Review Arrestee DNA within the Advisory Commission on the Administration of Justice.

The Legislature also approved significant new legislation on recruiting and marketing efforts to attract professionals and businesses to Nevada, a Registry of Putative Fathers and the termination of parental rights, transferrable tax credits to attract film and other production to the State and an extension of purposes for which a school district may issue general obligation bonds. Many other bills we approved also contained important policy considerations.

At the beginning of Session, I talked about three goals I felt we needed to accomplish to build a better Nevada: (1) to create jobs, (2) to immediately improve our schools and (3) to make sure we have a fair revenue structure that meets the needs of modern-day Nevada. We did do more to help our schools, and we have done some things to help bring jobs to Nevada. We still have yet to make sure we have a fair and balanced revenue structure going into the future, but we have some things in place the help. I have made a personal commitment during the Interim to work on some things that we can bring back for the next Session.

I will continue to fight for the immigrant community, to protect the great treasure we have at Lake Tahoe, to fight for the mentally ill and those who cannot fight for themselves. We have done some great things in those respects.

In closing, I want to thank our wonderful Senate staff and the staff of the Legislative Counsel Bureau. We could not have accomplished so many good things for the good people of Nevada without your expertise and diligent efforts. To our fellow members—and certainly to our Senate President—I am rather overwhelmed when I look back and see so many positive accomplishments. Governing needs to be a team effort. I extend my thanks to each and every one of you for pulling together and putting the well-being of the State of Nevada and its residents as our number one priority. Thank you for the opportunity to serve, and thank you for all of the great work that has been accomplished. Nevada is better because of it.

MR. PRESIDENT:

Thank you, Senator Denis for your leadership and for setting the tone of camaraderie and bipartisanship. For someone who has spent multiple sessions here, it has been a wonderfully refreshing period of time. I am grateful for that leadership.

SENATOR SMITH:

Thank you, Mr. President. I also want to express my thanks and share my gratitude with everyone here for making this a productive and meaningful Session, both for me and for our residents. When I look around at my colleagues, I know what each of you cared about and what each of you sponsored: community colleges, insulin for diabetes available at schools, protecting children with a longer period of time in which perpetrators can be charged, new markets, drivers' authorization cards, a safe needle program, medical marijuana, marriage equality, so much to honor our veterans, for adoptive parents, safety issues, homeowners, protecting animals, education, career and technical training, energy, agriculture, next-of-kin registry. Our colleague from Senate District No. 5 who is not with us tonight did a ton of work on education. We have spent so much time together. I have learned so much about what you care about and where your hearts are. I want to thank you.

We have the most amazing freshman class. I do not really consider myself a freshman, but I am in that class as well. The rest of you freshmen are phenomenal. I came to this Body thinking how in the world could anyone come into a new Body like this and have to Chair a committee; all of the new Chairmen excelled. Those who weren't chairing pitched in regularly to make this place work.

We did accomplish a lot of good work. I find myself wanting to reassure you not to feel bad about the way we ended tonight with having a few things undone. I can tell you my first three or four Sessions ended up the same way. We had some pretty amazing leaders and some pretty big issues during those times; we had a hard time making it by midnight as well—actually, it was a 1 a.m. deadline in those days. Please know that your work is appreciated. Your families have

sacrificed so much for you to do what you did over these last four months. Do not leave here feeling a bit bad about the way things ended. It is the previous four months, it is the backward look, that you should be so proud of. I thank you for your kindness to me and in helping me get through a new place and a new position.

I think we have a lot of work left to do together. To all of our staff, all of the people out there listening, in every department—we have so many unsung heroes out there; we do not even see their faces—they help us get through every day. All of the agency staff in the Executive Branch who are out there listening every day to what we do—our decisions affect them so much; I say thank you to them.

SENATOR SETTELMEYER:

Thank you, Mr. President. It has been an absolute honor and a privilege to serve with all of you. I do believe, Senator Smith—we are headed into *sine die* so I do not have to address you as my colleague from Senate District No. 13—you have truly honored Brianna Dennison's memory. And you turned me around; I was actually against the bill originally, several years ago. Kudos to you, and congratulations.

We have forged a new era of cooperation. In the past, certain individuals in this Body, when we were in the other Body, did not necessarily get along. I see a new spirit of cooperation toward a common goal, to do what is best for this State overall. At the same time, this Session has been far more emotional than all the other Sessions added together. It has been a strange time, but a great time. With that, I thank you all. I will deeply miss the working relationships we have built with Senator Cegavske and Lieutenant Governor Krolicki.

SENATOR HARDY:

Thank you, Mr. President. I appreciate serving with you all. I appreciate the opportunity we have to engage with the lobbyists, the stakeholders—the many who are concerned about Nevada, not just their own little bailiwick. It has been a pleasure to serve. It has been an interesting Session. I have appreciated the Chairs of the Committees I sat on; they have been patient with me. I have appreciated the Senate Leadership and the camaraderie we have enjoyed. Inasmuch as we have disagreed, we have still been agreeable. This Session has proved that it can be done.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Hammond, the privilege of the Floor of the Senate Chamber for this day was extended to Kirsti Van Ry.

On request of Senator Jones, the privilege of the Floor of the Senate Chamber for this day was extended to Antonio Randazza, Jennifer Randazza, Marc Randazza and Natalia Randazza.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Jan Brase.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to Jodi Poley.

On request of Senator Spearman, the privilege of the Floor of the Senate Chamber for this day was extended to Kristina Little.

MOTIONS, RESOLUTIONS AND NOTICES

Mr. President appointed Senators Spearman, Parks and Hardy as a committee to wait upon the Assembly and to inform that honorable Body that the Senate was ready to adjourn *sine die*.

Mr. President appointed Senators Cegavske, Ford and Kihuen as a committee to wait upon His Excellency, Brian Sandoval, Governor of the

State of Nevada, and to inform him that the Senate was ready to adjourn *sine die*.

A committee from the Assembly, consisting of Assemblymen Aizley, Carlton and Hardy appeared before the bar of the Senate and announced that the Assembly is ready to adjourn *sine die*.

Senator Spearman reported that her committee had informed the Assembly that the Senate is ready to adjourn *sine die*.

Senator Cegavske reported that her committee had informed the Governor that the Senate is ready to adjourn *sine die*.

Senator Denis moved that the 77th Session of the Senate of the Legislature of the State of Nevada adjourn *sine die*.

Motion carried.

Senate adjourned *sine die* at 12:45 a.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate