

THE ONE HUNDRED AND TWENTIETH DAY

CARSON CITY (Monday), June 1, 2015

Assembly called to order at 10:07 a.m.

Mr. Speaker presiding.

Roll called.

All present except Assemblymen Dooling and Moore, who were excused.

Prayer by the Chaplain, Pastor Albert Tilstra.

Lord, we are ashamed that money and position speak to us more loudly than does the simple compassion of the human heart. Help us to care, as You care, for the little people who have no lobbyists, for the minority groups who sorely need justice. May it be the glory of our government that not only the strong are heard, but also the weak; not only the powerful, but the helpless; not only those with influence, but also who have nothing but a case and an appeal.

May we put our hearts into our work, that our work may get into our hearts.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Legislative Operations and Elections, to which were referred Assembly Bills Nos. 495, 496, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

LYNN D. STEWART, *Chair*

Mr. Speaker:

Your Committee on Taxation, to which was referred Senate Bill No. 412, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DEREK ARMSTRONG, *Chair*

Mr. Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Senate Bill No. 230, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PAUL ANDERSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 31, 2015

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 77, 135, 474, 484, 488.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 111.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendment No. 951 to Senate Bill No. 195; Assembly Amendment No. 783 to Senate

Bill No. 247; Assembly Amendments Nos. 1010, 1011 to Senate Bill No. 324; Assembly Amendment No. 995 to Senate Bill No. 489.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 348.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

By Assemblyman Hambrick (Emergency Request of the Speaker of the Assembly):

Assembly Bill No. 498—AN ACT relating to electric utilities; revising provisions relating to the emissions reduction and capacity replacement plan of an electric utility; and providing other matters properly relating thereto.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 111.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 5.

The following Senate amendment was read:

Amendment No. 1024.

AN ACT relating to public welfare; requiring the Aging and Disability Services Division of the Department of Health and Human Services to enter into an agreement with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to provide long-term support to persons with intellectual disabilities and persons with related conditions; **authorizing the Administrator of the Aging and Disability Services Division to adopt regulations governing the provision of services to certain persons with intellectual disabilities and persons with related conditions;** requiring the Aging and Disability Services Division to provide preferences for potential providers of jobs and day training services in issuing certificates authorizing the provision of such services and in entering into agreements concerning the provision of such services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to administer certain programs concerning employment and independent living for persons with disabilities. (NRS 232.945) Existing law also requires the Aging and Disability Services Division of the Department of Health and Human Services to regulate the

provision of jobs and day training services and supported living arrangement services to persons with **intellectual** disabilities and persons with related conditions. (NRS 435.130-435.339) **Section 1** of this bill requires the Aging and Disability Services Division to enter into a cooperative agreement with the Rehabilitation Division to provide long-term support to persons with intellectual disabilities and persons with related conditions. **Section 1 also authorizes the Administrator of the Aging and Disability Services Division to adopt regulations governing the provision of services to persons with intellectual disabilities and persons with related conditions who are unable or unwilling to be employed.**

Existing law requires a natural person and certain entities to obtain a certificate from the Aging and Disability Services Division before providing jobs and day training services in this State, which are services provided to persons with intellectual disabilities or persons with related conditions to enhance self-sufficiency and success in employment. (NRS 435.176, 435.225) Existing law also authorizes the Aging and Disability Services Division to enter into agreements with public and private agencies as it deems necessary for the provision of jobs and day training services. (NRS 435.220)

Sections 1.5 and 2 of this bill require the Aging and Disability Services Division to give preference to potential providers of jobs and day training services who will provide persons with intellectual disabilities or persons with related conditions with training and experience leading to employment that: (1) is comparable to employment for persons without intellectual disabilities and persons without related conditions; and (2) pays at or above the state minimum wage. The Aging and Disability Services Division is required to give such a preference when: (1) issuing certificates which authorize the provisions of jobs and day training services; and (2) entering into agreements with public and private agencies for the provision of jobs and day training services. **Sections 1.5 and 2** also require each application for the issuance or renewal of such a certificate and each such agreement to include a provision that employment is the primary service option for all adults of working age.

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

Section 1. Chapter 435 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Division shall enter into a cooperative agreement with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to provide long-term support to persons with intellectual disabilities and persons with related conditions, including, without limitation, jobs and day training services and supported living arrangement services. The agreement must include a provision stating that employment is the preferred service option for all adults of working age.

2. The Administrator may adopt regulations governing the provision of services to persons with intellectual disabilities and persons with related conditions who are unable or unwilling to be employed.

Sec. 1.5. NRS 435.220 is hereby amended to read as follows:

435.220 1. The Division shall adopt regulations governing jobs and day training services, including, without limitation, regulations that set forth:

(a) Standards for the provision of quality care and training by providers of jobs and day training services;

(b) The requirements for the issuance and renewal of a certificate; and

(c) The rights of consumers of jobs and day training services, including, without limitation, the right of a consumer to file a complaint and the procedure for filing the complaint.

2. The Division may enter into such agreements with public and private agencies as it deems necessary for the provision of jobs and day training services. *Any such agreements must include a provision stating that employment is the preferred service option for all adults of working age.*

3. *For the purpose of entering into an agreement described in subsection 2, if the qualifications of more than one agency are equal, the Division shall give preference to the agency that will provide persons with intellectual disabilities or persons with related conditions with training and experience that demonstrates a progression of measurable skills that is likely to lead to competitive employment outcomes that provide employment that:*

(a) Is comparable to employment of persons without intellectual disabilities and persons without related conditions; and

(b) Pays at or above the minimum wage prescribed by regulation of the Labor Commissioner pursuant to NRS 608.250.

Sec. 2. NRS 435.225 is hereby amended to read as follows:

435.225 1. A nonprofit organization, state or local government or agency thereof shall not provide jobs and day training services in this State without first obtaining a certificate from the Division.

2. A natural person other than a person who is employed by an entity listed in subsection 1 shall not provide jobs and day training services in this State without first obtaining a certificate from the Division.

3. *For the purpose of issuing a certificate pursuant to this section, if the qualifications of more than one applicant are equal, the Division shall give preference to the natural person who, or the nonprofit organization, state or local government or agency thereof that, will provide persons with intellectual disabilities or persons with related conditions with training and experience that demonstrates a progression of measurable skills that is likely to lead to competitive employment outcomes that provide employment that:*

(a) Is comparable to employment of persons without intellectual disabilities and persons without related conditions; and

(b) Pays at or above the minimum wage prescribed by regulation of the Labor Commissioner pursuant to NRS 608.250.

4. Each application for the issuance or renewal of a certificate issued pursuant to this section must include a provision stating that employment is the preferred service option for all adults of working age.

Sec. 3. This act becomes effective on July 1, 2015.

Assemblyman Oscarson moved that the Assembly concur in the Senate Amendment No. 1024 to Assembly Bill No. 5.

Remarks by Assemblyman Oscarson.

ASSEMBLYMAN OSCARSON:

This amendment authorizes the Administrator of the Aging and Disability Services Division to adopt regulations governing the provision of services to persons with intellectual disabilities and persons with related conditions who are unable or unwilling to be employed.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

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

Assembly in recess at 10:17 a.m.

ASSEMBLY IN SESSION

At 10:18 a.m.

Mr. Speaker presiding.

Quorum present.

Assembly Bill No. 159.

The following Senate amendment was read:

Amendment No. 835.

AN ACT relating to public works; revising provisions concerning contracts with a public body for a public work and contracts by the awardee of certain grants, tax abatements, tax credits or tax exemptions from a public body; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes various employment requirements on contracts for a public work. (NRS 338.125-338.135) **Section 3** of this bill provides that a public body, in any solicitation, contract or other document related to a contract for a public work, shall not: (1) require or prohibit a bidder or contractor from entering into or adhering to any agreement with one or more labor organizations in regard to the public work; or (2) discriminate against a bidder or contractor for entering or not entering into, or adhering or refusing to adhere to, any agreement with one or more labor organizations in regard to the public work. **Section 3** further prohibits a public body from awarding a grant, tax abatement, tax credit or tax exemption that is conditioned upon a requirement that the awardee include in a contract for a project that is the subject of the grant, tax abatement, tax credit or tax exemption a term that: (1) requires or prohibits a bidder or contractor from entering into or adhering to

any agreement with one or more labor organizations in regard to the project; or (2) discriminates against a bidder or contractor for entering or not entering into, or adhering or refusing to adhere to, any agreement with one or more labor organizations in regard to the project. **Section 3** also allows a public body to exempt a particular public work or a grant, tax abatement, tax credit or tax exemption from those restrictions if the public body makes a finding, after notice and a hearing, that **:(1) special circumstances require such an exemption to avert an imminent threat to public health or safety, ~~or~~ ; or (2) the public work or construction, improvement, maintenance or renovation to real property that is the subject of the grant, tax abatement, tax credit or tax exemption, as applicable, is a part of critical infrastructure for an airport or a water system.** Such a finding of special circumstances must not be based on the possibility or presence of certain labor disputes.

Section 2 of this bill provides that the Legislature finds and declares that the provisions of **section 3** are intended to provide fair and open competition and more economical, nondiscriminatory, neutral and efficient contracts for public works by this State and public bodies in this State as market participants, and that the provisions of **section 3** are the best method for effectuating that intent.

Section 4 of this bill provides that the provisions of this bill do not affect any contract for a public work or for any project that is funded in whole or in part by a grant, tax abatement, tax credit or tax exemption from a public body that was entered into before July 1, 2015.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *The Legislature hereby finds and declares that the provisions of section 3 of this act prohibiting requirements for certain terms in contracts entered into by a public body for a public work or entered into by the awardee of a grant, tax abatement, tax credit or tax exemption from a public body are:*

1. Intended to provide:

(a) More economical, nondiscriminatory, neutral and efficient contracts for public works by public bodies in this State as market participants; and

(b) Fair and open competition in awarding contracts, grants, tax abatements, tax credits and tax exemptions.

2. The best method for effectuating the intent of subsection 1.

Sec. 3. *1. Except as otherwise provided in subsection 4 ~~or~~ or 5, a public body, in any advertisement, solicitation, specification, contract or any other document related to a contract for a public work, shall not:*

(a) Require or prohibit an eligible bidder, contractor or subcontractor from entering into or adhering to an agreement with one or more labor

organizations in regard to the public work or any construction project integrated into the public work.

(b) Discriminate against an eligible bidder, contractor or subcontractor for becoming or remaining or refusing to become or remain a signatory to, or for adhering or refusing to adhere to, an agreement with one or more labor organizations in regard to the public work or any construction project integrated into the public work.

2. Except as otherwise provided in subsection 4 ~~4~~ or 5, a public body shall not award a grant, tax abatement, tax credit or tax exemption that is conditioned upon a requirement that the awardee include a term described in paragraph (a) or (b) of subsection 1 in a contract for any construction, improvement, maintenance or renovation to real property that is the subject of the grant, tax abatement, tax credit or tax exemption.

3. The provisions of subsections 1 and 2 do not:

(a) Prohibit a public body from awarding a contract for a public work or a grant, tax abatement, tax credit or tax exemption to an owner who is not a public body, an eligible bidder, a contractor or a subcontractor who enters into, who is a party to or who adheres to an agreement with a labor organization if:

(1) Entering into, being or becoming a party to or adhering to an agreement with a labor organization is not a condition for awarding the contract, grant, tax abatement, tax credit or tax exemption; and

(2) The public body does not discriminate against an owner who is not a public body, an eligible bidder, a contractor or a subcontractor in the awarding of the contract, grant, tax abatement, tax credit or tax exemption based upon the status of entering into, being or becoming a party to or adhering to an agreement with a labor organization;

(b) Prohibit an eligible bidder, contractor or subcontractor from voluntarily entering into or complying with an agreement entered into with one or more labor organizations in regard to a contract:

(1) With a public body for a public work; or

(2) Funded in whole or in part by a grant, tax abatement, tax credit or tax exemption from a public body;

(c) Prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the Labor Management Relations Act of 1947, 29 U.S.C. §§ 151 et seq.;

(d) Interfere with labor relations of parties that are left unregulated by the Labor Management Relations Act of 1947, 29 U.S.C. §§ 151 et seq.; or

(e) Affect any provision of NRS 338.020 to 338.090, inclusive.

4. A public body may exempt a particular public work or a grant, tax abatement, tax credit or tax exemption from the provisions of subsection 1 if the public body makes a finding, after notice and a hearing, that a special circumstance requires such an exemption to avert an imminent threat to the public health or safety. A finding of a special circumstance pursuant to this

subsection must not be based on the possibility or presence of a labor dispute concerning:

(a) The use of a contractor or subcontractor who is not a signatory to or does not adhere to an agreement with one or more labor organizations; or

(b) Employees on the public work who are not members of or affiliated with a labor organization.

5. A public body may exempt a particular public work or a grant, tax abatement, tax credit or tax exemption from the provisions of subsection 1 if the public body makes a finding, after notice and a hearing, that the public work or construction, improvement, maintenance or renovation to real property that is the subject of the grant, tax abatement, tax credit or tax exemption, as applicable, is a part of critical infrastructure for:

(a) An airport, including, without limitation, a runway, taxiway, air traffic control tower or project to improve airport security; or

(b) A water system.

6. As used in this section, "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

Sec. 4. 1. The amendatory provisions of this act do not apply to any contract entered into before July 1, 2015, by:

(a) A public body for a public work; or

(b) The awardee of a grant, tax abatement, tax credit or tax exemption from a public body for a project funded in whole or in part by such grant, tax abatement, tax credit or tax exemption.

2. As used in this section:

(a) "Public body" has the meaning ascribed to it in NRS 338.010.

(b) "Public work" has the meaning ascribed to it in NRS 338.010.

Sec. 5. This act becomes effective on July 1, 2015.

Assemblyman Ellison moved that the Assembly concur in the Senate Amendment No. 835 to Assembly Bill No. 159.

Remarks by Assemblyman Ellison.

ASSEMBLYMAN ELLISON:

The amendment allows a public body to exempt certain public works projects that are part of critical infrastructure for the airports and the water systems from the provisions of this bill. This has become the yo-yo bill of the Assembly. It is in, it is out, it is in. We tried to negotiate in every way we can, and I am hoping today we send this out. I think at the end of the day, we worked hard with the two bodies that were affected: the Southern Nevada Water Authority and the airport.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

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

Assembly in recess at 10:21 a.m.

ASSEMBLY IN SESSION

At 6:37 p.m.

Mr. Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Commerce and Labor, to which was referred Assembly Bill No. 498, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Commerce and Labor, to which was referred Senate Bill No. 416, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RANDY KIRNER, *Chair*

Mr. Speaker:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 493, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOHN C. ELLISON, *Chair*

Mr. Speaker:

Your Committee on Taxation, to which was referred Senate Bill No. 79, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Taxation, to which was referred Senate Joint Resolution No. 13, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEREK ARMSTRONG, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 147, 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 Ways and Means, to which was rereferred Assembly Bill No. 218, 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 Ways and Means, to which were referred Senate Bills Nos. 92, 214, 502, 513, 515, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which were referred Senate Bills Nos. 111, 511, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PAUL ANDERSON, *Chair*

Mr. Speaker:

Your Concurrent Committee on Ways and Means, to which was referred Senate Bill No. 492, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PAUL ANDERSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2015

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day respectfully refused to recede from its action on Assembly Bill No. 258, Senate Amendment No. 1034, and requests a conference, and appointed Senators Brower, Ford and Harris as a Conference Committee to meet with a like committee of the Assembly.

Also, I have the honor to inform your honorable body that the Senate on this day passed Senate Bill No. 514.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendment No. 1025 to Senate Bill No. 185; Assembly Amendment No. 1039 to Senate Bill No. 483.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Brower, Roberson and Ford as a Conference Committee concerning Senate Bill No. 53.

Also, I have the honor to inform your honorable body that the Senate on this day appointed Senators Brower, Harris and Kihuen as a Conference Committee concerning Senate Bill No. 444.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 95.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 193.

SHERRY RODRIGUEZ

Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

WAIVER OF JOINT STANDING RULES

A Waiver requested by Speaker Hambrick.

For: Senate Bill No. 274.

To Waive:

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: June 01, 2015.

SENATOR MICHAEL ROBERSON

Senate Majority Leader

ASSEMBLYMAN JOHN HAMBRICK

Speaker of the Assembly

Assemblyman Paul Anderson moved that Assembly Bill No. 436 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Paul Anderson moved that Assembly Bills Nos. 147, 218, 495, 496, and 498 be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Paul Anderson moved that Assembly Bills Nos. 436 and 493; Senate Bills Nos. 467, 511, 515 be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 514.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 515.

Bill read third time.

Remarks by Assemblyman Hickey.

ASSEMBLYMAN HICKEY:

Senate Bill 515 ensures sufficient funding for K-12 public education for the upcoming 2015-2017 biennium. Colleagues, this is the education funding package and bill that we must constitutionally pass before all others. Senate Bill 515 appropriates \$1.94 billion in the first year and \$1.102 billion in the second year of the biennium from the State General Fund to the Distributive School Account. In addition, there are \$318.3 million and \$330.1 million of other revenues authorized to be received and expended for the state support of K-12 public education in FY [Fiscal Year] 2016 and FY 2017, respectively. These other revenues include an annual excise tax on slot machines, sales tax collected on out-of-state sales, interest earned on the permanent school fund, revenue from mineral leases on federal land, room tax revenues from the legislatively approved 2009 initiative petition called I.P. [Initiative Petition] 1, and medical marijuana excise taxes.

The statewide average basic support per pupil increases over the upcoming biennium from \$5,676 in the current year to \$5,710 in FY 2016 and \$5,774 in FY 2017. Enrollment is projected to increase by 1.44 percent from a weighted enrollment of 443,124 pupils in FY 2015 to 449,505 in FY 2016 and increase by 1.25 percent to the 555,124 pupils expected in FY 2017.

Roll call on Senate Bill No. 515:

YEAS—32.

NAYS—Dickman, Ellison, Fiore, Hansen, Jones, Shelton, Titus, Wheeler—8.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 515 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 493.

Bill read third time.

Remarks by Assemblymen Stewart, Kirkpatrick, Benitez-Thompson, and Ellison.

ASSEMBLYMAN STEWART:

Assembly Bill 497 provides that the governing body of an incorporated city is authorized, with certain exceptions, to exercise all powers necessary or proper to address matters of local concern for the effective operation of city government whether or not the powers are expressly granted to the city government. Matters of local concern include any matter that primarily affects or impacts the local city area or persons who work, reside, or visit the city. The powers remain subject to all federal and state constitutional, statutory, and regulatory provisions. The bill also provides a list of powers that the governing body of the incorporated city cannot exercise without having authority expressly authorized by law.

ASSEMBLYWOMAN KIRKPATRICK:

I rise in opposition to Assembly Bill 493. I feel a little bit perplexed because this is the same bill that did not make first house passage and it is now back. My concern is that all local governments on the city level have charters. They have charters which allow them, and allow their constituents, to have some say on what things they would like to see their cities do. It makes me nervous that they think they do not have enough power to do things. Each charter is designed to be unique for the entity that is impacted by it. At the bottom of each charter, it always says that it is assumed that you can do whatever the Legislature has not expressly said that you cannot do. Looking at the definition of local concerns, I do not understand what they think may be different based on what they are trying to do.

The reason that local government works is because we, the Legislature, allow them to have powers to protect public safety, health, and welfare for the constituents they represent. This session, I supported another bill that helped counties that had absolutely no local government powers and were stuck coming to the Legislature. We gave them a little bit. Cities have always been unique. They do not provide services such as UMC [University Medical Center], which is the county health entity; they do not provide services for child welfare; they do not provide services on judicial pieces, so why in the world do we need to give them more ability to do things when the charter currently says they can already do what the Legislature does not expressly say they cannot do? That is at the bottom of every single charter. That is within our statute, and I have no idea why local concern is different than all of that. It says local concern “does not include any matter that is within the exclusive jurisdiction of another governmental entity” or a state interest, the regulation of business activities, or other federal and state interests. Between them not doing those things and all of the things that we as a Legislature have allowed them to do, I do not understand.

We have let local government do things before and things have always come back to the Legislature to fix. Let us talk about NRS [*Nevada Revised Statutes*] Chapter 288. That is a form of home rule we have been giving to local government for many years. That has been the topic of this legislative session, and it has been the topic of the last five legislative sessions. So I do not understand why cities believe they need more. If cities would like to be counties, then maybe they should become a county. But I live in a city that I do not want to have any more power because, my goodness, they need to get focused on what is right to begin with. I urge my colleagues to vote no on Assembly Bill 493.

ASSEMBLYWOMAN BENITEZ-THOMPSON:

I stand in opposition to Assembly Bill 493. Much of this opposition comes from experiences garnered in my short tenure as Chair of Government Affairs. You end up mediating so many different types of conversations and so many different types of concerns. What I learned is that cities and counties are like brothers and sisters. They love each other but, man, can they fight. Speaking specifically to the bill, on page 3, subsection 6(a), it talks about addressing the matters of local concern. A really good example would be up here in northern Nevada. We just had a bill presented by a member of the other body to resolve a fight between the city and the county over fire issues. If the state does not have the ability to intervene, then we have no backstop, we have no moderator for when we have these types of arguments between our two different branches of local government that cannot be resolved. We have no way for the Legislature to say, For the greater good of all of the citizens, we are going to intervene and we are going to look at this for a state solution. I can think of fire in the north as an issue—I could probably list five or six different examples from Clark County and Las Vegas because some of those fights are historic and epic. You really need the state as a backstop in order to be able to come in and mediate some of these big issues.

Going to page 4, section 6, subsection 2, we talk about how the “term includes, without limitation, any of the following matters of local concern” and you have a list there. Different things come to mind—paragraph (b) specifically references redevelopment. Those who were in Government Affairs last year will remember the two separate hearings we held for a total of five hours regarding redevelopment and one of the cities in southern Nevada. We know that, once again, we needed the state as a backstop to come in and take a holistic look at what that policy should be. Lots of that issue was about whether or not we granted an extended redevelopment

authority for bonding issues, and while the language in the back says that the cities cannot impose a new tax, there is nothing in this language that says specifically they could not extend a tax or they could not revise that tax or they could not take anything with a tax that people in here worry about and go and do it. Other parts of the bill say that if we do not specifically tell them they cannot do it, then they can do it and we are granting them permission to do that. Nuisances and graffiti—the cities have these powers. That is, once again, the perfect example of why you do not want them to be too broad and why you want the state as a backstop.

I put a bill in the drawer last year because cities came to me and said, We want to be able to tow cars off of private property. Private property. So if you have an old junker sitting on your land, do you want the city to be able to come in and tow that car without notifying you? Tow that car without any type of repercussions? No. As much as someone tried to tell me this is just about giving them the power to beautify parks, be cautious. Think twice. There is a lot more to this, and you absolutely want the power as a legislator to serve as a bigger sounding board to protect constituents in your district.

ASSEMBLYMAN ELLISON:

I stand in strong support of Assembly Bill 493. This body in the last couple of weeks supported Senate Bill 29. In this body alone, there were 32 yeas, 9 nays, and 1 excused. Why do we want to do this? In this same body this year, we had bills with the City of Reno that was having problems with parks. That should have been something they could have done in their own district. I stand strongly in support of this and ask my colleagues, for once, to take a stand and stand up and support this bill. Give the rights back to the people where they need to be, not in this building. Give them a day-to-day fight. Stand up and do what is right.

Roll call on Assembly Bill No. 493:

YEAS—22.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Kimer, Munford, Neal, Ohrenschall, Spiegel, Sprinkle, Swank, Thompson—18.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 493 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 511.

Bill read third time.

Remarks by Assemblyman Sprinkle.

ASSEMBLYMAN SPRINKLE:

Senate Bill 511 appropriates from the State General Fund to the Teach Nevada Scholarship Program Account \$2.5 million in each year of the 2015-2017 biennium to provide grants to universities, colleges, and providers of alternative licensure programs to fund scholarships for students entering certain teacher preparation programs. It further appropriates to the account, for programs for innovation and the prevention of remediation, \$5 million in each year of the 2015-2017 biennium to provide incentive pay and professional development for newly hired teachers who are employed to teach in certain at-risk schools.

Roll call on Senate Bill No. 511:

YEAS—36.

NAYS—Dickman, Ellison, Fiore, Titus—4.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 511 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 467.

Bill read third time.

Remarks by Assemblyman Sprinkle.

ASSEMBLYMAN SPRINKLE:

Senate Bill 467, as amended, appropriates funding from the State Highway Fund to the Nevada Highway Patrol Division of the Department of Public Safety for the sum of \$7,679,026 to replace 156 fleet vehicles that have exceeded the mileage threshold and the sum of \$326,592 for the addition of a seven-unit motorcycle squad in southern Nevada, eliminating the need for the replacement of seven patrol vehicles.

Roll call on Senate Bill No. 467:

YEAS—39.

NAYS—Shelton.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 467 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 436.

Bill read third time.

Remarks by Assemblywomen Kirkpatrick and Fiore.

ASSEMBLYWOMAN KIRKPATRICK:

Assembly Bill 436 repeals NRS [*Nevada Revised Statutes*] 284.177 and 284.179, which provides longevity payments to our state employees. I feel good about us passing a bill yesterday that our state employees will get COLAs [cost-of-living adjustments] and they will get their merit pay and furlough days back, and I believe that supersedes this. I urge support.

ASSEMBLYWOMAN FIORE:

I rise in opposition to Assembly Bill 436. I think that our state employees take enough cuts, take enough pay cuts, take enough furloughs, and I am not going to vote against our state employees or their longevity pay. I urge all my colleagues to vote against this bill because you will be voting against our state employees.

Roll call on Assembly Bill No. 436:

YEAS—28.

NAYS—Dickman, Edwards, Fiore, Hansen, Jones, Nelson, O'Neill, Seaman, Shelton, Silberkraus, Titus, Trowbridge—12.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 436 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 147.

Bill read third time.

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

Amendment No. 1060.

AN ACT relating to taxation; revising provisions governing the total amount of transferable tax credits which may be approved by the Office of Economic Development pursuant to applications submitted to the Office by a producer

that produces a film, television or other media production in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Senate Bill No. 165 of the 77th Session of the Legislature (2013) established provisions authorizing 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 and provided that the Office could not approve transferable tax credits in an amount that exceeded \$20,000,000 during any fiscal year. (NRS 360.759, 360.7594) The provisions of Senate Bill No. 1 of the 28th Special Session of the Legislature (2014) reduced the total amount of the transferable tax credits available for film and other productions from \$20,000,000 during any fiscal year to a total amount of not more than \$10,000,000. This bill ~~restores~~ **increases** the total amount of transferable tax credits available to a producer that produces a film, television or other media production to ~~the amount originally authorized by Senate Bill No. 165, i~~ **\$15,000,000.**

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

Section 1. NRS 360.7594 is hereby amended to read as follows:

360.7594 1. Except as otherwise provided in this subsection, the Office of Economic Development shall not approve any application for transferable tax credits submitted pursuant to NRS 360.759:

(a) If approval of the application would cause the total amount of transferable tax credits approved pursuant to NRS 360.759 ~~for the current fiscal year~~ to exceed ~~\$10,000,000. \$20,000,000. If the Office does not approve \$20,000,000 of transferable tax credits pursuant to NRS 360.759 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.~~ **\$15,000,000.**

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

2. The transferable tax credits issued to any producer for any qualified production pursuant to NRS 360.759:

(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. 2. This act becomes effective on July 1, 2015, and expires by limitation on June 30, 2023.

Assemblywoman Carlton moved the adoption of the amendment.

Remarks by Assemblywomen Carlton, Titus, and Fiore.

ASSEMBLYWOMAN CARLTON:

This adjusts the amount of the ask that had been used for another purpose. Instead of a \$20 million ask, it is now a \$5 million ask on top of the \$10 million that has already been given.

ASSEMBLYWOMAN TITUS:

Once again, I have to rise against a bill that has been created because we have a very unfair tax system in the state of Nevada. We pick winners and losers. Transferrable credits and tax abatements are all picking winners and losers, and I urge my colleagues to vote against this bill to send the statement that we just passed the largest tax in the history of this state. Now we have to start transferring credits, we have to pass abatements, we have to now shift the tax burdens.

ASSEMBLYWOMAN FIORE:

I have to follow the lead of my colleague from Assembly District 1 and give you a little history on this bill. Assembly Bill 147 came before this body last session, and we actually granted \$80 million to get a film initiative business here in the state of Nevada. Then Tesla came along. We took the money we promised away from them, and we left them with \$10 million instead of \$80 million. This session, they came back and asked for \$20 million, and they are now amending it to \$5 million. I am rising in support of this simply because—our tax system is not okay. As you know, I voted against our taxes. But this particular bill has been very unfairly played to that industry, and I rise in support of it because they went from \$80 million and if this passes, they might be at \$15 million.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Carlton moved that Assembly Bill No. 147 be taken from its position on the General File and placed at the bottom of the Assembly Bills on General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 218.

Bill read third time.

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

Amendment No. 1049.

AN ACT relating to education; requiring the board of trustees of each school district and the governing body of a charter school to consult with certain

persons and entities before constructing, expanding or remodeling buildings for schools or related facilities; requiring each school district in certain counties to appoint an emergency manager; requiring the Department of Education to conduct an annual conference regarding safety in public schools; requiring the Department **, to the extent that money is available for the purpose, to ~~employ~~ make block grants to provide** certain ~~licensed~~ mental ~~for behavioral~~ health ~~professionals and make them available to~~ **workers in** public schools; requiring the board of trustees of each school district and the governing body of a charter school to provide drills to instruct pupils concerning lockdown procedures; ~~requiring a licensed social worker who is employed or retained to provide services to pupils at a public school to provide certain services;~~ requiring that a plan developed to respond to a crisis or an emergency prescribe certain procedures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the board of trustees of each school district and the governing body of each charter school to consult with **an emergency manager, the chief of school police or his or her designee, or** the Division of Emergency Management of the Department of Public Safety regarding safety in schools before constructing, expanding or remodeling buildings for schools or related facilities.

Section 2.5 of this bill defines a “school resource officer” as a deputy sheriff or other peace officer who interacts directly with pupils and provides information to pupils, families and educational personnel. **Section 3** of this bill requires each school district in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to designate an employee to serve as an emergency manager.

Existing law requires the board of trustees of each school district and the governing body of each charter school to establish a development committee to develop a plan to be used by each public school of the school district in responding to a crisis or an emergency. (NRS 392.616) **Section 7.5** of this bill requires each development committee to consult with an emergency manager, a school resource officer or the chief of school police of the school district, if such a person exists in the school district. **Section 7.5** also requires the plan to include procedures for: (1) effective communication and interoperability among law enforcement and other first responders; (2) securing a school in the event of a lockdown; and (3) assisting a person with a disability with moving to safety during an emergency or crisis.

Section 4 of this bill requires the Department of Education to coordinate with the Division of Emergency Management, any emergency manager, any chief of police of a school district that has police officers and any school resource officer to conduct an annual conference regarding safety in public schools. **Section 4** additionally requires the board of trustees of each school district and the governing body of each charter school to designate certain persons to attend this conference.

~~[In section 4.5 of this bill, the Legislature finds that it is optimal to have a ratio of at least 1 licensed mental or behavioral health professional per 250 pupils.] Section 5 of this bill requires the Department of Education ~~to employ certain licensed~~, to the extent that money is available for the purpose, to: **(1) develop and carry into effect a program of block grants; and (2) make and administer block grants to school districts and charter schools to provide for contract social workers and other** mental ~~for behavioral~~ health professionals and make them available to provide services at public **workers in schools**, as necessary. ~~Section 5 requires the State Board of Education to prescribe the duties of such mental or behavioral health professionals, and authorizes the State Board to require additional training for such persons.~~ ~~Section 5 also requires a licensed social worker who is employed or retained to provide services to pupils at a public school to provide certain services to: (1) improve the mental health of pupils; (2) assess the~~ **with identified** needs ~~of certain pupils; and (3) provide a list of any resources that may be available in the community to assist a pupil.]~~~~

Existing law requires the board of trustees of each school district and the governing body of each charter school to provide certain emergency drills for pupils at least once each month during the school year. Existing law also requires a public school located in a city or town that has a regularly organized, paid fire department or voluntary fire department to conduct such drills under the supervision of: (1) the person designated for this purpose by the board of trustees of the school district; and (2) the chief of the fire department of the city or town in which a school is located. (NRS 392.450) **Section 6** of this bill requires the board of trustees of each school district and the governing body of each charter school to provide drills for schools under their jurisdiction at least once each month during the school year to instruct pupils in the appropriate procedures to be followed in the event of a lockdown. **Section 6** requires at least one-half of these drills to include instruction in appropriate procedures to be followed in the event of a lockdown. **Section 6** also requires: (1) any public school located in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) to conduct the drills under the supervision of the person designated for that purpose by the board of trustees of the school district or the governing body of the charter school, as applicable; and (2) a public school located in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to conduct such drills under the supervision of an emergency manager.

WHEREAS, The Legislature recognizes that it is of utmost importance that the public schools in this State are built and maintained in a manner which provides the greatest protection for pupils against harm; and

WHEREAS, Each school must be built and maintained to meet or exceed recommended safety standards and be designed to anticipate and protect against modern threats; and

WHEREAS, Academic achievement of pupils is adversely affected when the pupils do not feel safe from harm; and

WHEREAS, Acts of violence which occur at schools have devastating effects on pupils which may include depression, fear and inappropriate behavior; and

WHEREAS, Efforts must be taken to mitigate acts of violence at schools; and

WHEREAS, Social workers and other licensed mental health workers who are employed by schools help ensure the safety of pupils, prevent violent and other inappropriate actions by pupils and address the overall well-being of pupils by assessing the needs of pupils and providing pupils with necessary mental health services, counseling and other assistance; and

WHEREAS, The Legislature hereby finds and declares that it is optimal to have a ratio of at least 1 social worker or licensed health worker per 250 pupils; and

WHEREAS, Each school district must ensure that administrators, teachers and other staff are properly trained regarding the appropriate response to a crisis and crisis management, prevention of violence and emergency response planning so that all schools are prepared to respond appropriately to a crisis or emergency and to quickly mitigate any effects of such a crisis or emergency; now, therefore,

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

Section 1. Chapter 386 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district and the governing body of each charter school shall consult with the ~~Division of Emergency Management of the Department of Public Safety~~ person described in subsection 2 or 3, as applicable, regarding safety in schools before:

~~1-1~~ (a) Designing, constructing or purchasing new buildings for schools or related facilities;

~~1-2~~ (b) Enlarging, remodeling or renovating existing buildings for schools or related facilities; and

~~1-3~~ (c) Acquiring sites for building schools or related facilities.

2. In a county whose population is 100,000 or more, the board of trustees of a school district or the governing body of a charter school that plans to take an action described in subsection 1 shall consult with the emergency manager designated pursuant to section 3 of this act or, if the school district has school police officers, the chief of school police of the school district or a person designated by him or her.

3. In a county whose population is less than 100,000, the board of trustees of a school district or the governing body of a charter school that plans to take an action described in subsection 1 shall consult with:

(a) If the school district has school police officers, the chief of school police of the school district or a person designated by him or her or, if the school district has designated a full-time employee to serve as an emergency manager, the emergency manager; or

(b) If the county has not designated a full-time employee to serve as an emergency manager and does not have school police officers, the Division of Emergency Management of the Department of Public Safety.

Sec. 2. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 2.25 to 5, inclusive, of this act.

Sec. 2.25. “Lockdown” means a circumstance in which the persons on school property are restricted to the interior of a school building and isolated from threats until the school property and surrounding vicinity are deemed to be secure by:

1. If the school district has school police officers, the chief of school police of a school district or a person designated by him or her; or

2. If the school district does not have school police officers, the school resource officer or a person designated by him or her or, if the school district does not have school resource officers, a local law enforcement agency.

Sec. 2.5. “School resource officer” means a deputy sheriff or other peace officer employed by a local law enforcement agency who is assigned to duty at one or more schools, interacts directly with pupils and whose responsibilities include, without limitation, providing guidance and information to pupils, families and educational personnel concerning the avoidance and prevention of crime.

Sec. 3. Each school district in a county whose population is 100,000 or more shall designate a full-time employee to serve as an emergency manager. As used in this section, “emergency manager” means a person whose job responsibilities are focused solely on the planning and coordination of available resources for the mitigation of, preparation and training for, response to and recovery from emergencies or crises.

Sec. 4. 1. The Department of Education shall, at least once each year, coordinate with the Division of Emergency Management of the Department of Public Safety, any emergency manager designated pursuant to section 3 of this act, any chief of police of a school district that has police officers and any school resource officer to conduct a conference regarding safety in public schools.

2. The board of trustees of each school district and the governing body of each charter school shall designate persons to attend the conference held pursuant to subsection 1. The persons so designated must include, without limitation:

(a) An administrator from the school district or charter school, as applicable;

(b) If the school district has school resource officers, a school resource officer or a person designated by him or her;

(c) If the school district has school police officers, the chief of school police of the school district or a person designated by him or her; and

(d) If the school district has an emergency manager designated pursuant to section 3 of this act, the emergency manager.

3. The conference conducted pursuant to subsection 1 may be attended by:

(a) A licensed teacher of a school or charter school;

(b) Educational support personnel employed by a school district or charter school;

(c) The parent or legal guardian of a pupil who is enrolled in a public school; and

(d) An employee of a local law enforcement agency.

Sec. 4.5. ~~{The Legislature hereby finds and declares that it is optimal to have a ratio of at least 1 licensed social worker, school psychologist or other certified or licensed mental or behavioral health professional per 250 pupils.}~~ (Deleted by amendment.)

Sec. 5. ~~{The}~~ To the extent that money is available for the purpose, the Department shall employ licensed :

1. Develop and carry into effect a program of block grants for the purposes described in subsection 2; and

2. Make and administer block grants to school districts and charter schools to provide for contract social workers ~~f, school psychologists or~~ and other ~~{certified or licensed}~~ mental ~~for behavioral~~ health ~~{professionals and make them available to provide services at public}~~ workers in schools ~~{in this State, as necessary.}~~

~~2. If a licensed social worker is employed or retained to provide services to pupils at a public school, he or she shall, without limitation:~~

~~(a) Conduct mental health assessments of pupils;~~

~~(b) Make referrals of pupils to mental health professionals;~~

~~(c) Conduct home visits} with {families of pupils identified as having been involved in a behavioral incident on the premises of a public school, at an activity sponsored by a public school or on a school bus; and~~

~~(d) Assess the} identified needs _ {of pupils and provide a list of any resources that are available in the community to assist a pupil, including, without limitation, resources available at no charge or at a reduced cost.~~

~~3. The State Board shall adopt regulations governing the duties of social workers, school psychologists and other certified or licensed mental or behavioral health professionals employed pursuant to subsection 1. The State Board may adopt regulations requiring the Department to provide additional training to such persons relating to the performance of their duties.}~~

Sec. 6. NRS 392.450 is hereby amended to read as follows:

392.450 1. The board of trustees of each school district and the governing body of each charter school shall provide drills for the pupils in the schools in the school district or the charter schools at least once each month

during the school year to instruct those pupils in the appropriate procedures to be followed in the event of a **lockdown**, fire or other emergency . ~~[-except a crisis governed by NRS 392.600 to 392.656, inclusive.]~~ Not more than three of ~~[these]~~ **the drills provided pursuant to this subsection** may include instruction in the appropriate procedures to be followed in the event of a chemical explosion, related emergencies and other natural disasters. **At least one-half of the drills provided pursuant to this subsection must include instruction in appropriate procedures to be followed in the event of a lockdown.**

2. In all cities or towns , ~~[which have regularly organized, paid fire departments or voluntary fire departments,]~~ the drills required by subsection 1 must be conducted under the supervision of the ~~[-]~~ **chief of the fire department of the city or town, if the city or town has a regularly organized, paid fire department or voluntary fire department, and the:**

(a) Person designated for this purpose by the board of trustees of the school district or the governing body of a charter school ~~[-and]~~ **in a county whose population is less than 100,000; or**

(b) ~~[Chief of the fire department of the city or town.]~~ **Emergency manager designated pursuant to section 3 of this act in a county whose population is 100,000 or more.**

3. A diagram of the approved escape route and any other information related to the drills required by subsection 1 which is approved by the chief of the fire department or, if there is no fire department, the State Fire Marshal must be kept posted in every classroom of every public school by the principal or teacher in charge thereof.

4. The principal, teacher or other person in charge of each school building shall cause the provisions of this section to be enforced.

5. Any violation of the provisions of this section is a misdemeanor.

6. **As used in this section, “lockdown” has the meaning ascribed to it in section 2.25 of this act.**

Sec. 7. NRS 392.600 is hereby amended to read as follows:

392.600 As used in NRS 392.600 to 392.656, inclusive, **and sections 2.25 to 5, inclusive of this act**, unless the context otherwise requires, the words and terms defined in NRS 392.604 to 392.612, inclusive, **and sections 2.25 and 2.5 of this act** have the meanings ascribed to them in those sections.

Sec. 7.5. NRS 392.620 is hereby amended to read as follows:

392.620 1. Each development committee established by the board of trustees of a school district shall develop one plan to be used by all the public schools other than the charter schools in the school district in responding to a crisis or an emergency. Each development committee established by the governing body of a charter school shall develop a plan to be used by the charter school in responding to a crisis or an emergency. Each development committee shall, when developing the plan, consult with:

(a) The local social service agencies and local law enforcement agencies in the county in which its school district or charter school is located.

(b) *If the school district has an emergency manager designated pursuant to section 3 of this act, the emergency manager.*

(c) *If the school district has school resource officers, a school resource officer or a person designated by him or her.*

(d) *If the school district has school police officers, the chief of school police of the school district or a person designated by him or her.*

(e) The director of the local organization for emergency management or, if there is no local organization for emergency management, with the Chief of the Division of Emergency Management of the Department of Public Safety or his or her designee.

2. The plan developed pursuant to subsection 1 must include, without limitation, a procedure for:

(a) Assisting persons within a school in the school district or the charter school to communicate with each other;

(b) Assisting persons within a school in the school district or the charter school to communicate with persons located outside the school, including, without limitation, relatives of pupils and relatives of employees of the school, the news media and persons from local, state or federal agencies that are responding to a crisis or an emergency;

(c) *Effective communication and interoperability among federal, state and local law enforcement and other first responders;*

(d) Immediately responding to a crisis or an emergency and for responding during the period after a crisis or an emergency has concluded, including, without limitation, a crisis or an emergency that results in immediate physical harm to a pupil or employee of a school in the school district or the charter school;

~~[(d)]~~ (e) Assisting pupils of a school in the school district or the charter school, employees of the school and relatives of such pupils and employees to move safely within and away from the school, including, without limitation, a procedure for evacuating the school and a procedure for securing the school ~~to~~ ~~and~~

~~—(e)]~~ *in the event of a lockdown;*

(f) *Assisting any person with an intellectual or physical disability, including, without limitation, a pupil or teacher, who is on school property to move safely within and away from the school, including, without limitation, a procedure for assisting such a pupil or person with evacuating the school or participating in a lockdown; and*

(g) Enforcing discipline within a school in the school district or the charter school and for obtaining and maintaining a safe and orderly environment during a crisis or an emergency.

3. Each development committee shall provide a copy of the plan that it develops pursuant to this section to the board of trustees of the school district that established the committee or the governing body of the charter school that established the committee.

4. Except as otherwise provided in NRS 392.632 and 392.636, each public school, including, without limitation, each charter school, must comply with the plan developed for it pursuant to this section.

Sec. 8. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 9. This act becomes effective on July 1, 2015.

Assemblywoman Benitez-Thompson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Benitez-Thompson moved that Assembly Bill No. 218 be taken from its position on the General File and placed at the bottom of the Assembly Bills on General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 495.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

ASSEMBLYMAN OHRENSCHALL:

Assembly Bill 495 revises provisions governing the submission of a request for the drafting of a legislative measure. Details for drafting the measure must be submitted to the Legislative Counsel along with a request to have the measure drafted. The Legislative Counsel shall not assign a bill draft request number until sufficient detail has been received. The bill also eliminates subsequent statutory deadlines by which legislators and legislative committees must submit sufficient details to allow complete drafting of those measures. The bill moves the deadline for prefiling measures requested on behalf of nonlegislative requesters from December 20 preceding a regular legislative session to the third Wednesday in November preceding the session.

Roll call on Assembly Bill No. 495:

YEAS—40.

NAYS—None.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 495 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 496.

Bill read third time.

Remarks by Assemblyman Elliot Anderson.

ASSEMBLYMAN ELLIOT ANDERSON:

Assembly Bill 496 provides for certain powers and duties of the Legislative Commission that apply to legislative studies established by concurrent resolution also apply to studies established by statute. Certain requirements and restrictions imposed on the staff of the Legislative Counsel Bureau [LCB] also apply to investigations. The bill clarifies protections provided for the work

product of the officers and employees of LCB apply to any matter or work in any form including oral, written, audio, visual, digital, or electronic format.

The bill provides that the doctrines of separation of powers and legislative privilege and immunity apply to any actions taken or performed within legitimate legislative activity whether or not the Legislature is in a regular or special legislative session. The bill also provides that these doctrines also protect any other person who takes action or performs any legitimate legislative activity that would be protected if taken or performed by a legislator. The provisions of the bill apply to any cases pending on the bill's effective date even if those cases were commenced before the effective date.

This bill largely clarifies and codifies existing case law on legislative immunity from the Executive and Judicial Branches and for this body. There are many people who can probably take advantage of that.

Roll call on Assembly Bill No. 496:

YEAS—40.

NAYS—None.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 496 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 498.

Bill read third time.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

Assembly Bill 498 requires an electric utility to demonstrate to the satisfaction of the PUC [Public Utilities Commission] of Nevada the need for the construction or acquisition of, or contracting for, certain electrical generating capacity and certain facilities for the generation of electricity in an emissions reduction and capacity replacement plan. The bill further authorizes the Commission to approve certain contracts related to the plan if the contracts are entered into pursuant to a request for proposals authorized by the Commission and the Commission determines that the electrical utility has satisfactorily demonstrated the need for the additional electric generating capacity acquired pursuant to such contracts.

Roll call on Assembly Bill No. 498:

YEAS—40.

NAYS—None.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 498 having received a constitutional majority,
Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 147.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

I rise in support of Assembly Bill 147. I cannot say it any better than my colleague from District 4. This replenishes the film tax credit that was diminished. It is about good jobs and film works.

Roll call on Assembly Bill No. 147:

YEAS—34.

NAYS—Dickman, Hansen, Jones, Shelton, Titus, Wheeler—6.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 147 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 218.

Bill read third time.

Remarks by Assemblywoman Benitez-Thompson.

ASSEMBLYMAN BENITEZ-THOMPSON:

This bill came out of recent events that happened during the interim in northern Nevada. Specifically, we revisited our schools' safety and emergency plans. One of the things about this bill of which I am most proud is that it will require schools and charter schools to come up with procedures to assist teachers of pupils who are intellectually or physically disabled in the event of an emergency.

Roll call on Assembly Bill No. 218:

YEAS—34.

NAYS—Dickman, Fiore, Gardner, Jones, Shelton, Titus—6.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 218 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Taxation, to which was referred Assembly Bill No. 497, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Mr. Speaker:

Also, your Committee on Taxation, to which was referred Senate Bill No. 266, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEREK ARMSTRONG, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bill No. 497; Senate Bills Nos. 509 and 488; Senate Joint Resolution No. 13, just reported out of committee, be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 497.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Assembly Bill 497 expands current provisions in law relating to the designation of a tax increment area for the purpose of undertaking certain public works projects. It specifies that a

portion of the sales and use tax and modified business tax imposed in the tax increment area may be allocated to pay the debt incurred by the municipality to finance or refinance the undertaking if the undertaking is a water project, the estimated cost exceeds \$50 million, and such financing is approved by the Interim Finance Committee.

Roll call on Assembly Bill No. 497:

YEAS—34.

NAYS—Fiore, Jones, Kirner, Seaman, Shelton, Titus—6.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 497 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 509.

Bill read third time.

The following amendment was proposed by the Committee on Education:
Amendment No. 1018.

AN ACT relating to education; revising provisions relating to the employees and duties of the State Public Charter School Authority; authorizing and requiring certain sponsors of charter schools to make certain agreements with the Authority and other sponsors of charter schools; revising provisions governing applications to form a charter school; authorizing a charter management organization to apply for a waiver of requirements concerning the composition of the governing body of a charter school; revising provisions governing amendments to a written charter or charter contract; authorizing the consolidation of the operations of multiple charter schools under certain circumstances; revising the circumstances under which the sponsor of a charter school is authorized or required to revoke a written charter or terminate a charter contract; authorizing a sponsor to reconstitute the governing body of a charter school in ~~such~~ certain circumstances; authorizing the sponsor of a charter school whose written charter has been revoked or whose charter contract has been terminated to take certain measures to attempt to replace the charter school; exempting certain high-performing charter schools from the requirement that certain teachers be licensed; establishing alternative qualifications for such teachers; revising certain other provisions governing the operation of a charter school; authorizing a charter school to receive certain money; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the State Public Charter School Authority, requires the Authority to appoint a Director and authorizes the Authority to sponsor charter schools. (NRS 386.490-386.515) **Sections 10, 12-14 and 18** of this bill change the title of the Director of the Authority to "Executive Director," and **section 13** authorizes the Executive Director to pursue other businesses and hold other offices with the approval of the Authority. **Section 11** of this bill requires the Authority to consist of persons who are experts on authorizing, developing and operating charter schools. **Sections 15 and 16** of this bill revise provisions governing the staff of the Authority. **Section 18** of this bill prohibits

the Executive Director and the Authority from accepting any gift or donation from a charter management organization, a committee to form a charter school or the governing body of a charter school. **Sections 32 and 33** of this bill require the Authority to adopt regulations that prescribe: (1) the process to apply to the Authority to form a charter school, renew a charter contract or amend a written charter or charter contract; (2) the contents of such applications; and (3) the procedure by which such applications will be evaluated. **Sections 35, 45 and 46** of this bill revise certain other duties of the Authority.

In addition to the Authority, existing law also authorizes the board of trustees of a school district or a college or university within the Nevada System of Higher Education to sponsor a charter school with the approval of the Department of Education. (NRS 386.515) **Sections 17, 19 and 20** of this bill provide for a board of trustees of a school district or college or university within the System that sponsors a charter school to enter into certain agreements with the Authority. **Sections 19 and 20** also revise the duties of the sponsor of a charter school, including the requirements of the policies and practices that a sponsor is required to adopt.

Existing law requires an application to form a charter school to be submitted by a committee to form a charter school. (NRS 386.520, 386.525) **Sections 21 and 22** of this bill authorize a charter management organization to apply to form a charter school. **Section 2** of this bill defines the term “charter management organization” to mean a nonprofit organization that operates multiple charter schools. **Section 21** also revises the required contents of an application to form a charter school. **Sections 21 and 36** of this bill authorize a charter management organization to request a waiver of requirements concerning the composition of a governing body. **Section 22** revises the manner in which a sponsor is authorized to solicit and review applications to form a charter school.

Existing law authorizes the sponsor of a charter school to amend a written charter or charter contract upon the request of the governing body of a charter school. (NRS 386.527) **Sections 4 and 53** of this bill require the sponsor of a charter school to hold a public hearing concerning requests to amend a written charter or charter contract to: (1) expand the grade levels served by the charter school; (2) significantly increase or decrease enrollment; (3) acquire additional facilities to expand the enrollment of the charter school; or (4) consolidate the operations of multiple charter schools. Such an amendment may not be made unless approved by the governing board of the sponsor. **Sections 5 and 54** of this bill prescribe the circumstances under which the operations of multiple charter schools can be consolidated.

For any charter school approved before June 11, 2013, existing law requires the sponsor of the charter school to grant a written charter to the governing body. For any charter school approved on or after that date, existing law requires the sponsor to enter into a charter contract with the governing body. Because all written charters and charter contracts must be for terms of 6 years,

all written charters will expire by June 11, 2019. (NRS 386.527) **Sections 23 and 24** of this bill authorize a sponsor to require, as a condition of granting a request for an amendment, the replacement of a written charter with a charter contract for the period during which written charters may still be effective.

Existing law requires each charter contract to include a performance framework for the charter school. (NRS 386.528) **Section 25** of this bill: (1) requires each sponsor to adopt a performance framework and incorporate it in the charter contract; (2) allows a sponsor to aggregate and disaggregate data for reporting and accountability purposes; and (3) authorizes the State Board of Education to adopt regulations requiring a sponsor to aggregate or disaggregate data. **Section 26** of this bill revises the contents of an annual report submitted by a sponsor to a governing body.

Existing law authorizes a sponsor to revoke a written charter or terminate a charter contract under certain conditions and requires a sponsor to take such action if the charter school demonstrates persistent underachievement. (NRS 386.535, 386.5351) **Sections 5 and 27-29** of this bill: (1) authorize a sponsor to reconstitute , under certain circumstances, the governing body of a charter school in such situations; and (2) revise the conditions under which such action is authorized or required. **Sections 6, 30 and 31** of this bill authorize the sponsor of a charter school whose written charter has been revoked or whose charter contract has been terminated to recruit a governing body of another charter school to replace the closed charter school with another campus of the other charter school. **Sections 6 and 55** of this bill require a pupil who attended a charter school whose written charter has been revoked or whose charter contract has been terminated to be given priority in admission to the replacement charter school under such circumstances. **Sections 6 and 56** provide that: (1) if the governing body of a charter school is reconstituted, the new governing body may terminate the employment of any employees of the charter school; and (2) if a written charter is revoked or a charter contract is terminated and a charter school is replaced, the governing body of the replacement charter school is not required to employ any employee of the previous charter school. **Sections 52 and 56** of this bill exclude the rights of a governing body to terminate the employment of or refuse to reemploy employees at such schools from the scope of collective bargaining.

Sections 34 and 39 of this bill revise requirements concerning services, including transportation, provided by the board of trustees of a school district to pupils at a charter school.

Existing law: (1) prohibits a person who has been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude from serving on the governing body of a charter school; and (2) requires a member of a governing body to read and understand certain materials. (NRS 386.549) **Section 7** of this bill requires a newly appointed member of a governing body to undergo a criminal background check and prohibits a person who has been convicted of a felony or an offense involving moral turpitude from serving as a member of a governing body.

Sections 36 and 37 of this bill require a member of a governing body to receive training under certain circumstances.

Sections 40 and 41 of this bill prohibit a contract between a governing body and a person who assists with the operation, management and provision of educational services at a charter school from containing certain provisions. **Section 45** of this bill authorizes a charter school to use higher standards for graduation than those required by the State or a school district in which the charter school is located. **Section 46** of this bill requires a charter school to notify the parent of a pupil who is under the age of 18 years before the pupil is suspended or expelled. ~~Section 47 of this bill. Existing law requires : every teacher at a charter school, except for a vocational charter school, to possess certain qualifications, and section~~ **(1) a certain percentage of teachers at a charter school to be licensed; and (2) teachers who teach certain subjects at a charter school to be licensed. (NRS 386.580) Section 47 of this bill instead requires a certain percentage of teachers at a charter school and teachers who teach such subjects at a charter school to be highly qualified. Section 47 provides that: (1) a teacher at a high performing charter school is highly qualified if he or she meets certain requirements specified in federal law; and (2) a teacher at any other charter school is highly qualified if the teacher meets those federal requirements and is licensed. Section 47 also requires a teacher who is employed by a charter school to teach special education or English as a second language to be licensed to teach that subject. Finally, section 47 requires a high achieving charter school that employs unlicensed teachers to offer an alternative route to licensure for those teachers. Section 51** of this bill makes a conforming change.

Section 48 of this bill requires the Commission on Educational Technology to consider plans adopted by charter schools for the use of educational technology when establishing the plan for the use of educational technology in the public schools of this State. **Sections 49 and 50** of this bill authorize a charter school to receive money from the Trust Fund for Educational Technology.

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 8, inclusive, of this act.

Sec. 2. “Charter management organization” means:

1. A nonprofit organization that holds a written charter, charter contract or other equivalent agreement to operate more than one charter school in this State or another state; or

2. A nonprofit organization incorporated in this State for the purpose of operating a charter school in cooperation with a charter management organization that holds a written charter, charter contract or other

equivalent agreement to operate more than one charter school in another state.

Sec. 3. “Educational management organization” means a for-profit corporation, business, organization or other entity that provides services relating to the operation and management of charter schools and achievement charter schools.

Sec. 4. 1. The State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable, which sponsors a charter school may hold a public hearing concerning any request to amend a written charter or a charter contract of the charter school it sponsors, including, without limitation, a request to amend a written charter or charter contract for the purpose of:

(a) Expanding the charter school to offer instruction in grade levels for which the charter school does not already offer instruction.

(b) Increasing the total enrollment of a charter school or the enrollment of pupils in a particular grade level in the charter school for a school year to more than 120 percent of the enrollment prescribed in the written charter or charter contract for that school year.

(c) Reducing the total enrollment of a charter school or the enrollment of pupils in a particular grade level in the charter school for a school year to less than 80 percent of the enrollment prescribed in the written charter or charter contract for that school year.

(d) Seeking to acquire an additional facility in any county of this State to expand the enrollment of the charter school.

(e) Consolidating the operations of multiple charter schools pursuant to section 5 of this act.

2. A written charter or charter contract may not be amended in any manner described in subsection 1 unless the amendment is approved by the State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable.

3. The State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable, must deny a request to amend a written charter or charter contract in the manner described in paragraphs (d) or (e) of subsection 1 if the State Public Charter School Authority, the board of trustees or a college or university within the Nevada System of Higher Education, as applicable, determines that:

(a) The charter school is not meeting the requirements of the performance framework concerning academics, finances or ~~operation~~ organization established pursuant to NRS 386.528; or

(b) The governing body does not have a comprehensive and feasible plan to operate additional facilities.

Sec. 5. The sponsor of a charter school may approve an amendment to a written charter or a charter contract to consolidate the operations of two or more charter schools if:

1. The sponsor of a charter school for which a written charter has been revoked or a charter contract has been terminated has approved a request by the governing body of the charter school requesting the amendment to negotiate with the owner, mortgagor or lienholder of the facilities in which the charter school has been operated for the purpose of operating an additional campus of the other charter school pursuant to section 6 of this act. If charter schools are consolidated under such conditions, the prior academic, operational and fiscal performance of the charter school whose written charter has been revoked or whose charter contract has been terminated will not be attributed to the consolidated charter school.

2. Two or more governing bodies submit a request for an amendment to consolidate their charter contracts, governing bodies and operations to form a single charter school operating one or more campuses under a new charter contract. If charter schools are consolidated under such conditions:

(a) The new charter contract will be in effect for the duration of the term of the written charter or charter contract which was closest to its date of expiration before consolidation; and

(b) The academic, operational and fiscal performances of all charter schools that have been consolidated will be attributed to the consolidated charter school.

Sec. 6. 1. If the sponsor of a charter school reconstitutes the governing body of a charter school pursuant to NRS 386.535, ~~for 386.5351,~~ the sponsor must appoint new members to the governing body who meet the qualifications for membership set forth in NRS 386.549. The sponsor shall not reappoint more than 40 percent of the members of the previous governing body. Before appointing new members to the governing body, the sponsor must consider:

(a) Input from members of the community in which the charter school is located and parents of pupils who attend the charter school.

(b) Any relevant credentials, experience or other qualifications of a potential member, including, without limitation, whether the potential member resides in the geographic area served by the charter school or has experience in education.

2. If the sponsor of a charter school revokes a written charter or terminates a charter contract pursuant to NRS 386.535 or 386.5351, the sponsor may:

(a) Petition the district court to appoint a receiver, to be paid from the funds of the charter school, to oversee and manage the charter school until other arrangements are made for pupils who attend the school.

(b) Issue a request for proposals inviting the governing body of another charter school to negotiate with the owner, mortgagor or lienholder of the facilities in which the charter school operated for the purpose of operating

an additional campus of the other charter school under the sponsorship of either the sponsor of the charter school for which the written charter has been revoked or the charter contract has been terminated or the sponsor of the charter school that intends to operate an additional campus. If the governing body proposes to operate an additional campus of the other charter school under the sponsorship of:

(1) The sponsor of the charter school for which the written charter has been revoked or the charter contract has been terminated and the sponsor is not the sponsor of the charter school currently operated by the governing body, the governing body must, before the additional campus begins operating, also submit to the sponsor of the charter school for which the written charter has been revoked or the charter contract has been terminated and receive approval for an application to form a charter school pursuant to NRS 386.520.

(2) The sponsor of the charter school currently operated by the governing body, the governing body must, before the additional campus begins operating, also submit a request for and receive approval of an amendment to its written charter or charter contract to consolidate charter schools pursuant to NRS 386.527 and sections 4 and 5 of this act.

3. Before selecting a governing body to operate another campus of an existing charter school to replace a charter school whose written charter has been revoked or whose charter contract has been terminated pursuant to subsection 2, the sponsor must consider:

(a) The performance record of the charter school in this State and other states;

(b) The plan of the governing body for improving pupil achievement and school performance;

(c) The suitability of the proposed academic program for pupils who were enrolled in the charter school before the revocation of the written charter or the termination of the charter contract; and

(d) Input from members of the community in which the charter school is located and parents who were enrolled in the charter school before the revocation of the written charter or the termination of the charter contract, including, without limitation, the input described in subsection 4.

4. A sponsor that solicits proposals to operate an additional campus of an existing charter school shall allow parents of pupils who were enrolled in the charter school before the revocation of the written charter or the termination of the charter contract to interview governing bodies who submit proposals and, if three or more proposals are submitted pursuant to paragraph (b) of subsection 2, cast an advisory vote for the governing body that they would prefer be given the opportunity to operate the campus.

5. If a governing body is selected pursuant to this section to operate another campus of an existing charter school to replace a charter school whose written charter has been revoked or whose charter contract has been terminated and any necessary amendments or applications are approved, the

charter school must enroll pupils who were enrolled in the charter school whose written charter was revoked or whose charter contract was terminated before enrolling other pupils.

6. If the sponsor of a charter school reconstitutes the governing body of a charter school ~~for~~ pursuant to NRS 386.535, the principal of the charter school or another administrator of the charter school appointed by the reconstituted governing body shall:

(a) Review each employee of the charter school to determine whether to retain the employee based on the needs of the school and the ability of the employee to improve pupil achievement and school performance at the charter school. The new governing body may terminate the employment of any teachers or other employees of the charter school or, if possible, may reassign teachers or other employees to another school.

(b) Collaborate with the new governing body in making hiring determinations for the charter school.

7. If the sponsor of a charter school selects a governing body to operate another campus of an existing charter school to replace a charter school whose written charter has been revoked or whose charter contract has been terminated, the new governing body is not required to offer employment to any teacher or other employee of the charter school whose written charter has been revoked or whose charter contract has been terminated.

Sec. 7. 1. Within 10 days after being appointed to the governing body of a charter school, each member of a governing body, except a licensed teacher or other person licensed by the Superintendent of Public Instruction, must, as a condition to membership, submit to the governing body a complete set of the member's fingerprints and written permission authorizing the governing body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the member.

2. If the reports on the criminal history of the member indicate that the member has not been convicted of a felony or an offense involving moral turpitude, the member may continue to serve on the governing body.

3. If a report on the criminal history of a member indicates that the member has been convicted of a felony or an offense involving moral turpitude, the governing body of the charter school must remove the member.

Sec. 8. 1. In a county in which more than five charter schools are located and the total number of pupils enrolled in the charter schools exceeds 25 percent of the combined enrollment of all public schools, including, without limitation, charter schools, the Department shall, in consultation with all sponsors of charter schools in the county, determine whether holding a weighted lottery for admission to charter schools would improve diversity in charter schools that do not have a preference for at-risk pupils. If the Department determines that a weighted lottery for admission to

charter schools would improve diversity in such charter schools, the Department shall, to the extent authorized by federal law, adopt regulations authorizing charter schools to establish a weighted lottery.

2. In a county in which more than ten charter schools are located and the total number of pupils enrolled in charter schools exceeds 50 percent of the combined enrollment of all public schools, including, without limitation, charter schools, the Department shall, in consultation with all sponsors of charter schools in the county:

(a) Adopt regulations establishing a uniform enrollment calendar and process for enrolling pupils applicable to all charter schools in the county. The regulations must establish a lottery for admission to each charter school in the county. If a charter school does not have a preference for at-risk pupils, the lottery must, to the extent authorized by federal law, be a weighted lottery.

(b) Allow the board of trustees of the school district to provide input regarding the enrollment calendar, processes for enrolling pupils and lotteries established pursuant to paragraph (a).

3. As used in this section, “weighted lottery” means a lottery that gives additional weight to pupils who are identified as being part of a specified group of pupils. The term does not include the reservation of seats in the charter school for specified pupils or groups of pupils.

Sec. 9. NRS 386.490 is hereby amended to read as follows:

386.490 As used in NRS 386.490 to 386.649, inclusive, *and sections 2 to 8, inclusive of this act*, the words and terms defined in NRS 386.492 to 386.503, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 10. NRS 386.495 is hereby amended to read as follows:

386.495 ~~“Director”~~ **“Executive Director”** means the *Executive* Director of the State Public Charter School Authority appointed pursuant to NRS 386.511.

Sec. 11. NRS 386.5095 is hereby amended to read as follows:

386.5095 1. The State Public Charter School Authority consists of seven members. The membership of the State Public Charter School Authority consists of:

(a) Two members appointed by the Governor in accordance with subsection 2;

(b) Two members, who must not be Legislators, appointed by the Majority Leader of the Senate in accordance with subsection 2;

(c) Two members, who must not be Legislators, appointed by the Speaker of the Assembly in accordance with subsection 2; and

(d) One member appointed by the Charter School Association of Nevada or its successor organization.

2. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall ensure that the membership of the State Public Charter School Authority:

(a) Includes persons with a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State;

(b) Includes a parent or legal guardian of a pupil enrolled in a charter school in this State;

(c) Includes persons with specific knowledge of:

- (1) Issues relating to elementary and secondary education;
- (2) School finance or accounting, or both;
- (3) Management practices;
- (4) Assessments required in elementary and secondary education;
- (5) Educational technology; and
- (6) The laws and regulations applicable to charter schools; ~~and~~

(d) Insofar as practicable, reflects the ethnic and geographical diversity of this State ~~++~~; *and*

(e) Insofar as practicable, consists of persons who are experts on best practices for authorizing charter schools and developing and operating high-quality charter schools and charter management organizations.

3. Each member of the State Public Charter School Authority must be a resident of this State.

4. After the initial terms, the term of each member of the State Public Charter School Authority is 3 years, commencing on July 1 of the year in which he or she is appointed. A vacancy in the membership of the State Public Charter School Authority must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member shall continue to serve on the State Public Charter School Authority until his or her successor is appointed.

5. The members of the State Public Charter School Authority shall select a Chair and Vice Chair from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

6. Each member of the State Public Charter School Authority is entitled to receive:

(a) For each day or portion of a day during which he or she attends a meeting of the State Public Charter School Authority a salary of not more than \$80, as fixed by the State Public Charter School Authority; and

(b) For each day or portion of a day during which he or she attends a meeting of the State Public Charter School Authority or is otherwise engaged in the business of the State Public Charter School Authority the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 12. NRS 386.511 is hereby amended to read as follows:

386.511 1. The State Public Charter School Authority shall appoint ~~an~~ *an Executive* Director of the State Public Charter School Authority for a term

of 3 years. The State Public Charter School Authority shall ensure that the **Executive** Director has a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State.

2. A vacancy in the position of **Executive** Director must be filled by the State Public Charter School Authority for the remainder of the unexpired term.

3. The **Executive** Director is in the unclassified service of the State.

Sec. 13. NRS 386.5115 is hereby amended to read as follows:

386.5115 ~~1. The~~ **With the approval of the State Public Charter School Authority, the Executive** Director ~~shall not~~ **may** pursue any other business or occupation or hold any other office, **including, without limitation, serving as a member on a committee, board or task force of an organization relating to charter schools, serving as a reviewer of applications to form a charter school for organizations other than the State Public Charter School Authority and holding an office of profit, and may accept reimbursement for travel costs relating to such activities. The Executive Director shall not pursue any other business or occupation or hold any other office of profit** without the approval of the State Public Charter School Authority.

Sec. 14. NRS 386.512 is hereby amended to read as follows:

386.512 The **Executive** Director shall:

1. Execute, direct and supervise all administrative, technical and procedural activities of the State Public Charter School Authority in accordance with the policies prescribed by the State Public Charter School Authority;

2. Organize the State Public Charter School Authority in a manner which will ensure the efficient operation and service of the State Public Charter School Authority;

3. Serve as the Executive Secretary of the State Public Charter School Authority;

4. Ensure that the autonomy provided to charter schools in this State pursuant to state law and regulations is preserved; and

5. Perform such other duties as are prescribed by law or the State Public Charter School Authority.

Sec. 15. NRS 386.5125 is hereby amended to read as follows:

386.5125 **1.** The State Public Charter School Authority may employ such persons as it deems necessary to carry out the provisions of NRS 386.490 to 386.649, inclusive ~~1~~, **and sections 2 to 8, inclusive, of this act.** The staff employed by the State Public Charter School Authority must be qualified to carry out the daily responsibilities of sponsoring charter schools, **including, without limitation, oversight of written charters and charter contracts,** in accordance with the provisions of NRS 386.490 to 386.649, inclusive ~~1~~, **and sections 2 to 8, inclusive, of this act.**

2. The staff must include:

(a) Attorneys with experience with laws concerning education, special education and nonprofit organizations;

(b) Persons with experience overseeing the annual audits and financial operations of school districts, nonprofit organizations or corporations;

(c) Persons with experience conducting assessments and evaluations for a school district;

(d) Administrators with significant experience overseeing special education programs and programs while employed by a school district, charter management organization, educational management organization or other operator of charter schools;

(e) Policy analysts with significant experience in the areas of charter schools and education policy; and

(f) Any other persons that the State Public Charter School Authority determines are necessary.

3. The State Public Charter School Authority shall periodically evaluate and make decisions concerning the number of persons employed by the State Public Charter School Authority and the qualifications and compensation of such persons based on guidance from the National Association of Charter School Authorizers, or its successor organization, an assessment of the strategic plan for recruiting operators of charter schools prepared pursuant to NRS 386.515 and the needs of the charter schools sponsored by the State Public Charter School Authority.

Sec. 16. NRS 386.5125 is hereby amended to read as follows:

386.5125 1. The State Public Charter School Authority may employ such persons as it deems necessary to carry out the provisions of NRS 386.490 to 386.649, inclusive, and sections 2 to 8, inclusive, of this act. The staff employed by the State Public Charter School Authority must be qualified to carry out the daily responsibilities of sponsoring charter schools, including, without limitation, oversight of ~~written charters and~~ charter contracts, in accordance with the provisions of NRS 386.490 to 386.649, inclusive, and sections 2 to 8, inclusive, of this act.

2. The staff must include:

(a) Attorneys with experience with laws concerning education law, special education and nonprofit organizations;

(b) Persons with experience overseeing the annual audits and financial operations of school districts, nonprofit organizations or corporations;

(c) Persons with experience conducting assessments and evaluations for a school district;

(d) Administrators with significant experience overseeing special education programs and programs while employed by a school district, charter management organization, educational management organization or other operator of charter schools;

(e) Policy analysts with significant experience in the areas of charter schools and education policy; and

(f) Any other persons that the State Public Charter School Authority determines are necessary.

3. The State Public Charter School Authority shall periodically evaluate and make decisions concerning the number of persons employed by the State Public Charter School Authority and the qualifications and compensation of such persons based on guidance from the National Association of Charter School Authorizers, or its successor organization, an assessment of the strategic plan for recruiting operators of charter schools prepared pursuant to NRS 386.515 and the needs of the charter schools sponsored by the State Public Charter School Authority.

Sec. 17. NRS 386.513 is hereby amended to read as follows:

386.513 1. The State Public Charter School Authority is hereby deemed a local educational agency for the purpose of directing the proportionate share of any money available from federal and state categorical grant programs to charter schools which are sponsored by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that are eligible to receive such money. *A college or university within the Nevada System of Higher Education that sponsors a charter school shall enter into an agreement with the State Public Charter School Authority for the provision of any necessary functions of a local educational authority.* A charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

2. If the charter school is eligible to receive special education program units, the Department shall pay the special education program units directly to the charter school.

3. As used in this section, “local educational agency” has the meaning ascribed to it in 20 U.S.C. § 7801(26)(A).

Sec. 18. NRS 386.5135 is hereby amended to read as follows:

386.5135 1. The Account for the State Public Charter School Authority is hereby created in the State General Fund, to be administered by the **Executive** Director.

2. The interest and income earned on the money in the Account must be credited to the Account.

3. The money in the Account may be used only for the establishment and maintenance of the State Public Charter School Authority.

4. 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.

5. ~~{The}~~ **Except as otherwise provided in this subsection, the Executive** Director and the State Public Charter School Authority may accept gifts, grants and bequests to carry out the provisions of NRS 386.490 to 386.649, inclusive ~~{,}~~, **and sections 2 to 8, inclusive, of this act. The Executive Director and the State Public Charter School Authority shall not accept any gift or donation from a charter management organization, a committee to form a charter school or the governing body of a charter school.** Any money from gifts, grants and bequests must be deposited in the Account and may be expended in

accordance with the terms and conditions of the gift, grant or bequest, or in accordance with this section.

Sec. 19. 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. *The board of trustees of a school district or a college or university within the Nevada System of Higher Education may enter into an agreement with the State Public Charter School Authority to provide technical assistance and support in preparing an application to sponsor a charter school and planning and executing the duties of a sponsor of a charter school as prescribed in this section.*

5. 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 386.649, inclusive, ***and sections 2 to 8, 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 should be revoked or the charter contract terminated, as applicable, in accordance with NRS 386.530, 386.535 or 386.5351, as applicable ~~+~~
~~—5.1 ;~~

(g) Determining whether the governing body of a charter school should be reconstituted in accordance with NRS 386.535; ~~for 386.5351, as applicable;~~ and

(h) Adopting a policy for appointing a new governing body of a charter school for which the governing body is reconstituted in accordance with NRS 386.535; ~~for 386.5351, as applicable.~~

6. 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 *soliciting and* evaluating charter school applications in accordance with NRS 386.525 ~~and for the renewal of charter contracts pursuant to NRS 386.530;~~

~~—(e) ;~~ *which must include, without limitation:*

(1) Specific application procedures and timelines for committees to form a charter school that plan to enter into a contract with an educational management organization to operate the charter school, committees to form a charter school that do not plan to enter into such a contract and charter management organizations; and

(2) A description of the manner in which the sponsor will evaluate the previous performance of an educational management organization or other person with whom a committee to form a charter school plans to enter into a contract to operate a charter school or a charter management organization that submits an application to form a charter school;

(c) The procedure and criteria for evaluating applications for the renewal of charter contracts pursuant to NRS 386.530;

(d) The procedure for amending a written charter or charter contract and the criteria for determining whether a request for such an amendment will be approved which must include, without limitation, any manner in which such procedures and criteria will differ if the sponsor determines that the amendment is material or strategically important;

(e) If deemed appropriate by the sponsor, a strategic plan for recruiting charter management organizations, educational management organizations or other persons to operate charter schools based on the priorities of the

sponsor and the needs of the pupils that will be served by the charter schools that will be sponsored by the sponsor;

(f) A description of how the sponsor will maintain oversight of the charter schools it sponsors ~~that~~, *which must include, without limitation:*

(1) *An assessment of the needs of the charter schools that are sponsored by the sponsor that is prepared with the input of the governing bodies of such charter schools; and*

(2) *A strategic plan for the oversight and provision of technical support to charter schools that are sponsored by the sponsor in the areas of academic, fiscal and organizational performance; and*

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

~~6.7.~~ *Before the State Public Charter School Authority or a board of trustees of a school district or a college or university within the Nevada System of Higher Education that is approved to sponsor charter schools begins soliciting applications to form a charter school, the State Public Charter School Authority, board of trustees or college or university, as applicable, shall prepare, in collaboration with the Department ~~that~~ and, to the extent practicable, the school district in which the proposed charter school will be located and any other sponsor of a charter school located in that school district, an evaluation of the academic needs of pupils in geographic areas served by the sponsor.*

8. 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.

9. *The provisions of this section do not establish a private right of action against the sponsor of a charter school.*

Sec. 20. 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. *The board of trustees of a school district or a college or university within the Nevada System of Higher Education may enter into an agreement with the State Public Charter School Authority to provide technical assistance and support in preparing an application to sponsor a charter school and planning and executing the duties of a sponsor of a charter school prescribed in this section.*

5. 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 386.649, inclusive, *and sections 2 to 8, 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 charter contract should be terminated in accordance with NRS 386.530, 386.535 or 386.5351, as applicable ~~to~~
 ~~5.1~~ ;

(g) *Determining whether the governing body of a charter school should be reconstituted in accordance with NRS 386.535; ~~for 386.5351, as applicable,~~* and

(h) *Adopting a policy for appointing a new governing body of a charter school for which the governing body is reconstituted in accordance with NRS 386.535; ~~for 386.5351, as applicable,~~*

6. 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 *soliciting and* evaluating charter school applications in accordance with NRS 386.525 ~~and for the~~;

~~—(e)—~~, which must include, without limitation:

(1) *Specific application procedures and timelines for committees to form a charter school that plan to enter into a contract with an educational management organization to operate the charter school, committees to form a charter school that do not plan to enter into such a contract and charter management organizations; and*

(2) *A description of the manner in which the sponsor will evaluate the previous performance of an educational management organization or other person with whom a committee to form a charter school plans to enter into a contract to operate a charter school or a charter management organization that submits an application to form a charter school;*

(c) *The procedure and criteria for evaluating applications for renewal of charter contracts pursuant to NRS 386.530;*

(d) *The procedure for amending a charter contract and the criteria for determining whether a request for such an amendment will be approved which must include, without limitation, any manner in which such procedures and criteria will differ if the sponsor determines that the amendment is material or strategically important;*

(e) *If deemed appropriate by the sponsor, a strategic plan for recruiting charter management organizations, educational management organizations or other persons to operate charter schools based on the priorities of the sponsor and the needs of the pupils that will be served by the charter schools that will be sponsored by the sponsor;*

(f) *A description of how the sponsor will maintain oversight of the charter schools it sponsors* ~~††~~, which must include, without limitation:

(1) *An assessment of the needs of the charter schools that are sponsored by the sponsor that is prepared with the input of the governing bodies of such charter schools; and*

(2) *A strategic plan for the oversight and provision of technical support to charter schools that are sponsored by the sponsor in the areas of academic, fiscal and organizational performance; and*

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

~~†6.†~~ 7. *Before the State Public Charter School Authority or a board of trustees of a school district or a college or university within the Nevada System of Higher Education that is approved to sponsor charter schools begins soliciting applications to form a charter school, the State Public Charter School Authority, board of trustees or college or university, as applicable, shall prepare, in collaboration with the Department ~~††~~ and, to the extent practicable, the school district in which the proposed charter school will be located and any other sponsor of a charter school located in that school district, an evaluation of the academic needs of pupils in geographic areas served by the sponsor.*

8. 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.

9. *The provisions of this section do not establish a private right of action against the sponsor of a charter school.*

Sec. 21. 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~~ **applicant** shall ensure that the completed application:

(a) Presents ~~the~~ **a clear, measurable and high-quality** 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 386.649, inclusive.~~ **summary of the plan for the proposed charter school.**

(b) A **clear** written description of the mission **of the charter school** and **the** 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) **A clear description of the indicators, measures and metrics for the categories of academics, finances and organization that the charter school proposes to use, the external assessments that will be used to assess performance in those categories and the objectives that the committee to form a charter school plans to achieve in those categories, which must be expressed in terms of the objectives, measures and metrics. The objectives and the indicators, measures and metrics used by the charter school must be consistent with the performance framework adopted by the sponsor pursuant to NRS 386.527.**

(d) **A resume and background information for each person who serves on the board of the charter management organization or the committee to form a charter school, as applicable, which must include the name, telephone number, electronic mail address, background, qualifications, any past or current affiliation with any charter school in this State or any other state, any potential conflicts of interest and any other information required by the sponsor.**

(e) **The proposed location of, or the geographic area to be served by, the charter school and evidence of a need and community support for the charter school in that area.**

(f) The **minimum, planned and maximum** projected enrollment of pupils in **each grade in** the charter school ~~+~~

~~—(d)—~~ **for each year that the charter school would operate under the proposed charter contract.**

(g) The **procedure for applying for enrollment in the proposed charter school, which must include, without limitation, the** proposed dates for accepting applications for enrollment in ~~the initial~~ **each** 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.~~ *under the proposed charter contract and 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.*

(h) ~~{The textbooks that will be used at the charter school.}~~ *The academic program that the charter school proposes to use, a description of how the academic program complies with the requirements of NRS 386.550, the proposed academic calendar for the first year of operation and a sample daily schedule for a pupil in each grade served by the charter school.*

(i) ~~{The qualifications of the persons who will provide instruction at the charter school.}~~ *A description of the proposed instructional design of the charter school and the type of learning environment the school will provide, including, without limitation, whether the charter school will provide a program of distance education, the planned class size and structure, the proposed curriculum for the charter school and the teaching methods that will be used 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.}~~ *The manner in which the school plans to identify and serve the needs of pupils with disabilities, pupils who are English language learners, pupils who are academically behind their peers and gifted pupils.*

(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.}~~ *A description of any co-curricular or extracurricular activities that the school plans to offer and the manner in which these programs will be funded.*

(l) *Any uniform or dress code policy that the school plans to use.*

(m) *Plans and timelines for recruiting and enrolling students, including procedures for any lottery for admission that the school plans to conduct.*

(n) *The rules of behavior and punishments that the school plans to adopt pursuant to NRS 386.585, including, without limitation, any unique discipline policies for pupils enrolled in a program of special education.*

(o) *A chart that clearly presents the proposed organizational structure of the school and a clear description of the roles and responsibilities of the governing body, administrators and any other persons included on the chart and a table summarizing the decision-making responsibilities of the staff and*

governing body of the charter school and, if applicable, the charter management organization that operates the charter school. The table must also identify the person responsible for each activity conducted by the charter school, including, without limitation, the person responsible for establishing curriculum and culture, providing professional development to employees of the charter school and making determinations concerning the staff of the charter school.

(p) The names of any external organizations that will play a role in operating the school and the role each such organization will play.

(q) The manner in which the governing body of the charter school will be chosen.

(r) A staffing chart for the first year in which the charter school plans to operate and a projected staffing plan for the term of the charter contract.

(s) Plans for recruiting administrators, teachers and other staff, providing professional development to such staff.

(t) Proposed bylaws for the governing body, a description of the manner in which the school will be governed, including, without limitation, any governance training that will be provided to the governing body, and a code of ethics for members and employees of the governing body. The code of ethics must be prepared with guidance from the Nevada Commission on Ethics and must not conflict with any policy adopted by the sponsor.

(u) Explanations of any partnerships or contracts central to the operations or mission of the charter school.

(v) 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)]~~ *(w) 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.]~~

(x) A statement of the school's plans for food service and other significant operational services, including a statement of whether the charter school will provide food service or participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. If the charter school will not provide food service or participate in the National School Lunch Program, the application must include an explanation of the manner in which the charter school will ensure that the lack of such food service or participation does not prevent pupils from attending the charter school.

(y) Opportunities and expectations for involving the parents of pupils enrolled in the charter school in instruction at the school and the operation of the school, including, without limitation, the manner in which the charter school will solicit input concerning the governance of the charter school from such parents.

(z) A detailed plan for starting operation of the charter school that identifies necessary tasks, the persons responsible for performing them and the dates by which such tasks will be accomplished.

(aa) A description of the financial plan and policies to be used by the charter school.

(bb) A description of the insurance coverage the school will obtain.

(cc) Budgets for starting operation at the charter school, the first year of operation of the charter school and the first 5 years of operation of the charter school, with any assumptions inherent in the budgets clearly stated.

(dd) Evidence of any money pledged or contributed to the budget of the charter school.

(ee) A statement of the facilities that will be used to operate the charter school and a plan for operating such facilities, including, without limitation, any backup plan to be used if the charter school cannot be operated out of the planned facilities.

(ff) If the charter school is a vocational school, a description of the career and technical education program that will be used by the school.

(gg) If the charter school will provide a program of distance education, a description of the system of course credits that the school will use and the manner in which the school will:

(1) Monitor and verify the participation in and completion of courses by pupils;

(2) Require pupils to participate in assessments and submit coursework;

(3) Conduct parent-teacher conferences; and

(4) Administer any test, examination or assessment required by state or federal law in a proctored setting.

(hh) If the charter school will provide a program where a student may earn college credit for courses taken in high school, a draft memorandum of understanding between the charter school and the college or university

through which the credits will be earned and a term sheet, which must set forth:

(1) The proposed duration of the relationship between the charter school and the college or university and the conditions for renewal and termination of the relationship;

(2) The roles and responsibilities of the governing body of the charter school, the employees of the charter school and the college or university;

(3) The scope of the services and resources that will be provided by the college or university;

(4) The manner and amount that the college or university will be compensated for providing such services and resources, including, without limitation, any tuition and fees that pupils at the charter school will pay to the college or university;

(5) The manner in which the college or university will ensure that the charter school effectively monitors pupil enrollment and attendance and the acquisition of college credits; and

(6) Any employees of the college or university who will serve on the governing body of the charter school.

(ii) If the applicant currently operates a charter school in another state, evidence of the performance of such charter schools and the capacity of the applicant to operate the proposed charter school.

(jj) If the applicant proposes to contract with an educational management organization or any other person to provide educational or management services:

(1) Evidence of the performance of the educational management organization or other person when providing such services to a population of pupils similar to the population that will be served by the proposed charter school;

(2) A term sheet that sets forth:

(I) The proposed duration of the proposed contract between the governing body of the charter school and the educational management organization;

(II) A description of the responsibilities of the governing body of the charter school, employees of the charter school and the educational management organization or other person;

(III) All fees that will be paid to the educational management organization or other person;

(IV) The manner in which the governing body of the charter school will oversee the services provided by the educational management organization or other person and enforce the terms of the contract;

(V) A disclosure of the investments ~~to~~ made by the educational management organization or other person ~~for~~ in the proposed charter school; and

(VI) The conditions for renewal and termination of the contract; and

(3) *A disclosure of any conflicts of interest concerning the applicant and the educational management organization or other person, including, without limitation, any past or current employment, business or familial relationship between any prospective employee of the charter school and a member of the committee to form a charter school or the board of directors of the charter management organization, as applicable.*

(kk) *Any additional information ~~required by~~ that the sponsor ~~if~~ determines is necessary to evaluate the ability of the proposed charter school to serve pupils in the school district in which the proposed charter school will be located.*

6. *A charter management organization may, as part of an application to form a charter school, request a waiver of the requirements of subsection 1 or 2 of NRS 386.549 concerning the membership of the governing body. A sponsor shall not grant such a waiver unless the charter management organization provides a compelling reason for the waiver. If approved, the waiver may provide, without limitation, for multiple governing bodies that have the authority to make decisions concerning the governance of the charter school or a facility operated by the charter school. A majority of the members of each such governing body must reside in this State. A request for a waiver to allow for multiple such governing bodies must describe the role, responsibilities and composition of each such proposed governing body.*

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. 22. NRS 386.525 is hereby amended to read as follows:

386.525 1. A ***committee to form a charter school or charter management organization*** may submit the application to the proposed sponsor of the charter school. 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 , ***which ~~must~~ may include, without limitation, natural persons from different geographic areas of the United States*** 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;] applicant designed to elicit any necessary clarifications or additional information about the proposed charter school and determine the ability of the applicants to establish a high-quality 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 ~~4~~ 6 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 386.649, inclusive, **and sections 2 to 8, inclusive, of this act** and the regulations applicable to charter schools; and

(2) Is complete in accordance with the regulations of the Department ~~4~~ **and the policies and practices of the sponsor**; and

(b) The applicant has demonstrated competence in accordance with the criteria for approval prescribed by the sponsor pursuant to subsection ~~4~~ 6 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 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. The board of trustees, the college or the university, as applicable, shall review an application in accordance with the requirements for review set forth in subsections 2 and 3.

5. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of subsection 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. 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.

7. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 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.

8. If the State Public Charter School Authority receives an application pursuant to subsection 1 or 7, it shall consider the application at a meeting which must be held not later than 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. 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 subsections 2 and 3. The State Public Charter School Authority may approve an application only if it satisfies the requirements of subsection 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.

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 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.

10. If the State Public Charter School Authority denies an application after it has been resubmitted pursuant to subsection 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.

11. *Notwithstanding the provisions of this section, the State Public Charter School Authority may adopt regulations establishing timelines and procedures by which the State Public Charter School Authority will review applications and the board of trustees of a school district that is approved to sponsor charter schools or a college or university within the Nevada System of Higher Education that is approved to sponsor charter schools may adopt policies establishing timelines and procedures by which the board of trustees or college or university, as applicable, will review applications. These regulations or policies may:*

(a) Establish different timelines and review procedures for different types of applicants; and

(b) Authorize or require an applicant to submit an abbreviated application, the contents of such an application and criteria that the State Public Charter School Authority will use to determine whether to invite the applicant to submit a full application that meets the requirements of NRS 386.520 or deny the abbreviated application and recommend that the applicant make substantial revisions and submit the application during another application cycle.

12. *The State Public Charter School Authority may enter into a contract with any qualified person to:*

(a) Foster the development of high-quality charter management organizations, educational management organizations and other persons to operate charter schools in this State;

(b) Solicit applications to form charter schools from high-quality applicants;

(c) Provide training concerning the governance and management of charter schools to governing bodies of charter schools and applicants to form charter schools; or

(d) Provide professional development and support services to the administration and other employees of charter schools.

13. The State Public Charter School Authority may provide compensation pursuant to a contract entered into pursuant to subsection 12 using any money raised by the State Public Charter School Authority from private donors for that purpose or any money received from fees paid to the State Public Charter School Authority.

14. 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. 23. 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 June 11, 2013, grant a written charter to the governing body of the charter school or, on or after June 11, 2013, 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 386.649, inclusive, **and sections 2 to 8, 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. ***A sponsor may require, as a condition of granting a request for an amendment to a governing body that has been granted a written charter, such a governing body to agree to the revocation of the written charter and to enter into a charter contract.*** 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 ***in a facility in which the charter school has not previously operated*** and is not eligible to receive apportionments ***for pupils enrolled in such a facility*** 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. 24. 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 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 charter contract 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 charter contract. ~~[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 386.649, inclusive, **and sections 2 to 8, 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 charter contract 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 **in a facility in which the charter school has not previously operated** and is not eligible to receive apportionments pursuant to NRS 387.124 **for pupils enrolled in such a facility** 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. 25. NRS 386.528 is hereby amended to read as follows:

386.528 1. ~~[The]~~ **Each sponsor of a charter school shall adopt a performance framework [that is required to be incorporated] and incorporate the performance framework** into the charter contract pursuant to paragraph (a) of subsection 1 of NRS 386.527 . **The performance framework** 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 386.649, inclusive ~~††~~, ***and sections 2 to 8, 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 ~~††~~ ***in a manner that complies with all applicable federal and state laws.***

6. ***The sponsor of the charter school may aggregate data reported by the State and collected by the sponsor concerning pupil achievement and school performance at separate facilities operated by the same governing body or charter management organization and across all grades served by the charter school for the purpose of evaluating and reporting pupil achievement and school performance. Such an aggregation of data may include, without limitation, a weighted average of data concerning pupil achievement and school performance of each elementary school, junior high***

school, middle school or high school program operated by the charter school. The sponsor may also disaggregate such data by facility and by grade level or group of grade levels to provide greater transparency and accountability. The sponsor may also adopt policies for determining pupil achievement and school performance at a charter school. Any data reported pursuant to this subsection must be reported in a manner that complies with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto.

7. The State Board may adopt regulations to place requirements on the manner in which data is reported by ~~the sponsor~~ the board of trustees of a school district or a college or university within the Nevada System of Higher Education that sponsors a charter school including, without limitation, the manner in which data must be aggregated or disaggregated in any report.

8. The State Public Charter School Authority may adopt regulations establishing requirements concerning the manner in which it reports data including, without limitation, the manner in which data must be aggregated or disaggregated in any report.

Sec. 26. NRS 386.530 is hereby amended to read as follows:

386.530 1. 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 *and each facility that constitutes 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 386.649, inclusive ~~1-3~~, *and sections 2 to 8, 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 ~~1-2~~ 3; 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 386.649, inclusive ~~1-3~~, *and sections 2 to 8, inclusive, of this act. Such criteria must include, without limitation, the performance indicators, measures and metrics included in the performance framework.*

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 to the sponsor 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. 27. NRS 386.535 is hereby amended to read as follows:

386.535 Except as otherwise provided in NRS 386.5351:

1. ~~The~~ ***Except as otherwise provided in subsection 6, the*** sponsor of a charter school may ***reconstitute the governing body of a charter school,*** 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 386.649, inclusive, ***and sections 2 to 8, 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 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; ~~for~~

(c) There is reasonable cause to believe that **reconstitution**, 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 ~~for~~ ;

(d) The sponsor determines that the committee to form the charter school or charter management organization, as applicable, or any member of the committee to form the charter school or charter management organization, as applicable, or the governing body of the charter school has at any time made a material misrepresentation or omission concerning any information disclosed to the sponsor;

(e) The charter school is a high school that has a graduation rate for the immediately preceding school year that is less than 60 percent;

(f) The charter school is an elementary or middle school or junior high school that is rated in the lowest 5 percent of elementary schools, middle schools or junior high schools in the State in pupil achievement and school performance, as determined by the Department pursuant to the statewide system of accountability for public schools; or

(g) Pupil achievement and school performance at the charter school is unsatisfactory as determined by the Department pursuant to criteria prescribed by regulation by the Department to measure the performance of any public school.

2. Before the sponsor **reconstitutes a governing body**, 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 **reconstitute the governing body**, 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 ***reconstitute the governing body***, 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 ***reconstitute the governing body***, 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 ~~+~~ ***or the sponsor determines that the deficiency is evidence of an ongoing pattern of deficiencies in a particular area.***

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 ***governing body of a charter school is reconstituted***, 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 ***reconstitution or termination, as applicable***, not later than 10 days after ***reconstituting the governing body***, revoking the written charter or terminating the charter contract.

6. The governing body of a charter school may not be reconstituted if it has been previously reconstituted.

Sec. 28. NRS 386.5351 is hereby amended to read as follows:

386.5351 1. The sponsor of a charter school shall ~~reconstitute the governing body of a charter school,~~ revoke the written charter or terminate the charter contract of the charter school if the charter school receives ***in any period of 5 consecutive school years***, 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.

2. 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~~ ***2015-2016*** school year must not be included in the count of ~~consecutive~~ annual ratings for the purposes of ~~this subsection.~~ ~~2.~~ ***subsection 1, unless the sponsor determines that the governing body lacks the capacity to improve pupil achievement and school performance.***

3. ~~The Superintendent of Public Instruction may exempt a charter school from the provisions of subsection 1 if the Superintendent determines that there has been a significant change to the statewide system of accountability that justifies such an exemption. In such cases, the years before and after the exemption is awarded shall be deemed to be consecutive years for the purposes of subsection 1.~~

~~4.1~~ If a ~~governing body is reconstituted, 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 ~~reconstitution, revocation or~~ termination not later than 10 days after ~~reconstituting the governing body,~~ revoking the written charter or terminating the charter contract.

~~3.5~~ 4. The provisions of NRS 386.535 do not apply to the ~~reconstitution of a governing body, the~~ revocation of a written charter or termination of a charter contract pursuant to this section.

Sec. 29. ~~NRS 386.5351 is hereby amended to read as follows:~~

~~386.5351 1. The sponsor of a charter school shall 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.~~

~~2. 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 subsection 1 [this subsection.~~

~~2.] , unless the sponsor determines that the governing body lacks the capacity to improve pupil achievement and school performance.~~

~~3. The Superintendent of Public Instruction may exempt a charter school from the provisions of subsection 1 if the Superintendent determines that there has been a significant change to the statewide system of accountability that justifies such an exemption. In such cases, the years before and after the exemption is awarded shall be deemed to be consecutive years for the purposes of subsection 1.~~

~~4. If a governing body is reconstituted 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 reconstitution or termination not later than 10 days after reconstituting the governing body or terminating the charter contract.~~

~~3.1~~ 5. The provisions of NRS 386.535 do not apply to the termination of a charter contract pursuant to this section. **(Deleted by amendment.)**

Sec. 30. NRS 386.536 is hereby amended to read as follows:

386.536 1. If a charter school ceases to operate voluntarily, if a charter contract is not renewed or ~~upon revocation of~~ if a written charter *is revoked* or ~~termination of~~ a charter contract ~~it~~ *is terminated and the sponsor does not recruit a governing body of another charter school to operate another campus of the other charter school to replace the charter school whose written charter is revoked or whose charter contract is terminated pursuant to section 6 of this act,* as applicable, the governing body of the charter school shall:

(a) Give written notice of the closure to:

(1) The sponsor of the charter school, unless the closure results from the revocation of the written charter or the non-renewal or termination of a charter contract, as applicable;

(2) The Director of the Department of Business and Industry;

(3) The board of trustees of the school district in which the charter school is located, unless the board of trustees is the sponsor of the charter school and the closure results from the revocation of the written charter or the non-renewal or termination of a charter contract, as applicable;

(4) The Department;

(5) The parents or legal guardians of the pupils enrolled in the charter school; and

(6) The creditors of the charter school;

(b) Except as otherwise provided in subsections 4 and 5, 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;

(c) As soon as practicable, develop and present to the sponsor of the charter school a written plan for the closure of the charter school;

(d) Maintain an office at the charter school or elsewhere, with regular hours of operation and voice messaging stating the hours of operation;

(e) Maintain existing insurance coverage in force for the period required by the sponsor of the charter school;

(f) Conduct a financial audit and an inventory of all the assets of the charter school and cause a written report of the audit and inventory to be prepared for the sponsor of the charter school and the Department;

(g) Prepare a written list of the creditors of the charter school, identifying secured creditors and the assets in which those creditors have a security interest;

(h) Supply any information or documents required by the sponsor of the charter school; and

(i) Protect all the assets of the charter school from theft, misappropriation, deterioration or other loss.

2. The notice of the closure required by subsection 1 must include:

(a) The date of closure;

(b) A statement of the plan of the charter school to assist pupils to identify and transfer to another school; and

(c) The telephone number, mailing address and physical address of the office required by subsection 1.

3. The administrator appointed pursuant to subsection 1 shall carry out the duties prescribed for the governing body of the charter school by paragraphs (c) to (i), inclusive, of subsection 1 if the governing body ceases to exist or is otherwise unable to perform those duties and 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.

4. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 3, the governing body of the charter school shall appoint a qualified person to assume those duties.

5. 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 4, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 3.

6. In addition to performing the duties set forth in subsection 3, the administrator appointed by the governing body of the charter school or the sponsor, or the qualified person appointed to carry out the duties of the administrator, shall:

- (a) Cause to be paid and discharged all the liabilities and obligations of the charter school to the extent of the charter school's assets;

- (b) Terminate any lease, service agreement or any other contract of the charter school that is not necessary to complete the closure of the charter school;

- (c) Supply any information or documents required by the sponsor of the charter school; and

- (d) After the financial affairs of the charter school have been wound up and the closure of the charter school has otherwise been completed, cause a financial audit to be prepared and cause a written report of the audit to be prepared for the sponsor of the charter school and the Department.

7. 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. 31. NRS 386.536 is hereby amended to read as follows:

386.536 1. If a charter school ceases to operate voluntarily, if a charter contract is not renewed or ~~upon termination of~~ **if a charter contract is terminated and the sponsor does not recruit a governing body of another charter school to operate another campus of the other charter school to replace the charter school whose written charter is revoked or whose charter contract is terminated pursuant to section 6 of this act,** as applicable, the governing body of the charter school shall:

- (a) Give written notice of the closure to:

- (1) The sponsor of the charter school, unless the closure results from the non-renewal or termination of a charter contract;

- (2) The Director of the Department of Business and Industry;

(3) The board of trustees of the school district in which the charter school is located, unless the board of trustees is the sponsor of the charter school and the closure results from the non-renewal or termination of a charter contract;

(4) The Department;

(5) The parents or legal guardians of the pupils enrolled in the charter school; and

(6) The creditors of the charter school;

(b) Except as otherwise provided in subsections 4 and 5, 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;

(c) As soon as practicable, develop and present to the sponsor of the charter school a written plan for the closure of the charter school;

(d) Maintain an office at the charter school or elsewhere, with regular hours of operation and voice messaging stating the hours of operation;

(e) Maintain existing insurance coverage in force for the period required by the sponsor of the charter school;

(f) Conduct a financial audit and an inventory of all the assets of the charter school and cause a written report of the audit and inventory to be prepared for the sponsor of the charter school and the Department;

(g) Prepare a written list of the creditors of the charter school, identifying secured creditors and the assets in which those creditors have a security interest;

(h) Supply any information or documents required by the sponsor of the charter school; and

(i) Protect all the assets of the charter school from theft, misappropriation, deterioration or other loss.

2. The notice of the closure required by subsection 1 must include:

(a) The date of closure;

(b) A statement of the plan of the charter school to assist pupils to identify and transfer to another school; and

(c) The telephone number, mailing address and physical address of the office required by subsection 1.

3. The administrator appointed pursuant to subsection 1 shall carry out the duties prescribed for the governing body of the charter school by paragraphs (c) to (i), inclusive, of subsection 1 if the governing body ceases to exist or is otherwise unable to perform those duties and 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.

4. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 3, the governing body of the charter school shall appoint a qualified person to assume those duties.

5. 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 4, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 3.

6. In addition to performing the duties set forth in subsection 3, the administrator appointed by the governing body of the charter school or the sponsor, or the qualified person appointed to carry out the duties of the administrator, shall:

(a) Cause to be paid and discharged all the liabilities and obligations of the charter school to the extent of the charter school's assets;

(b) Terminate any lease, service agreement or any other contract of the charter school that is not necessary to complete the closure of the charter school;

(c) Supply any information or documents required by the sponsor of the charter school; and

(d) After the financial affairs of the charter school have been wound up and the closure of the charter school has otherwise been completed, cause a financial audit to be prepared and cause a written report of the audit to be prepared for the sponsor of the charter school and the Department.

7. 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. 32. 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 ~~1. 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 ~~to the board of trustees of a school district and a college or university within the Nevada System of Higher Education, and the contents of the application;~~

(f) The criteria and type of investigation that must be applied by the board of trustees ~~to 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 *to the board of trustees of a school district and a college or university within the Nevada System of Higher Education* pursuant to NRS 386.527 and the contents of the application ~~to~~; *and*

(h) In consultation with the State Public Charter School Authority, other sponsors of charter schools, governing bodies of charter schools and persons who may be affected:

(1) Requirements for the annual independent audits of charter schools, including, without limitation, required training for prospective auditors on the expectations and scope of the audits; and

(2) Ethics requirements for the governing bodies of charter schools.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.490 to 386.649, inclusive, *and sections 2 to 8, 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 ~~to~~; *and*

(d) Qualifications, in addition to those prescribed pursuant to NRS 386.520, of a charter management organization or committee to form a charter school that is authorized to file an application to form a charter school.

3. *The State Public Charter School Authority shall adopt regulations that prescribe:*

(a) The process for submission to the State Public Charter School Authority of an application to form a charter school, and the contents of such an application;

(b) The process for submission to the State Public Charter School Authority of an application to renew a charter contract, and the contents of such an application;

(c) The process for submission to the State Public Charter School Authority of an amendment to a written charter or charter contract pursuant to NRS 386.527 and the contents of the application; and

(d) The procedure for the investigation that the State Public Charter School Authority will conduct of an application to form a charter school, an application to renew a charter contract or an application to request an amendment of a written charter or charter contract, and the criteria that the State Public Charter School Authority will use to evaluate such applications.

Sec. 33. 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 ~~to 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 ~~to the board of trustees of a school district and a college or university within the Nevada System of Higher Education, and the contents of the application;~~

(f) The criteria and type of investigation that must be applied by the board of trustees ~~to 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 charter contract; ~~and~~

(g) The process for submission of an amendment of a charter contract *to the board of trustees of a school district and a college or university within the Nevada System of Higher Education* pursuant to NRS 386.527 and the contents of the application ~~to the~~; and

(h) In consultation with the State Public Charter School Authority, other sponsors of charter schools, governing bodies of charter schools and persons who may be affected:

(1) Requirements for the annual independent audits of charter schools, including, without limitation, required training for prospective auditors on the expectations and scope of the audits; and

(2) Ethics requirements for the governing bodies of charter schools.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.490 to 386.649, inclusive, **and sections 2 to 8, 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 ~~+~~; and

(d) Qualifications, in addition to those prescribed pursuant to NRS 386.520, of a charter management organization or committee to form a charter school that is authorized to file an application to form a charter school.

3. *The State Public Charter School Authority shall adopt regulations that prescribe:*

(a) The process for submission to the State Public Charter School Authority of an application to form a charter school, and the contents of such an application;

(b) The process for submission to the State Public Charter School Authority of an application to renew a charter contract, and the contents of such an application;

(c) The process for submission to the State Public Charter School Authority of an amendment to a charter contract pursuant to NRS 386.527 and the contents of the application; and

(d) The procedure for the investigation that the State Public Charter School Authority will conduct of an application to form a charter school, an application to renew a charter contract or an application to request an amendment of a charter contract, and the criteria that the State Public Charter School Authority will use to evaluate such applications.

Sec. 34. NRS 386.545 is hereby amended to read as follows:

386.545 1. The Department and the board of trustees of a school district shall:

(a) Upon request, provide information to the general public concerning the formation and operation of charter schools; and

(b) Maintain a list available for public inspection that describes the location of each charter school.

2. The sponsor of a charter school shall:

(a) Provide reasonable assistance to an applicant for a charter school and to a charter school in carrying out the provisions of NRS 386.490 to 386.649, inclusive ~~††~~, **and sections 2 to 8, inclusive, of this act;**

(b) Provide technical and other reasonable assistance to a charter school for the operation of the charter school;

(c) Provide information to the governing body of a charter school concerning the availability of money for the charter school, including, without limitation, money available from the Federal Government;

(d) Provide timely access to the electronic data concerning the pupils enrolled in the charter school that is maintained pursuant to NRS 386.650; and

(e) Provide appropriate information, education and training to a charter school and the governing body of a charter school concerning the applicable provisions of this title and any other laws and regulations that affect charter schools and the governing bodies of charter schools.

3. If the board of trustees of a school district is the sponsor of a charter school, the sponsor shall:

(a) Provide the charter school with an updated list of available substitute teachers within the school district.

(b) Provide access to school buses for use by the charter school for field trips. The school district may charge a reasonable fee for the use of the school buses ~~††~~, **which must not be greater than the amount that the board of trustees is authorized to charge the charter school for services pursuant to NRS 386.560.**

(c) If the school district offers summer school or Internet-based credit recovery classes, allow the pupils enrolled in the charter school to participate if space is available. The school district shall apply the same fees, if any, for participation of the pupils enrolled in the charter school as it applies to pupils enrolled in the school district.

4. If the Department prescribes a process for charter schools to report certain information, the Department may request the identified information regardless if that information is required to be submitted by charter schools pursuant to a specific statute. Upon such a request, a charter school shall provide the information if the Department includes a detailed description of the requested information and the mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will incur any costs for the charter school.

Sec. 35. NRS 386.547 is hereby amended to read as follows:

386.547 The State ~~Board~~ **Public Charter School Authority** shall:

1. ~~Review~~ **Before March 1 of each even-numbered year:**

(a) ~~Review~~ **In consultation with the Department and each board of trustees of a school district and college or university within the Nevada System of Higher Education that sponsors a charter school, review** all statutes and regulations from which charter schools are **not** exempt and determine whether such ~~exemption~~ **statutes and regulations** assisted or

impeded the charter schools in achieving their ~~educational~~ **academic, fiscal and organizational** goals and objectives ~~+~~;

(b) Make recommendations to the Legislative Committee on Education concerning any legislation that would assist charter schools in achieving their academic, fiscal and organizational goals; and

(c) Make recommendations to the State Board and the Department concerning any changes to regulations that would assist charter schools in achieving their academic, fiscal and organizational goals.

2. Make available information concerning the formation and operation of charter schools in this State **and the academic, fiscal and organizational performance of each charter school in this State** to pupils, parents and legal guardians of pupils, teachers and other educational personnel and members of the general public. **The State Public Charter School Authority shall update such information annually.**

Sec. 36. NRS 386.549 is hereby amended to read as follows:

386.549 1. ~~The~~ **Unless a waiver is granted pursuant to subsection 6 of NRS 386.520, the** governing body of 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 of a pupil enrolled in the charter school who is not a teacher or an administrator at the charter school.

(d) Two members who possess knowledge and experience 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 governing body of a charter school may include, without limitation, parents and representatives of nonprofit organizations and businesses. ~~Not~~ **Unless a waiver is granted pursuant to subsection 6 of NRS 386.520, not** more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business. A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

3. A person may serve on the governing body only if the person submits an affidavit to the sponsor of the charter school indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has ***received training or*** read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other ***training and*** material designed to assist the governing bodies of charter schools, if such ***training and*** material is provided to the person by the sponsor ~~or an application to form a charter school or amend a written charter or charter contract~~ ~~provided~~ ***provides that the member would receive such training or read and understand such material.***

(c) ***Complies with the requirements of section 7 of this act.***

4. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

5. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which ~~the charter school~~ ***a facility operated by the charter school where pupils receive instruction*** is located. Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive a salary of not more than \$80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.

6. 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. 37. NRS 386.549 is hereby amended to read as follows:

386.549 1. Unless a waiver is granted pursuant to subsection 6 of NRS 386.520, the governing body of 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 of a pupil enrolled in the charter school who is not a teacher or an administrator at the charter school.

(d) Two members who possess knowledge and experience 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 governing body of a charter school may include, without limitation, parents and representatives of nonprofit organizations and businesses. Unless a waiver is granted pursuant to subsection 6 of NRS 386.520, not more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business. A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

3. A person may serve on the governing body only if the person submits an affidavit to the sponsor of the charter school indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has received training or read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other training and material designed to assist the governing bodies of charter schools, if such training and material is provided to the person by the sponsor or an application to form a charter school or amend ~~to a written charter or~~ a charter contract provides that the member would receive such training or read and understand such material.

(c) Complies with the requirements of section 7 of this act.

4. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

5. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which a facility operated by the charter school where pupils receive instruction is located. Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive a salary of not more than \$80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.

6. 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. 38. NRS 386.550 is hereby amended to read as follows:

386.550 1. A charter school shall:

(a) Comply with all laws and regulations relating to discrimination and civil rights.

(b) Remain nonsectarian, including, without limitation, in its educational programs, policies for admission and employment practices.

(c) Refrain from charging tuition or fees, ***except for tuition or fees that the board of trustees of a school district is authorized to charge***, levying taxes or issuing bonds.

(d) Comply with any plan for desegregation ordered by a court that is in effect in the school district in which the charter school is located.

(e) Comply with the provisions of chapter 241 of NRS.

(f) Except as otherwise provided in this paragraph, schedule and provide annually at least as many days of instruction as are required of other public schools located in the same school district as the charter school is located. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction for a waiver from providing the days of instruction required by this paragraph. The Superintendent of Public Instruction may grant such a request if the governing body demonstrates to the satisfaction of the Superintendent that:

(1) Extenuating circumstances exist to justify the waiver; and

(2) The charter school will provide at least as many hours or minutes of instruction as would be provided under a program consisting of 180 days.

(g) Cooperate with the board of trustees of the school district in the administration of the examinations administered pursuant to NRS 389.550 and, if the charter school enrolls pupils at a high school grade level, the end-of-course examinations administered pursuant to NRS 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807 to the pupils who are enrolled in the charter school.

(h) Comply with applicable statutes and regulations governing the achievement and proficiency of pupils in this State.

(i) Provide instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school, and provide at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and require the pupils who are enrolled in the charter school to take those courses of study. This paragraph does not preclude a charter school from offering, or requiring the pupils who are enrolled in the charter school to take, other courses of study that are required by statute or regulation.

(j) If the parent or legal guardian of a child submits an application to enroll in kindergarten, first grade or second grade at the charter school, comply with NRS 392.040 regarding the ages for enrollment in those grades.

(k) Refrain from using public money to purchase real property or buildings without the approval of the sponsor.

(l) Hold harmless, indemnify and defend the sponsor of the charter school against any claim or liability arising from an act or omission by the governing

body of the charter school or an employee or officer of the charter school. An action at law may not be maintained against the sponsor of a charter school for any cause of action for which the charter school has obtained liability insurance.

(m) Provide written notice to the parents or legal guardians of pupils in grades 9 to 12, inclusive, who are enrolled in the charter school of whether the charter school is accredited by the Commission on Schools of the Northwest Association of Schools and of Colleges and Universities.

(n) Adopt a final budget in accordance with the regulations adopted by the Department. A charter school is not required to adopt a final budget pursuant to NRS 354.598 or otherwise comply with the provisions of chapter 354 of NRS.

(o) If the charter school provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive, comply with all statutes and regulations that are applicable to a program of distance education for purposes of the operation of the program.

2. A charter school shall not provide instruction through a program of distance education to children who are exempt from compulsory attendance authorized by the State Board pursuant to subsection 1 of NRS 392.070. As used in this subsection, “distance education” has the meaning ascribed to it in NRS 388.826.

Sec. 39. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or in which a pupil enrolled in the charter school resides or with the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers. If the board of trustees of a school district or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the governing body and the sponsor must enter into a service agreement pursuant to NRS 386.561 before the provision of such services. ***If the board of trustees of a school district provides services to a charter school pursuant to this section, it shall not charge more than its cost for providing such services determined on a cost per pupil basis.***

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. A charter school may:

(a) Acquire by construction, purchase, devise, gift, exchange or lease, or any combination of those methods, and construct, reconstruct, improve, maintain, equip and furnish any building, structure or property to be used for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities and lands;

(b) Mortgage, pledge or otherwise encumber all or any part of its property or assets;

(c) Borrow money and otherwise incur indebtedness; and

(d) Use public money to purchase real property or buildings with the approval of the sponsor.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➡ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

6. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in sports at the public school that he or she would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➡ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate ~~+~~ ***unless there is space available on the transportation provided by the board of trustees and the parent of the pupil or the charter school makes arrangements for the pupil to be at a designated place to be picked up at a designated time.***

7. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 5 and 6 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 40. NRS 386.562 is hereby amended to read as follows:

386.562 1. A contract or a proposed contract between a charter school or a proposed charter school and a contractor or an educational management organization must not:

(a) Give to the contractor or educational management organization direct control of educational services, financial decisions, the appointment of members of the governing body, or the hiring and dismissal of an administrator or financial officer of the charter school or proposed charter school;

(b) Authorize the payment of loans, advances or other monetary charges from the contractor or educational management organization which are greater than 15 percent of the total expected funding received by the charter school or proposed charter school from the State Distributive School Account;

(c) Require the charter school or proposed charter school to prepay any fees to the contractor or educational management organization;

(d) Require the charter school or proposed charter school to pay the contractor or educational management organization before the payment of other obligations of the charter school or proposed charter school during a period of financial distress;

(e) Allow a contractor or educational management organization to cause a delay in the repayment of a loan or other money advanced by the contractor or educational management organization to the charter school or proposed charter school, which delay would increase the cost to the charter school or proposed charter school of repaying the loan or advance;

(f) Require the charter school or proposed charter school to enroll a minimum number of pupils for the continuation of the contract between the charter school or proposed charter school and the contractor or educational management organization;

(g) Require the charter school or proposed charter school to request or borrow money from this State to pay the contractor or educational management organization if the contractor or educational management organization will provide financial management to the charter school or proposed charter school;

(h) Contain a provision which restricts the ability of the charter school or proposed charter school to borrow money from a person or entity other than the contractor or educational management organization;

(i) Provide for the allocation to the charter school or proposed charter school of any indirect cost incurred by the contractor or educational management organization;

(j) Authorize the payment of fees to the contractor or educational management organization which are not attributable to the actual services provided by the contractor or educational management organization;

(k) Allow any money received by the charter school or proposed charter school from this State or from the board of trustees of a school district to be transferred to or deposited in a bank, credit union or other financial institution outside this State, including money controlled by the contractor or educational management organization; ~~for~~

(l) Except as otherwise provided in this paragraph, provide incentive fees to the contractor or educational management organization. A contract or a proposed contract may provide to the contractor or educational management organization incentive fees that are based on the academic improvement of pupils enrolled in the charter school ~~for~~;

(m) Require automatic renewal of the contract or provide that the contract remains in effect if the governing body of a charter school is reconstituted, a written charter is revoked or a charter contract is terminated pursuant to NRS 386.535 or 386.5351 ~~for~~, as applicable;

(n) Contain any provision that would delay or prevent the approval of an application by the governing body of the charter school for an exemption from federal taxation pursuant to 26 U.S.C. § 501(c)(3);

(o) Require the governing body of the charter school to pay any costs associated with ensuring that services comply with state and federal law;

(p) Provide that the contractor or educational management organization is not liable for failing to comply with the requirements of the contract; or

(q) Provide for the enforcement of terms of the contract that conflict with an applicable written charter, charter contract or federal or state law.

2. As used in this section, “contractor” or “educational management organization” means a corporation, business, organization or other entity, whether or not conducted for profit, with whom a committee to form a charter school or the governing body of a charter school, as applicable, contracts to assist with the operation, management or provision and implementation of educational services and programs of the charter school or proposed charter school. The term includes a corporation, business, organization or other entity that directly employs and provides personnel to a charter school or proposed charter school.

Sec. 41. NRS 386.562 is hereby amended to read as follows:

386.562 1. A contract or a proposed contract between a charter school or a proposed charter school and a contractor or an educational management organization must not:

(a) Give to the contractor or educational management organization direct control of educational services, financial decisions, the appointment of

members of the governing body, or the hiring and dismissal of an administrator or financial officer of the charter school or proposed charter school;

(b) Authorize the payment of loans, advances or other monetary charges from the contractor or educational management organization which are greater than 15 percent of the total expected funding received by the charter school or proposed charter school from the State Distributive School Account;

(c) Require the charter school or proposed charter school to prepay any fees to the contractor or educational management organization;

(d) Require the charter school or proposed charter school to pay the contractor or educational management organization before the payment of other obligations of the charter school or proposed charter school during a period of financial distress;

(e) Allow a contractor or educational management organization to cause a delay in the repayment of a loan or other money advanced by the contractor or educational management organization to the charter school or proposed charter school, which delay would increase the cost to the charter school or proposed charter school of repaying the loan or advance;

(f) Require the charter school or proposed charter school to enroll a minimum number of pupils for the continuation of the contract between the charter school or proposed charter school and the contractor or educational management organization;

(g) Require the charter school or proposed charter school to request or borrow money from this State to pay the contractor or educational management organization if the contractor or educational management organization will provide financial management to the charter school or proposed charter school;

(h) Contain a provision which restricts the ability of the charter school or proposed charter school to borrow money from a person or entity other than the contractor or educational management organization;

(i) Provide for the allocation to the charter school or proposed charter school of any indirect cost incurred by the contractor or educational management organization;

(j) Authorize the payment of fees to the contractor or educational management organization which are not attributable to the actual services provided by the contractor or educational management organization;

(k) Allow any money received by the charter school or proposed charter school from this State or from the board of trustees of a school district to be transferred to or deposited in a bank, credit union or other financial institution outside this State, including money controlled by the contractor or educational management organization;

(l) Except as otherwise provided in this paragraph, provide incentive fees to the contractor or educational management organization. A contract or a proposed contract may provide to the contractor or educational management organization incentive fees that are based on the academic improvement of pupils enrolled in the charter school;

(m) Require automatic renewal of the contract or provide that the contract remains in effect if the governing body of a charter school is reconstituted ~~if a written charter is revoked~~ or a charter contract is terminated pursuant to NRS 386.535 or 386.5351, as applicable;

(n) Contain any provision that would delay or prevent the approval of an application by the governing body of the charter school for an exemption from federal taxation pursuant to 26 U.S.C. § 501 (c)(3);

(o) Require the governing body of the charter school to pay any costs associated with ensuring that services comply with state and federal law;

(p) Provide that the contractor or educational management organization is not liable for failing to comply with the requirements of the contract; or

(q) Provide for the enforcement of terms of the contract that conflict with an applicable ~~written charter~~ charter contract or federal or state law.

2. As used in this section, “contractor” or “educational management organization” means a corporation, business, organization or other entity, whether or not conducted for profit, with whom a committee to form a charter school or the governing body of a charter school, as applicable, contracts to assist with the operation, management or provision and implementation of educational services and programs of the charter school or proposed charter school. The term includes a corporation, business, organization or other entity that directly employs and provides personnel to a charter school or proposed charter school.

Sec. 42. NRS 386.577 is hereby amended to read as follows:

386.577 1. After deducting the costs directly related to administering the Account for Charter Schools, the State Public Charter School Authority may use the money in the Account for Charter Schools, including repayments of principal and interest on loans made from the Account, and interest and income earned on money in the Account, only to make loans at or below market rate to charter schools for the costs ~~incurred~~ **identified in the loan application for use:**

(a) In preparing a charter school to commence its first year of operation; ~~and~~

(b) To improve a charter school that has been in operation ~~if~~ ; **and**

(c) **To fund recruitment of teachers and pupils to new charter school facilities and enrollment of pupils in such facilities.**

2. The total amount of a loan that may be made to a charter school pursuant to subsection 1 must not exceed the lesser of an amount equal to \$500 per pupil enrolled or to be enrolled at the charter school or \$200,000.

Sec. 43. 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 State Public Charter School Authority 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 State Public Charter School Authority shall, within the limits of money available for use in the Account, make loans to charter schools whose applications have been approved. If the State Public Charter School Authority makes a loan from the Account, the State Public Charter School Authority shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. The State ~~Board~~ **Public Charter School Authority:**

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the State Public Charter School Authority 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. 44. 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 ~~and~~ **section 6 of this act**, 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 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 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. 45. NRS 386.584 is hereby amended to read as follows:

386.584 1. If a charter school provides instruction to pupils enrolled in a high school grade level and the charter school requires those pupils to satisfy requirements for graduation from high school that are less than the requirements imposed by the school district in which the charter school is located, the charter school shall not issue a high school diploma of the school district but may issue a high school diploma which clearly indicates that it is a diploma issued by a charter school. If a charter school requires its pupils to satisfy requirements for graduation from high school that meet or exceed the requirements of the school district in which the charter school is located, the

charter school may issue a high school diploma of the school district or a high school diploma of the charter school.

2. A charter school shall submit the form for a diploma of the charter school to the Department for approval if the form differs from the form of the school district in which the charter school is located.

3. The provisions of this section do not ~~authorize~~ :

(a) **Authorize** a charter school to impose requirements for graduation from high school that are less than the requirements of the applicable state statutes and regulations.

(b) **Require a charter school that imposes requirements for graduation from high school that are more stringent than the requirements of applicable state statutes and regulations and more stringent than the requirements of the school district in which the charter school is located to issue a high school diploma to a pupil who has not met the requirements for graduation from the charter school even if the pupil has met the requirements of applicable state statutes and regulations or the requirements of the school district in which the charter school is located.**

Sec. 46. NRS 386.585 is hereby amended to read as follows:

386.585 1. A governing body of a charter school shall adopt:

(a) Written rules of behavior required of and prohibited for pupils attending the charter school; and

(b) Appropriate punishments for violations of the rules.

2. Except as otherwise provided in subsection 3, if suspension or expulsion of a pupil is used as a punishment for a violation of the rules, the charter school shall ensure that, before the suspension or expulsion, the pupil **and, if the pupil is under 18 years of age, the parent or guardian of the pupil**, has been given notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such a hearing must be closed to the public.

3. A pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process or who is selling or distributing any controlled substance or who is found to be in possession of a dangerous weapon as provided in NRS 392.466 may be removed from the charter school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, which must be conducted as soon as practicable after removal, for suspension or expulsion of the pupil.

4. A pupil who is enrolled in a charter school and participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented or who receives early intervening services, may, in accordance with the procedural policy adopted by the governing body of the charter school for such matters, be:

(a) Suspended from the charter school pursuant to this section for not more than 10 days.

(b) Suspended from the charter school for more than 10 days or permanently expelled from school pursuant to this section only after the governing body has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

5. A copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments must be:

(a) Distributed to each pupil at the beginning of the school year and to each new pupil who enters school during the year.

(b) Available for public inspection at the charter school.

6. The governing body of a charter school may adopt rules relating to the truancy of pupils who are enrolled in the charter school if the rules are at least as restrictive as the provisions governing truancy set forth in NRS 392.130 to 392.220, inclusive. If a governing body adopts rules governing truancy, it shall include the rules in the written rules adopted by the governing body pursuant to subsection 1.

Sec. 47. NRS 386.590 is hereby amended to read as follows:

386.590 1. Except as otherwise provided in this subsection, at least 70 percent of the teachers ~~teach teacher~~ who provide ~~provides~~ instruction at a charter school must be ~~licensed teachers~~ **highly qualified**. If a charter school is a vocational school, the charter school shall, to the extent practicable, ensure that at least 70 percent of the teachers ~~teach teacher~~ who provide ~~provides~~ instruction at the school ~~are licensed teachers~~ **is highly qualified**, but in no event may ~~more~~ **less** than 50 percent of the teachers who provide instruction at the school be ~~unlicensed teachers~~.

~~2. A governing body of a charter school shall employ:~~

~~(a) If the charter school offers instruction in kindergarten or grade 1, 2, 3, 4, 5, 6, 7 or 8, a licensed teacher to teach pupils who are enrolled in those grades. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).~~

~~(b) If the charter school offers instruction in grade 9, 10, 11 or 12, a licensed teacher to teach pupils who are enrolled in those grades for the subjects set forth in subsection 4. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).~~

~~(c) In addition to the requirements of paragraphs (a) and (b):~~

~~(1) highly qualified.~~

2. If a ~~vocational~~ charter school specializes in ~~arts~~ :

(a) Arts and humanities, physical education or health education, a ~~licensed~~ teacher **must be highly qualified** to teach those courses of study.

~~(2) 3. If a vocational charter school specializes in the~~

(b) The construction industry or ~~any~~ other building industry, ~~licensed~~ teachers **must be highly qualified** to teach courses of study relating to the industry if those teachers are employed full-time.

~~(3) 4. If a vocational charter school specializes in the~~

~~(c) The~~ construction industry or other building industry and the school offers courses of study in computer education, technology or business, ~~licensed~~ teachers **must be highly qualified** to teach those courses of study if those teachers are employed full-time.

~~3. ~~5.1~~~~ A person who is initially hired by the governing body of a charter school on or after January 8, 2002, to teach in a program supported with money from Title I must ~~possess the qualifications required by 20 U.S.C. § 6319(a).~~ **be highly qualified.** For the purposes of this subsection, a person is not “initially hired” if the person has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his or her current employer.

~~4. ~~6.1~~~~ A teacher who is employed by a charter school, regardless of the date of hire, must, on or before July 1, 2006, ~~possess the qualifications required by 20 U.S.C. § 6319(a).~~ **be highly qualified** if the teacher teaches one or more of the following subjects:

- (a) English, reading or language arts;
- (b) Mathematics;
- (c) Science;
- (d) Foreign language;
- (e) Civics or government;
- (f) Economics;
- (g) Geography;
- (h) History; or
- (i) The arts.

~~5. Except as otherwise provided in NRS 386.588, a charter school may employ a person who is not licensed pursuant to the provisions of chapter 391 of NRS. **highly qualified** to teach a course of study for which a licensed teacher is not required pursuant to subsections 2, 3 and 4. **to be highly qualified** if the person has:~~

- ~~(a) A degree, a license or a certificate in the field for which the person is employed to teach at the charter school; and~~
- ~~(b) At least 2 years of experience in that field.~~

~~6. **A teacher who is employed by a charter school to teach special education or English as a second language must be licensed to teach special education or English as a second language, as applicable.**~~

7. Except as otherwise provided in NRS 386.588, a charter school shall employ such administrators for the school as it deems necessary. A person employed as an administrator must possess:

- (a) A valid teacher’s license issued pursuant to chapter 391 of NRS with an administrative endorsement;
- (b) A master’s degree in school administration, public administration or business administration; or
- (c) At least 5 years of experience in school administration, public administration or business administration and a baccalaureate degree.

~~{7-}~~ 8. Except as otherwise provided in subsection ~~{8-}~~ 9, the portion of the salary or other compensation of an administrator employed by a charter school that is derived from public funds must not exceed the salary or other compensation, as applicable, of the highest paid administrator in a comparable position in the school district in which the charter school is located. For purposes of determining the salary or other compensation of the highest paid administrator in a comparable position in the school district, the salary or other compensation of the superintendent of schools of that school district must not be included in the determination.

~~{8-}~~ 9. If the salary or other compensation paid to an administrator employed by a charter school from public funds exceeds the maximum amount prescribed in subsection ~~{7-}~~ 8, the sponsor of the charter school shall conduct an audit of the salary or compensation. The audit must include, without limitation, a review of the reasons set forth by the governing body of the charter school for the salary or other compensation and the interests of the public in using public funds to pay that salary or compensation. If the sponsor determines that the payment of the salary or other compensation from public funds is justified, the sponsor shall provide written documentation of its determination to the governing body of the charter school and to the Department. If the sponsor determines that the payment of the salary or other compensation from public funds is not justified, the governing body of the charter school shall reduce the salary or compensation paid to the administrator from public funds to an amount not to exceed the maximum amount prescribed in subsection ~~{7-}~~ 8.

~~{9-}~~ 10. A charter school shall not employ a person pursuant to this section if the person's license to teach or provide other educational services has been revoked or suspended in this State or another state.

~~{10-}~~ 11. On or before November 15 of each year, a charter school shall submit to the Department, in a format prescribed by the Superintendent of Public Instruction, the following information for each person who is licensed pursuant to chapter 391 of NRS and who is employed by the governing body on October 1 of that year:

(a) The amount of salary or compensation of the licensed person, including, without limitation, verification of compliance with subsection ~~{7-}~~ 8, if applicable to that person; and

(b) The designated assignment, as that term is defined by the Department, of the licensed person.

~~{12-} As used in this section, "highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801.~~

12. For purposes of this section, a teacher is highly qualified:

(a) If employed by a charter school that has not received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, if the teacher:

(1) Meets the qualifications prescribed in 20 U.S.C. § 7801(23)(B) or (C), as applicable; and

(2) Is licensed to teach pursuant to chapter 391 of NRS.

(b) If employed by a charter school that has received, within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, if the teacher meets the qualifications prescribed in 20 U.S.C. § 7801(23)(B) or (C), as applicable, regardless of whether the teacher is licensed to teach pursuant to chapter 391 of NRS.

13. If a charter school that has received within the immediately preceding 2 consecutive school years, one of the three highest ratings of performance pursuant to the statewide system of accountability for public schools, or equivalent ratings in another state, as determined by the Department, intends to employ persons to teach who are not licensed, the charter school shall within 3 years:

(a) Obtain approval for and offer an alternative route to licensure pursuant to NRS 391.019; or

(b) Enter into an agreement with a qualified provider of an alternative route to licensure to provide the required education and training to unlicensed teachers who are employed by the school to teach such a course of study.

Sec. 48. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts **and charter schools** in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (v) of subsection 2 of NRS 385.347 and similar information included in the annual report of accountability information prepared by the State Public Charter School Authority and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

↪ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

- (a) The recommendations set forth in the plan pursuant to subsection 2;
- (b) The plan for educational technology of each school district, if applicable;
- (c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and
- (d) Any other information deemed relevant by the Commission.

➤ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 49. NRS 388.800 is hereby amended to read as follows:

388.800 1. The Trust Fund for Educational Technology is hereby created in the State General Fund. The Trust Fund must be administered by the Superintendent of Public Instruction. The Superintendent may accept gifts and grants of money from any source for deposit in the Trust Fund. Any such money may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 3.

2. The interest and income earned on the money in the Trust Fund must be credited to the Trust Fund.

3. The money in the Trust Fund may be used only for the distribution of money to school districts *and charter schools* to be used in kindergarten through 12th grade to obtain and maintain hardware and software for computer

systems, equipment for transfer of data by modem through connection to telephone lines, and other educational technology as may be approved by the Commission for use in classrooms.

Sec. 50. NRS 388.805 is hereby amended to read as follows:

388.805 The Department shall, in consultation with the Commission, adopt regulations that establish a program whereby school districts *and charter schools* may apply to the Commission on Educational Technology for money from the Trust Fund for Educational Technology.

Sec. 51. NRS 391.170 is hereby amended to read as follows:

391.170 1. Except as otherwise provided in subsection 2, a teacher or other employee for whom a license is required is not entitled to receive any portion of public money for schools as compensation for services rendered unless he or she:

(a) Is legally employed by the board of trustees of the school district or the governing body of the charter school in which he or she is teaching or performing other educational functions.

(b) Has a license authorizing him or her to teach or perform other educational functions at the level and, except as otherwise provided in NRS 391.125, in the field for which he or she is employed, issued in accordance with law and in full force at the time the services are rendered.

2. The provisions of subsection 1 do not prohibit the payment of public money to teachers or other employees who are employed by a charter school for whom a license is ~~who are~~ not required ~~to be highly qualified~~ pursuant to the provisions of NRS 386.590.

~~3. As used in this section, "highly qualified" has the meaning ascribed to it in 20 U.S.C. § 7801.~~

Sec. 52. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as provided in subsection 4, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
- (b) Sick leave.
- (c) Vacation leave.
- (d) Holidays.
- (e) Other paid or unpaid leaves of absence.
- (f) Insurance benefits.
- (g) Total hours of work required of an employee on each workday or workweek.
- (h) Total number of days' work required of an employee in a work year.
- (i) ~~Discharge~~ **Except as otherwise provided in subsection 6, discharge** and disciplinary procedures.

- (j) Recognition clause.
 - (k) The method used to classify employees in the bargaining unit.
 - (l) Deduction of dues for the recognized employee organization.
 - (m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.
 - (n) No-strike provisions consistent with the provisions of this chapter.
 - (o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.
 - (p) General savings clauses.
 - (q) Duration of collective bargaining agreements.
 - (r) Safety of the employee.
 - (s) Teacher preparation time.
 - (t) Materials and supplies for classrooms.
 - (u) The policies for the transfer and reassignment of teachers.
 - (v) Procedures for reduction in workforce consistent with the provisions of this chapter.
 - (w) Procedures and requirements for the reopening of collective bargaining agreements that exceed 1 year in duration for additional, further, new or supplementary negotiations during periods of fiscal emergency. The requirements for the reopening of a collective bargaining agreement must include, without limitation, measures of revenue shortfalls or reductions relative to economic indicators such as the Consumer Price Index, as agreed upon by both parties.
3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:
- (a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.
 - (b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.
 - (c) The right to determine:
 - (1) Appropriate staffing levels and work performance standards, except for safety considerations;
 - (2) The content of the workday, including without limitation workload factors, except for safety considerations;
 - (3) The quality and quantity of services to be offered to the public; and
 - (4) The means and methods of offering those services.
 - (d) Safety of the public.
4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective

bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. ***If the sponsor of a charter school reconstitutes the governing body of a charter school ~~not~~ pursuant to NRS 386.535, the new governing body may terminate the employment of any teachers or other employees of the charter school, and any provision of any agreement negotiated pursuant to this chapter that provides otherwise is unenforceable and void.***

7. This section does not preclude, but this chapter does not require, the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

~~7.7~~ 8. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 53. Section 4 of this act is hereby amended to read as follows:

Sec. 4. 1. The State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education as applicable, which sponsors a charter school may hold a public hearing concerning any request to amend ~~to a written charter or~~ a charter contract of the charter school it sponsors, including, without limitation a request to amend a written charter or charter contract for the purpose of:

(a) Expanding the charter school to offer instruction in grade levels for which the charter school does not already offer instruction.

(b) Increasing the total enrollment of a charter school or the enrollment of pupils in a particular grade level in the charter school for a school year to more than 120 percent of the enrollment prescribed in the ~~written charter or~~ charter contract for that school year.

(c) Reducing the total enrollment of a charter school or the enrollment of pupils in a particular grade level in the charter school for a school year to less than 80 percent of the enrollment prescribed in ~~the written charter or~~ charter contract for that school year.

(d) Seeking to acquire an additional facility in any county of this State to expand the enrollment of the charter school.

(e) Consolidating the operations of multiple charter schools pursuant to section 5 of this act.

2. A ~~written charter or~~ charter contract may not be amended in any manner described in subsection 1 unless the amendment is approved by the State Public Charter School Authority, the board of trustees of the

school district or a college or university within the Nevada System of Higher Education, as applicable.

3. The State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable, must deny a request to amend a ~~written charter or~~ charter contract in the manner described in paragraphs (d) or (e) of subsection 1 if the State Public Charter School Authority, the board of trustees or a college or university within the Nevada System of Higher Education, as applicable, determines that:

(a) The charter school is not meeting the requirements of the performance framework concerning academics, finances or organization established pursuant to NRS 386.528; or

(b) The governing body does not have a comprehensive and feasible plan to operate additional facilities.

Sec. 54. Section 5 of this act is hereby amended to read as follows:

Sec. 5. The sponsor of a charter school may approve an amendment to ~~a written charter or~~ a charter contract to consolidate the operations of two or more charter schools if:

1. The sponsor of a charter school for which ~~a written charter has been revoked or~~ a charter contract has been terminated has approved a request by the governing body of the charter school requesting the amendment to negotiate with the owner, mortgagor or lienholder of the facilities in which the charter school has been operated for the purpose of operating an additional campus of the other charter school pursuant to section 6 of this act. If charter schools are consolidated under such conditions, the prior academic, operational and fiscal performance of the charter school ~~whose written charter has been revoked or~~ whose charter contract has been terminated will not be attributed to the consolidated charter school.

2. Two or more governing bodies submit a request for an amendment to consolidate their charter contracts, governing bodies and operations to form a single charter school operating one or more campuses under a new charter contract. If charter schools are consolidated under such conditions:

(a) The new charter contract will be in effect for the duration of the term of the written charter or charter contract which was closest to its date of expiration before consolidation; and

(b) The academic, operational and fiscal performances of all charter schools that have been consolidated will be attributed to the consolidated charter school.

Sec. 55. Section 6 of this act is hereby amended to read as follows:

Sec. 6. 1. If the sponsor of a charter school reconstitutes the governing body of a charter school pursuant to NRS 386.535, the sponsor must appoint new members to the governing body who meet the qualifications for membership set forth in NRS 386.549. The sponsor shall not reappoint more than 40 percent of the members of the previous

governing body. Before appointing new members to the governing body, the sponsor must consider:

(a) Input from members of the community in which the charter school is located and parents of pupils who attend the charter school.

(b) Any relevant credentials, experience or other qualifications of a potential member, including, without limitation, whether the potential member resides in the geographic area served by the charter school or has experience in education.

2. If the sponsor of a charter school ~~{revokes a written charter or}~~ terminates a charter contract pursuant to 386.535 the sponsor may:

(a) Petition the district court to appoint a receiver, to be paid from the funds of the charter school, to oversee and manage the charter school until other arrangements are made for pupils who attend the school.

(b) Issue a request for proposals inviting the governing body of another charter school to negotiate with the owner, mortgagor or lienholder of the facilities in which the charter school operated for the purpose of operating an additional campus of the other charter school under the sponsorship of either the sponsor of the charter school ~~{for which the written charter has been revoked or}~~ the charter contract has been terminated or the sponsor of the charter school that intends to operate an additional campus. If the governing body proposes to operate an additional campus of the other charter school under the sponsorship of:

(1) The sponsor of the charter school for which ~~{the written charter has been revoked or}~~ the charter contract has been terminated and the sponsor is not the sponsor of the charter school currently operated by the governing body, the governing body must, before the additional campus begins operating, also submit to the sponsor of the charter school ~~{for which the written charter has been revoked or}~~ the charter contract has been terminated and receive approval for an application to form a charter school pursuant to NRS 386.520.

(2) The sponsor of the charter school currently operated by the governing body, the governing body must, before the additional campus begins operating, also submit a request for and receive approval of an amendment to its ~~{written charter or}~~ charter contract to consolidate charter schools pursuant to NRS 386.527 and sections 4 and 5 of this act.

3. Before selecting a governing body to operate another campus of an existing charter school to replace a charter school ~~{whose written charter has been revoked or}~~ whose charter contract has been terminated pursuant to subsection 2, the sponsor must consider:

(a) The performance record of the charter school in this State and other states;

(b) The plan of the governing body for improving pupil achievement and school performance;

(c) The suitability of the proposed academic program for pupils who were enrolled in the charter school before ~~the revocation of the written charter or~~ the termination of the charter contract; and

(d) Input from members of the community in which the charter school is located and parents who were enrolled in the charter school before ~~the revocation of the written charter or~~ the termination of the charter contract, including, without limitation, the input described in subsection 4.

4. A sponsor that solicits proposals to operate an additional campus of an existing charter school shall allow parents of pupils who were enrolled in the charter school before ~~the revocation of the written charter or~~ the termination of the charter contract to interview governing bodies who submit proposals and, if three or more proposals are submitted pursuant to paragraph (b) of subsection 2, cast an advisory vote for the governing body that they would prefer be given the opportunity to operate the campus.

5. If a governing body is selected pursuant to this section to operate another campus of an existing charter school to replace a charter school ~~whose written charter has been revoked or~~ whose charter contract has been terminated and any necessary amendments or applications are approved, the charter school must enroll pupils who were enrolled in the charter school ~~whose written charter was revoked or~~ whose charter contract was terminated before enrolling other pupils.

6. If the sponsor of a charter school reconstitutes the governing body of a charter school, the principal of the charter school or another administrator of the charter school appointed by the reconstituted governing body shall:

(a) Review each employee of the charter school to determine whether to retain the employee based on the needs of the school and the ability of the employee to improve pupil achievement and school performance at the charter school. The new governing body may terminate the employment of any teachers or other employees of the charter school.

(b) Collaborate with the new governing body in making hiring determinations for the charter school.

7. If the sponsor of a charter school selects a governing body to operate another campus of an existing charter school to replace a charter school ~~whose written charter has been revoked or~~ whose charter contract has been terminated, the new governing body is not required to offer employment to any teacher or other employee of the charter school ~~whose written charter has been revoked or~~ whose charter contract has been terminated.

Sec. 56. The provisions of NRS 288.150, as amended by section 52 of this act:

1. Apply to any collective bargaining agreement entered into, extended or renewed on or after the effective date of that section, and any provision of the agreement that is in conflict with that section, as amended, is void.

2. Do not apply to any collective bargaining agreement entered into before the effective date of that section during the current term of the agreement.

Sec. 57. 1. This section and sections 52 and 56 of this act become effective upon passage and approval.

2. Sections 1 to 15, inclusive, 17, 18, 19, 21, 22, 23, 25 to 28, inclusive, 30, 32, 34, 35, 36, 38, 39, 40, 42 to 51, inclusive, of this act become 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 January 1, 2016, for all other purposes.

3. Sections 16, 20, 24, 29, 31, 33, 37, 41, 53, 54 and 55, inclusive, of this act become effective on January 1, 2020.

Assemblywoman Woodbury moved the adoption of the amendment.

Remarks by Assemblywoman Woodbury.

ASSEMBLYWOMAN WOODBURY:

Amendment 1018 makes several changes to the bill. First, the amendment clarifies that an administrator other than the principal may review personal matters specified in the bill and consult with the new governing body of a reconstituted charter school.

Second, the amendment adds the local school district and other active charter school sponsors to those entities with whom a charter school sponsor must coordinate to evaluate the academic needs of students in the geographic area of the proposed school.

Third, it specifies an application to form a charter school contain any additional information the sponsor determines is necessary to make a good faith judgement of the applicant's ability to adequately serve its students.

Fourth, it clarifies the charter school sponsor must ensure compliance with FERPA [Family Educational Rights and Privacy Act] and other state data privacy statutes.

Fifth, it specifies the Charter School Authority is authorized to adopt regulations concerning its reporting of data concerning school performance and student achievement.

Sixth, it requires the review of state statutes affecting charter schools be done in consultation with the Department of Education and other charter sponsors. The amendment also specifies that a sponsor may only reconstitute the governing body one time for those schools with a one-star school rating for five consecutive school years, and it exempts the 2015-2016 school year for this purpose due to revisions to the state school accountability system.

Finally, the amendment clarifies the definition of "highly qualified teacher" to comply with the federal definition and provides for the federal exception for teacher licensure for charter schools as long as teachers in certain subjects are highly qualified, except for those teachers licensed to teach special education or English as a second language. Charter schools scoring at or above the three-star level for two or more consecutive years may hire either licensed teachers or highly qualified teachers; such charter schools must provide for an alternative route to licensure for its unlicensed teachers within three years. Vocational charter schools must assure that to the extent practicable, at least 70 percent of its teachers are highly qualified, but it may not have less than 52 percent highly qualified teachers.

Amendment adopted.

The following amendment was proposed by Assemblywoman Woodbury:

Amendment No. 1023.

AN ACT relating to education; revising provisions relating to the employees and duties of the State Public Charter School Authority; authorizing and requiring certain sponsors of charter schools to make certain agreements with the Authority and other sponsors of charter schools; revising provisions governing applications to form a charter school; authorizing a charter management organization to apply for a waiver of requirements concerning the composition of the governing body of a charter school; revising provisions governing amendments to a written charter or charter contract; authorizing the consolidation of the operations of multiple charter schools under certain circumstances; revising the circumstances under which the sponsor of a charter school is authorized or required to revoke a written charter or terminate a charter contract; authorizing a sponsor to reconstitute the governing body of a charter school in such circumstances; authorizing the sponsor of a charter school whose written charter has been revoked or whose charter contract has been terminated to take certain measures to attempt to replace the charter school; revising certain other provisions governing the operation of a charter school; authorizing a charter school to receive certain money; **revising provisions governing the continuation of certain achievement charter schools**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the State Public Charter School Authority, requires the Authority to appoint a Director and authorizes the Authority to sponsor charter schools. (NRS 386.490-386.515) **Sections 10, 12-14 and 18** of this bill change the title of the Director of the Authority to "Executive Director," and **section 13** authorizes the Executive Director to pursue other businesses and hold other offices with the approval of the Authority. **Section 11** of this bill requires the Authority to consist of persons who are experts on authorizing, developing and operating charter schools. **Sections 15 and 16** of this bill revise provisions governing the staff of the Authority. **Section 18** of this bill prohibits the Executive Director and the Authority from accepting any gift or donation from a charter management organization, a committee to form a charter school or the governing body of a charter school. **Sections 32 and 33** of this bill require the Authority to adopt regulations that prescribe: (1) the process to apply to the Authority to form a charter school, renew a charter contract or amend a written charter or charter contract; (2) the contents of such applications; and (3) the procedure by which such applications will be evaluated. **Sections 35, 45 and 46** of this bill revise certain other duties of the Authority.

In addition to the Authority, existing law also authorizes the board of trustees of a school district or a college or university within the Nevada System of Higher Education to sponsor a charter school with the approval of the Department of Education. (NRS 386.515) **Sections 17, 19 and 20** of this bill provide for a board of trustees of a school district or college or university within the System that sponsors a charter school to enter into certain agreements with the Authority. **Sections 19 and 20** also revise the duties of

the sponsor of a charter school, including the requirements of the policies and practices that a sponsor is required to adopt.

Existing law requires an application to form a charter school to be submitted by a committee to form a charter school. (NRS 386.520, 386.525) **Sections 21 and 22** of this bill authorize a charter management organization to apply to form a charter school. **Section 2** of this bill defines the term “charter management organization” to mean a nonprofit organization that operates multiple charter schools. **Section 21** also revises the required contents of an application to form a charter school. **Sections 21 and 36** of this bill authorize a charter management organization to request a waiver of requirements concerning the composition of a governing body. **Section 22** revises the manner in which a sponsor is authorized to solicit and review applications to form a charter school.

Existing law authorizes the sponsor of a charter school to amend a written charter or charter contract upon the request of the governing body of a charter school. (NRS 386.527) **Sections 4 and 53** of this bill require the sponsor of a charter school to hold a public hearing concerning requests to amend a written charter or charter contract to: (1) expand the grade levels served by the charter school; (2) significantly increase or decrease enrollment; (3) acquire additional facilities to expand the enrollment of the charter school; or (4) consolidate the operations of multiple charter schools. Such an amendment may not be made unless approved by the governing board of the sponsor. **Sections 5 and 54** of this bill prescribe the circumstances under which the operations of multiple charter schools can be consolidated.

For any charter school approved before June 11, 2013, existing law requires the sponsor of the charter school to grant a written charter to the governing body. For any charter school approved on or after that date, existing law requires the sponsor to enter into a charter contract with the governing body. Because all written charters and charter contracts must be for terms of 6 years, all written charters will expire by June 11, 2019. (NRS 386.527) **Sections 23 and 24** of this bill authorize a sponsor to require, as a condition of granting a request for an amendment, the replacement of a written charter with a charter contract for the period during which written charters may still be effective.

Existing law requires each charter contract to include a performance framework for the charter school. (NRS 386.528) **Section 25** of this bill: (1) requires each sponsor to adopt a performance framework and incorporate it in the charter contract; (2) allows a sponsor to aggregate and disaggregate data for reporting and accountability purposes; and (3) authorizes the State Board of Education to adopt regulations requiring a sponsor to aggregate or disaggregate data. **Section 26** of this bill revises the contents of an annual report submitted by a sponsor to a governing body.

Existing law authorizes a sponsor to revoke a written charter or terminate a charter contract under certain conditions and requires a sponsor to take such action if the charter school demonstrates persistent underachievement. (NRS 386.535, 386.5351) **Sections 5 and 27-29** of this bill: (1) authorize a

sponsor to reconstitute the governing body of a charter school in such situations; and (2) revise the conditions under which such action is authorized or required. **Sections 6, 30 and 31** of this bill authorize the sponsor of a charter school whose written charter has been revoked or whose charter contract has been terminated to recruit a governing body of another charter school to replace the closed charter school with another campus of the other charter school. **Sections 6 and 55** of this bill require a pupil who attended a charter school whose written charter has been revoked or whose charter contract has been terminated to be given priority in admission to the replacement charter school under such circumstances. **Sections 6 and ~~45~~ 57** provide that: (1) if the governing body of a charter school is reconstituted, the new governing body may terminate the employment of any employees of the charter school; and (2) if a written charter is revoked or a charter contract is terminated and a charter school is replaced, the governing body of the replacement charter school is not required to employ any employee of the previous charter school. **Sections 52 and ~~45~~ 57** of this bill exclude the rights of a governing body to terminate the employment of or refuse to reemploy employees at such schools from the scope of collective bargaining.

Sections 34 and 39 of this bill revise requirements concerning services, including transportation, provided by the board of trustees of a school district to pupils at a charter school.

Existing law: (1) prohibits a person who has been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude from serving on the governing body of a charter school; and (2) requires a member of a governing body to read and understand certain materials. (NRS 386.549) **Section 7** of this bill requires a newly appointed member of a governing body to undergo a criminal background check and prohibits a person who has been convicted of a felony or an offense involving moral turpitude from serving as a member of a governing body. **Sections 36 and 37** of this bill require a member of a governing body to receive training under certain circumstances.

Sections 40 and 41 of this bill prohibit a contract between a governing body and a person who assists with the operation, management and provision of educational services at a charter school from containing certain provisions. **Section 45** of this bill authorizes a charter school to use higher standards for graduation than those required by the State or a school district in which the charter school is located. **Section 46** of this bill requires a charter school to notify the parent of a pupil who is under the age of 18 years before the pupil is suspended or expelled. **Section 47** of this bill requires every teacher at a charter school, except for a vocational charter school, to possess certain qualifications, and **section 51** of this bill makes a conforming change. **Section 48** of this bill requires the Commission on Educational Technology to consider plans adopted by charter schools for the use of educational technology when establishing the plan for the use of educational technology in the public schools

of this State. Sections 49 and 50 of this bill authorize a charter school to receive money from the Trust Fund for Educational Technology.

Assembly Bill No. 448 of this session establishes the Achievement School District within the Department of Education and requires the Executive Director of the Achievement School District to evaluate pupil achievement and school performance of an achievement charter school during the sixth year that a school operates as an achievement charter school. Assembly Bill No. 448 of this session also provides that if this evaluation indicates that an achievement charter school has not made adequate improvement in pupil achievement and school performance, the achievement charter school is required to continue to operate as an achievement charter school for at least 6 more years. (Section 33 of Assembly Bill No. 448 of this session) Section 56 of this bill requires the Department of Education, rather than the Executive Director of the Achievement School District, to conduct such an evaluation and, if the evaluation indicates that an achievement charter school has not made adequate improvement in pupil achievement and school performance, determine whether to continue to keep the school as an achievement charter school or return the school to become a public school within the school district. If such a school continues as an achievement charter school, the Executive Director is required to: (1) terminate the contract with the charter management organization, educational management organization or other person that operated the achievement charter school; (2) enter into a contract with a different charter management organization, educational management organization or other person to operate the achievement charter school; (3) require the charter management organization, educational management organization or other person with whom the Executive Director enters into a contract to operate an achievement charter school to appoint a new governing body of the achievement charter school; and (4) evaluate the pupil achievement and school performance of the school every 3 years. Section 56 also requires the Executive Director to provide certain notice to the parent or legal guardian of each pupil enrolled in an achievement charter school that has not made adequate improvement in pupil achievement and school performance regarding other educational choices that are available to the pupil.

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 8, inclusive, of this act.

Sec. 2. *“Charter management organization” means:*

1. A nonprofit organization that holds a written charter, charter contract or other equivalent agreement to operate more than one charter school in this State or another state; or

2. *A nonprofit organization incorporated in this State for the purpose of operating a charter school in cooperation with a charter management organization that holds a written charter, charter contract or other equivalent agreement to operate more than one charter school in another state.*

Sec. 3. *“Educational management organization” means a for-profit corporation, business, organization or other entity that provides services relating to the operation and management of charter schools and achievement charter schools.*

Sec. 4. 1. *The State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable, which sponsors a charter school may hold a public hearing concerning any request to amend a written charter or a charter contract of the charter school it sponsors, including, without limitation, a request to amend a written charter or charter contract for the purpose of:*

(a) Expanding the charter school to offer instruction in grade levels for which the charter school does not already offer instruction.

(b) Increasing the total enrollment of a charter school or the enrollment of pupils in a particular grade level in the charter school for a school year to more than 120 percent of the enrollment prescribed in the written charter or charter contract for that school year.

(c) Reducing the total enrollment of a charter school or the enrollment of pupils in a particular grade level in the charter school for a school year to less than 80 percent of the enrollment prescribed in the written charter or charter contract for that school year.

(d) Seeking to acquire an additional facility in any county of this State to expand the enrollment of the charter school.

(e) Consolidating the operations of multiple charter schools pursuant to section 5 of this act.

2. *A written charter or charter contract may not be amended in any manner described in subsection 1 unless the amendment is approved by the State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable.*

3. *The State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable, must deny a request to amend a written charter or charter contract in the manner described in paragraphs (d) or (e) of subsection 1 if the State Public Charter School Authority, the board of trustees or a college or university within the Nevada System of Higher Education, as applicable, determines that:*

(a) The charter school is not meeting the requirements of the performance framework concerning academics, finances or operation established pursuant to NRS 386.528; or

(b) The governing body does not have a comprehensive and feasible plan to operate additional facilities.

Sec. 5. The sponsor of a charter school may approve an amendment to a written charter or a charter contract to consolidate the operations of two or more charter schools if:

1. The sponsor of a charter school for which a written charter has been revoked or a charter contract has been terminated has approved a request by the governing body of the charter school requesting the amendment to negotiate with the owner, mortgagor or lienholder of the facilities in which the charter school has been operated for the purpose of operating an additional campus of the other charter school pursuant to section 6 of this act. If charter schools are consolidated under such conditions, the prior academic, operational and fiscal performance of the charter school whose written charter has been revoked or whose charter contract has been terminated will not be attributed to the consolidated charter school.

2. Two or more governing bodies submit a request for an amendment to consolidate their charter contracts, governing bodies and operations to form a single charter school operating one or more campuses under a new charter contract. If charter schools are consolidated under such conditions:

(a) The new charter contract will be in effect for the duration of the term of the written charter or charter contract which was closest to its date of expiration before consolidation; and

(b) The academic, operational and fiscal performances of all charter schools that have been consolidated will be attributed to the consolidated charter school.

Sec. 6. 1. If the sponsor of a charter school reconstitutes the governing body of a charter school pursuant to NRS 386.535 or 386.5351, the sponsor must appoint new members to the governing body who meet the qualifications for membership set forth in NRS 386.549. The sponsor shall not reappoint more than 40 percent of the members of the previous governing body. Before appointing new members to the governing body, the sponsor must consider:

(a) Input from members of the community in which the charter school is located and parents of pupils who attend the charter school.

(b) Any relevant credentials, experience or other qualifications of a potential member, including, without limitation, whether the potential member resides in the geographic area served by the charter school or has experience in education.

2. If the sponsor of a charter school revokes a written charter or terminates a charter contract pursuant to NRS 386.535 or 386.5351, the sponsor may:

(a) Petition the district court to appoint a receiver, to be paid from the funds of the charter school, to oversee and manage the charter school until other arrangements are made for pupils who attend the school.

(b) Issue a request for proposals inviting the governing body of another charter school to negotiate with the owner, mortgagor or lienholder of the facilities in which the charter school operated for the purpose of operating an additional campus of the other charter school under the sponsorship of either the sponsor of the charter school for which the written charter has been revoked or the charter contract has been terminated or the sponsor of the charter school that intends to operate an additional campus. If the governing body proposes to operate an additional campus of the other charter school under the sponsorship of:

(1) The sponsor of the charter school for which the written charter has been revoked or the charter contract has been terminated and the sponsor is not the sponsor of the charter school currently operated by the governing body, the governing body must, before the additional campus begins operating, also submit to the sponsor of the charter school for which the written charter has been revoked or the charter contract has been terminated and receive approval for an application to form a charter school pursuant to NRS 386.520.

(2) The sponsor of the charter school currently operated by the governing body, the governing body must, before the additional campus begins operating, also submit a request for and receive approval of an amendment to its written charter or charter contract to consolidate charter schools pursuant to NRS 386.527 and sections 4 and 5 of this act.

3. Before selecting a governing body to operate another campus of an existing charter school to replace a charter school whose written charter has been revoked or whose charter contract has been terminated pursuant to subsection 2, the sponsor must consider:

(a) The performance record of the charter school in this State and other states;

(b) The plan of the governing body for improving pupil achievement and school performance;

(c) The suitability of the proposed academic program for pupils who were enrolled in the charter school before the revocation of the written charter or the termination of the charter contract; and

(d) Input from members of the community in which the charter school is located and parents who were enrolled in the charter school before the revocation of the written charter or the termination of the charter contract, including, without limitation, the input described in subsection 4.

4. A sponsor that solicits proposals to operate an additional campus of an existing charter school shall allow parents of pupils who were enrolled in the charter school before the revocation of the written charter or the termination of the charter contract to interview governing bodies who submit proposals and, if three or more proposals are submitted pursuant to paragraph (b) of subsection 2, cast an advisory vote for the governing body they would prefer be given the opportunity to operate the campus.

5. *If a governing body is selected pursuant to this section to operate another campus of an existing charter school to replace a charter school whose written charter has been revoked or whose charter contract has been terminated and any necessary amendments or applications are approved, the charter school must enroll pupils who were enrolled in the charter school whose written charter was revoked or whose charter contract was terminated before enrolling other pupils.*

6. *If the sponsor of a charter school reconstitutes the governing body of a charter school, the principal of the charter school shall:*

(a) *Review each employee of the charter school to determine whether to retain the employee based on the needs of the school and the ability of the employee to improve pupil achievement and school performance at the charter school. The new governing body may terminate the employment of any teachers or other employees of the charter school or, if possible, may reassign teachers or other employees to another school.*

(b) *Collaborate with the new governing body in making hiring determinations for the charter school.*

7. *If the sponsor of a charter school selects a governing body to operate another campus of an existing charter school to replace a charter school whose written charter has been revoked or whose charter contract has been terminated, the new governing body is not required to offer employment to any teacher or other employee of the charter school whose written charter has been revoked or whose charter contract has been terminated.*

Sec. 7. 1. *Within 10 days after being appointed to the governing body of a charter school, each member of a governing body, except a licensed teacher or other person licensed by the Superintendent of Public Instruction, must, as a condition to membership, submit to the governing body a complete set of the member's fingerprints and written permission authorizing the governing body to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the member.*

2. *If the reports on the criminal history of the member indicate that the member has not been convicted of a felony or an offense involving moral turpitude, the member may continue to serve on the governing body.*

3. *If a report on the criminal history of a member indicates that the member has been convicted of a felony or an offense involving moral turpitude, the governing body of the charter school must remove the member.*

Sec. 8. 1. *In a county in which more than five charter schools are located and the total number of pupils enrolled in the charter schools exceeds 25 percent of the combined enrollment of all public schools, including, without limitation, charter schools, the Department shall, in consultation with all sponsors of charter schools in the county, determine whether holding a weighted lottery for admission to charter schools would*

improve diversity in charter schools that do not have a preference for at-risk pupils. If the Department determines that a weighted lottery for admission to charter schools would improve diversity in such charter schools, the Department shall, to the extent authorized by federal law, adopt regulations authorizing charter schools to establish a weighted lottery.

2. In a county in which more than ten charter schools are located and the total number of pupils enrolled in charter schools exceeds 50 percent of the combined enrollment of all public schools, including, without limitation, charter schools, the Department shall, in consultation with all sponsors of charter schools in the county:

(a) Adopt regulations establishing a uniform enrollment calendar and process for enrolling pupils applicable to all charter schools in the county. The regulations must establish a lottery for admission to each charter school in the county. If a charter school does not have a preference for at-risk pupils, the lottery must, to the extent authorized by federal law, be a weighted lottery.

(b) Allow the board of trustees of the school district to provide input regarding the enrollment calendar, processes for enrolling pupils and lotteries established pursuant to paragraph (a).

3. As used in this section, "weighted lottery" means a lottery that gives additional weight to pupils who are identified as being part of a specified group of pupils. The term does not include the reservation of seats in the charter school for specified pupils or groups of pupils.

Sec. 9. NRS 386.490 is hereby amended to read as follows:

386.490 As used in NRS 386.490 to 386.649, inclusive, *and sections 2 to 8, inclusive of this act*, the words and terms defined in NRS 386.492 to 386.503, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 10. NRS 386.495 is hereby amended to read as follows:

386.495 ~~["Director"]~~ **"Executive Director"** means the *Executive* Director of the State Public Charter School Authority appointed pursuant to NRS 386.511.

Sec. 11. NRS 386.5095 is hereby amended to read as follows:

386.5095 1. The State Public Charter School Authority consists of seven members. The membership of the State Public Charter School Authority consists of:

(a) Two members appointed by the Governor in accordance with subsection 2;

(b) Two members, who must not be Legislators, appointed by the Majority Leader of the Senate in accordance with subsection 2;

(c) Two members, who must not be Legislators, appointed by the Speaker of the Assembly in accordance with subsection 2; and

(d) One member appointed by the Charter School Association of Nevada or its successor organization.

2. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall ensure that the membership of the State Public Charter School Authority:

(a) Includes persons with a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State;

(b) Includes a parent or legal guardian of a pupil enrolled in a charter school in this State;

(c) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance or accounting, or both;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

(6) The laws and regulations applicable to charter schools; ~~and~~

(d) Insofar as practicable, reflects the ethnic and geographical diversity of this State ~~+~~; *and*

(e) Insofar as practicable, consists of persons who are experts on best practices for authorizing charter schools and developing and operating high-quality charter schools and charter management organizations.

3. Each member of the State Public Charter School Authority must be a resident of this State.

4. After the initial terms, the term of each member of the State Public Charter School Authority is 3 years, commencing on July 1 of the year in which he or she is appointed. A vacancy in the membership of the State Public Charter School Authority must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member shall continue to serve on the State Public Charter School Authority until his or her successor is appointed.

5. The members of the State Public Charter School Authority shall select a Chair and Vice Chair from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

6. Each member of the State Public Charter School Authority is entitled to receive:

(a) For each day or portion of a day during which he or she attends a meeting of the State Public Charter School Authority a salary of not more than \$80, as fixed by the State Public Charter School Authority; and

(b) For each day or portion of a day during which he or she attends a meeting of the State Public Charter School Authority or is otherwise engaged in the business of the State Public Charter School Authority the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 12. NRS 386.511 is hereby amended to read as follows:

386.511 1. The State Public Charter School Authority shall appoint ~~to~~ **an Executive** Director of the State Public Charter School Authority for a term of 3 years. The State Public Charter School Authority shall ensure that the **Executive** Director has a demonstrated understanding of charter schools and a commitment to using charter schools as a way to strengthen public education in this State.

2. A vacancy in the position of **Executive** Director must be filled by the State Public Charter School Authority for the remainder of the unexpired term.

3. The **Executive** Director is in the unclassified service of the State.

Sec. 13. NRS 386.5115 is hereby amended to read as follows:

386.5115 ~~The~~ **With the approval of the State Public Charter School Authority, the Executive** Director ~~shall not~~ **may** pursue any other business or occupation or hold any other office, **including, without limitation, serving as a member on a committee, board or task force of an organization relating to charter schools, serving as a reviewer of applications to form a charter school for organizations other than the State Public Charter School Authority and holding an office of profit, and may accept reimbursement for travel costs relating to such activities. The Executive Director shall not pursue any other business or occupation or hold any other office of profit** without the approval of the State Public Charter School Authority.

Sec. 14. NRS 386.512 is hereby amended to read as follows:

386.512 The **Executive** Director shall:

1. Execute, direct and supervise all administrative, technical and procedural activities of the State Public Charter School Authority in accordance with the policies prescribed by the State Public Charter School Authority;

2. Organize the State Public Charter School Authority in a manner which will ensure the efficient operation and service of the State Public Charter School Authority;

3. Serve as the Executive Secretary of the State Public Charter School Authority;

4. Ensure that the autonomy provided to charter schools in this State pursuant to state law and regulations is preserved; and

5. Perform such other duties as are prescribed by law or the State Public Charter School Authority.

Sec. 15. NRS 386.5125 is hereby amended to read as follows:

386.5125 **I.** The State Public Charter School Authority may employ such persons as it deems necessary to carry out the provisions of NRS 386.490 to 386.649, inclusive ~~to~~, **and sections 2 to 8, inclusive, of this act.** The staff employed by the State Public Charter School Authority must be qualified to carry out the daily responsibilities of sponsoring charter schools, **including, without limitation, oversight of written charters and charter contracts,** in accordance with the provisions of NRS 386.490 to 386.649, inclusive ~~to~~, **and sections 2 to 8, inclusive, of this act.**

2. The staff must include:

(a) Attorneys with experience with laws concerning education, special education and nonprofit organizations;

(b) Persons with experience overseeing the annual audits and financial operations of school districts, nonprofit organizations or corporations;

(c) Persons with experience conducting assessments and evaluations for a school district;

(d) Administrators with significant experience overseeing special education programs and programs while employed by a school district, charter management organization, educational management organization or other operator of charter schools;

(e) Policy analysts with significant experience in the areas of charter schools and education policy; and

(f) Any other persons that the State Public Charter School Authority determines are necessary.

3. The State Public Charter School Authority shall periodically evaluate and make decisions concerning the number of persons employed by the State Public Charter School Authority and the qualifications and compensation of such persons based on guidance from the National Association of Charter School Authorizers, or its successor organization, an assessment of the strategic plan for recruiting operators of charter schools prepared pursuant to NRS 386.515 and the needs of the charter schools sponsored by the State Public Charter School Authority.

Sec. 16. NRS 386.5125 is hereby amended to read as follows:

386.5125 1. The State Public Charter School Authority may employ such persons as it deems necessary to carry out the provisions of NRS 386.490 to 386.649, inclusive, and sections 2 to 8, inclusive, of this act. The staff employed by the State Public Charter School Authority must be qualified to carry out the daily responsibilities of sponsoring charter schools, including, without limitation, oversight of ~~written charters and~~ charter contracts, in accordance with the provisions of NRS 386.490 to 386.649, inclusive, and sections 2 to 8, inclusive, of this act.

2. The staff must include:

(a) Attorneys with experience with laws concerning education law, special education and nonprofit organizations;

(b) Persons with experience overseeing the annual audits and financial operations of school districts, nonprofit organizations or corporations;

(c) Persons with experience conducting assessments and evaluations for a school district;

(d) Administrators with significant experience overseeing special education programs and programs while employed by a school district, charter management organization, educational management organization or other operator of charter schools;

(e) Policy analysts with significant experience in the areas of charter schools and education policy; and

(f) Any other persons that the State Public Charter School Authority determines are necessary.

3. The State Public Charter School Authority shall periodically evaluate and make decisions concerning the number of persons employed by the State Public Charter School Authority and the qualifications and compensation of such persons based on guidance from the National Association of Charter School Authorizers, or its successor organization, an assessment of the strategic plan for recruiting operators of charter schools prepared pursuant to NRS 386.515 and the needs of the charter schools sponsored by the State Public Charter School Authority.

Sec. 17. NRS 386.513 is hereby amended to read as follows:

386.513 1. The State Public Charter School Authority is hereby deemed a local educational agency for the purpose of directing the proportionate share of any money available from federal and state categorical grant programs to charter schools which are sponsored by the State Public Charter School Authority or a college or university within the Nevada System of Higher Education that are eligible to receive such money. *A college or university within the Nevada System of Higher Education that sponsors a charter school shall enter into an agreement with the State Public Charter School Authority for the provision of any necessary functions of a local educational authority.* A charter school that receives money pursuant to such a grant program shall comply with any applicable reporting requirements to receive the grant.

2. If the charter school is eligible to receive special education program units, the Department shall pay the special education program units directly to the charter school.

3. As used in this section, "local educational agency" has the meaning ascribed to it in 20 U.S.C. § 7801(26)(A).

Sec. 18. NRS 386.5135 is hereby amended to read as follows:

386.5135 1. The Account for the State Public Charter School Authority is hereby created in the State General Fund, to be administered by the *Executive* Director.

2. The interest and income earned on the money in the Account must be credited to the Account.

3. The money in the Account may be used only for the establishment and maintenance of the State Public Charter School Authority.

4. 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.

5. ~~{The}~~ *Except as otherwise provided in this subsection, the Executive Director and the State Public Charter School Authority may accept gifts, grants and bequests to carry out the provisions of NRS 386.490 to 386.649, inclusive {,}, and sections 2 to 8, inclusive, of this act. The Executive Director and the State Public Charter School Authority shall not accept any gift or donation from a charter management organization, a committee to form a charter*

school or the governing body of a charter school. Any money from gifts, grants and bequests must be deposited in the Account and may be expended in accordance with the terms and conditions of the gift, grant or bequest, or in accordance with this section.

Sec. 19. 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. *The board of trustees of a school district or a college or university within the Nevada System of Higher Education may enter into an agreement with the State Public Charter School Authority to provide technical assistance and support in preparing an application to sponsor a charter school and planning and executing the duties of a sponsor of a charter school as prescribed in this section.*

5. 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 386.649, inclusive, *and sections 2 to 8, 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 should be revoked or the charter contract terminated, as applicable, in accordance with NRS 386.530, 386.535 or 386.5351, as applicable ~~+~~

~~—5.1 ;~~

(g) Determining whether the governing body of a charter school should be reconstituted in accordance with NRS 386.535 or 386.5351, as applicable; and

(h) Adopting a policy for appointing a new governing body of a charter school for which the governing body is reconstituted in accordance with NRS 386.535 or 386.5351, as applicable.

6. 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 *soliciting and* evaluating charter school applications in accordance with NRS 386.525 ~~and for the renewal of charter contracts pursuant to NRS 386.530;~~

~~—(e) , which must include, without limitation:~~

(1) Specific application procedures and timelines for committees to form a charter school that plan to enter into a contract with an educational management organization to operate the charter school, committees to form a charter school that do not plan to enter into such a contract and charter management organizations; and

(2) A description of the manner in which the sponsor will evaluate the previous performance of an educational management organization or other person with whom a committee to form a charter school plans to enter into a contract to operate a charter school or a charter management organization that submits an application to form a charter school;

(c) The procedure and criteria for evaluating applications for the renewal of charter contracts pursuant to NRS 386.530;

(d) The procedure for amending a written charter or charter contract and the criteria for determining whether a request for such an amendment will be approved which must include, without limitation, any manner in which such procedures and criteria will differ if the sponsor determines that the amendment is material or strategically important;

(e) If deemed appropriate by the sponsor, a strategic plan for recruiting charter management organizations, educational management organizations

or other persons to operate charter schools based on the priorities of the sponsor and the needs of the pupils that will be served by the charter schools that will be sponsored by the sponsor;

(f) A description of how the sponsor will maintain oversight of the charter schools it sponsors ~~that~~, which must include, without limitation:

(1) An assessment of the needs of the charter schools that are sponsored by the sponsor that is prepared with the input of the governing bodies of such charter schools; and

(2) A strategic plan for the oversight and provision of technical support to charter schools that are sponsored by the sponsor in the areas of academic, fiscal and organizational performance; and

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

~~6.1~~ **7.** *Before the State Public Charter School Authority or a board of trustees of a school district or a college or university within the Nevada System of Higher Education that is approved to sponsor charter schools begins soliciting applications to form a charter school, the State Public Charter School Authority, board of trustees or college or university, as applicable, shall prepare, in collaboration with the Department, an evaluation of the academic needs of pupils in geographic areas served by the sponsor.*

8. 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.

9. *The provisions of this section do not establish a private right of action against the sponsor of a charter school.*

Sec. 20. 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. *The board of trustees of a school district or a college or university within the Nevada System of Higher Education may enter into an agreement with the State Public Charter School Authority to provide technical assistance and support in preparing an application to sponsor a charter school and planning and executing the duties of a sponsor of a charter school prescribed in this section.*

5. 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 386.649, inclusive, **and sections 2 to 8, 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 charter contract should be terminated in accordance with NRS 386.530, 386.535 or 386.5351, as applicable ~~+~~
~~5-1~~ ;

(g) *Determining whether the governing body of a charter school should be reconstituted in accordance with NRS 386.535 or 386.5351, as applicable; and*

(h) *Adopting a policy for appointing a new governing body of a charter school for which the governing body is reconstituted in accordance with NRS 386.535 or 386.5351, as applicable.*

6. 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 **soliciting and** evaluating charter school applications in accordance with NRS 386.525 ~~and for the~~;

~~(c)~~ , **which must include, without limitation:**

(1) Specific application procedures and timelines for committees to form a charter school that plan to enter into a contract with an educational management organization to operate the charter school, committees to form a charter school that do not plan to enter into such a contract and charter management organizations; and

(2) A description of the manner in which the sponsor will evaluate the previous performance of an educational management organization or other person with whom a committee to form a charter school plans to enter into a contract to operate a charter school or a charter management organization that submits an application to form a charter school;

(c) The procedure and criteria for evaluating applications for renewal of charter contracts pursuant to NRS 386.530;

(d) The procedure for amending a charter contract and the criteria for determining whether a request for such an amendment will be approved which must include, without limitation, any manner in which such procedures and criteria will differ if the sponsor determines that the amendment is material or strategically important;

(e) If deemed appropriate by the sponsor, a strategic plan for recruiting charter management organizations, educational management organizations or other persons to operate charter schools based on the priorities of the sponsor and the needs of the pupils that will be served by the charter schools that will be sponsored by the sponsor;

(f) A description of how the sponsor will maintain oversight of the charter schools it sponsors ~~that~~, which must include, without limitation:

(1) An assessment of the needs of the charter schools that are sponsored by the sponsor that is prepared with the input of the governing bodies of such charter schools; and

(2) A strategic plan for the oversight and provision of technical support to charter schools that are sponsored by the sponsor in the areas of academic, fiscal and organizational performance; and

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

~~6.1~~ **7. Before the State Public Charter School Authority or a board of trustees of a school district or a college or university within the Nevada System of Higher Education that is approved to sponsor charter schools begins soliciting applications to form a charter school, the State Public Charter School Authority, board of trustees or college or university, as applicable, shall prepare, in collaboration with the Department, an evaluation of the academic needs of pupils in geographic areas served by the sponsor.**

8. 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.

9. The provisions of this section do not establish a private right of action against the sponsor of a charter school.

Sec. 21. 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~~ **applicant** shall ensure that the completed application:

(a) Presents ~~the~~ **a clear, measurable and high-quality** 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 386.649, inclusive.~~ **summary of the plan for the proposed charter school.**

(b) A **clear** written description of the mission **of the charter school** and **the** 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) *A clear description of the indicators, measures and metrics for the categories of academics, finances and organization that the charter school proposes to use, the external assessments that will be used to assess performance in those categories and the objectives that the committee to form a charter school plans to achieve in those categories, which must be expressed in terms of the objectives, measures and metrics. The objectives and the indicators, measures and metrics used by the charter school must be consistent with the performance framework adopted by the sponsor pursuant to NRS 386.527.*

(d) *A resume and background information for each person who serves on the board of the charter management organization or the committee to form a charter school, as applicable, which must include the name, telephone number, electronic mail address, background, qualifications, any past or current affiliation with any charter school in this State or any other state, any potential conflicts of interest and any other information required by the sponsor.*

(e) *The proposed location of, or the geographic area to be served by, the charter school and evidence of a need and community support for the charter school in that area.*

(f) The *minimum, planned and maximum* projected enrollment of pupils in *each grade* in the charter school ~~for~~

~~—(d)—~~ *for each year that the charter school would operate under the proposed charter contract.*

(g) The *procedure for applying for enrollment in the proposed charter school, which must include, without limitation, the* proposed dates for accepting applications for enrollment in ~~the initial~~ *each* 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.~~ *under the proposed charter contract and 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.

(h) ~~{The textbooks that will be used at the charter school.}~~ *The academic program that the charter school proposes to use, a description of how the academic program complies with the requirements of NRS 386.550, the proposed academic calendar for the first year of operation and a sample daily schedule for a pupil in each grade served by the charter school.*

(i) ~~{The qualifications of the persons who will provide instruction at the charter school.}~~ *A description of the proposed instructional design of the charter school and the type of learning environment the school will provide, including, without limitation, whether the charter school will provide a program of distance education, the planned class size and structure, the proposed curriculum for the charter school and the teaching methods that will be used 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.}~~ *The manner in which the school plans to identify and serve the needs of pupils with disabilities, pupils who are English language learners, pupils who are academically behind their peers and gifted pupils.*

(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.}~~ *A description of any co-curricular or extracurricular activities that the school plans to offer and the manner in which these programs will be funded.*

(l) *Any uniform or dress code policy that the school plans to use.*

(m) *Plans and timelines for recruiting and enrolling students, including procedures for any lottery for admission that the school plans to conduct.*

(n) *The rules of behavior and punishments that the school plans to adopt pursuant to NRS 386.585, including, without limitation, any unique discipline policies for pupils enrolled in a program of special education.*

(o) *A chart that clearly presents the proposed organizational structure of the school and a clear description of the roles and responsibilities of the governing body, administrators and any other persons included on the chart and a table summarizing the decision-making responsibilities of the staff and governing body of the charter school and, if applicable, the charter management organization that operates the charter school. The table must also identify the person responsible for each activity conducted by the charter school, including, without limitation, the person responsible for establishing curriculum and culture, providing professional development to*

employees of the charter school and making determinations concerning the staff of the charter school.

(p) The names of any external organizations that will play a role in operating the school and the role each such organization will play.

(q) The manner in which the governing body of the charter school will be chosen.

(r) A staffing chart for the first year in which the charter school plans to operate and a projected staffing plan for the term of the charter contract.

(s) Plans for recruiting administrators, teachers and other staff, providing professional development to such staff.

(t) Proposed bylaws for the governing body, a description of the manner in which the school will be governed, including, without limitation, any governance training that will be provided to the governing body, and a code of ethics for members and employees of the governing body. The code of ethics must be prepared with guidance from the Nevada Commission on Ethics and must not conflict with any policy adopted by the sponsor.

(u) Explanations of any partnerships or contracts central to the operations or mission of the charter school.

(v) 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)]~~ *(w) 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.*

~~—(e) 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.~~

(x) A statement of the school's plans for food service and other significant operational services, including a statement of whether the charter school will provide food service or participate in the National School Lunch Program,

42 U.S.C. §§ 1751 et seq. If the charter school will not provide food service or participate in the National School Lunch Program, the application must include an explanation of the manner in which the charter school will ensure that the lack of such food service or participation does not prevent pupils from attending the charter school.

(y) Opportunities and expectations for involving the parents of pupils enrolled in the charter school in instruction at the school and the operation of the school, including, without limitation, the manner in which the charter school will solicit input concerning the governance of the charter school from such parents.

(z) A detailed plan for starting operation of the charter school that identifies necessary tasks, the persons responsible for performing them and the dates by which such tasks will be accomplished.

(aa) A description of the financial plan and policies to be used by the charter school.

(bb) A description of the insurance coverage the school will obtain.

(cc) Budgets for starting operation at the charter school, the first year of operation of the charter school and the first 5 years of operation of the charter school, with any assumptions inherent in the budgets clearly stated.

(dd) Evidence of any money pledged or contributed to the budget of the charter school.

(ee) A statement of the facilities that will be used to operate the charter school and a plan for operating such facilities, including, without limitation, any backup plan to be used if the charter school cannot be operated out of the planned facilities.

(ff) If the charter school is a vocational school, a description of the career and technical education program that will be used by the school.

(gg) If the charter school will provide a program of distance education, a description of the system of course credits that the school will use and the manner in which the school will:

(1) Monitor and verify the participation in and completion of courses by pupils;

(2) Require pupils to participate in assessments and submit coursework;

(3) Conduct parent-teacher conferences; and

(4) Administer any test, examination or assessment required by state or federal law in a proctored setting.

(hh) If the charter school will provide a program where a student may earn college credit for courses taken in high school, a draft memorandum of understanding between the charter school and the college or university through which the credits will be earned and a term sheet, which must set forth:

(1) The proposed duration of the relationship between the charter school and the college or university and the conditions for renewal and termination of the relationship;

(2) The roles and responsibilities of the governing body of the charter school, the employees of the charter school and the college or university;

(3) The scope of the services and resources that will be provided by the college or university;

(4) The manner and amount that the college or university will be compensated for providing such services and resources, including, without limitation, any tuition and fees that pupils at the charter school will pay to the college or university;

(5) The manner in which the college or university will ensure that the charter school effectively monitors pupil enrollment and attendance and the acquisition of college credits; and

(6) Any employees of the college or university who will serve on the governing body of the charter school.

(ii) If the applicant currently operates a charter school in another state, evidence of the performance of such charter schools and the capacity of the applicant to operate the proposed charter school.

(jj) If the applicant proposes to contract with an educational management organization or any other person to provide educational or management services:

(1) Evidence of the performance of the educational management organization or other person when providing such services to a population of pupils similar to the population that will be served by the proposed charter school;

(2) A term sheet that sets forth:

(I) The proposed duration of the proposed contract between the governing body of the charter school and the educational management organization;

(II) A description of the responsibilities of the governing body of the charter school, employees of the charter school and the educational management organization or other person;

(III) All fees that will be paid to the educational management organization or other person;

(IV) The manner in which the governing body of the charter school will oversee the services provided by the educational management organization or other person and enforce the terms of the contract;

(V) A disclosure of the investments of the educational management organization or other person; and

(VI) The conditions for renewal and termination of the contract; and

(3) A disclosure of any conflicts of interest concerning the applicant and the educational management organization or other person, including, without limitation, any past or current employment, business or familial relationship between any prospective employee of the charter school and a member of the committee to form a charter school or the board of directors of the charter management organization, as applicable.

(kk) Any additional information required by the sponsor.

6. *A charter management organization may, as part of an application to form a charter school, request a waiver of the requirements of subsection 1 or 2 of NRS 386.549 concerning the membership of the governing body. A sponsor shall not grant such a waiver unless the charter management organization provides a compelling reason for the waiver. If approved, the waiver may provide, without limitation, for multiple governing bodies that have the authority to make decisions concerning the governance of the charter school or a facility operated by the charter school. A majority of the members of each such governing body must reside in this State. A request for a waiver to allow for multiple such governing bodies must describe the role, responsibilities and composition of each such proposed governing body.*

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. 22. NRS 386.525 is hereby amended to read as follows:

386.525 1. A ***committee to form a charter school or charter management organization*** may submit the application to the proposed sponsor of the charter school. 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, ***which must include, without limitation, natural persons from different geographic areas of the United States*** 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;}~~ ***applicant designed to elicit any necessary clarifications or additional information about the proposed charter school and determine the ability of the applicants to establish a high-quality 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}~~ 6 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 386.649, inclusive, ***and sections 2 to 8, inclusive, of this act*** and the regulations applicable to charter schools; and

(2) Is complete in accordance with the regulations of the Department ~~§~~ **and the policies and practices of the sponsor;** and

(b) The applicant has demonstrated competence in accordance with the criteria for approval prescribed by the sponsor pursuant to subsection ~~5~~ **6** 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 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. The board of trustees, the college or the university, as applicable, shall review an application in accordance with the requirements for review set forth in subsections 2 and 3.

5. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of subsection 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. 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.

7. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 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.

8. If the State Public Charter School Authority receives an application pursuant to subsection 1 or 7, it shall consider the application at a meeting which must be held not later than 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. 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 subsections 2 and 3. The State Public Charter School Authority may approve an application only if it satisfies the requirements of subsection 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.

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 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.

10. If the State Public Charter School Authority denies an application after it has been resubmitted pursuant to subsection 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.

11. *Notwithstanding the provisions of this section, the State Public Charter School Authority may adopt regulations establishing timelines and procedures by which the State Public Charter School Authority will review applications and the board of trustees of a school district that is approved to sponsor charter schools or a college or university within the Nevada System of Higher Education that is approved to sponsor charter schools may adopt policies establishing timelines and procedures by which the board of trustees or college or university, as applicable, will review applications. These regulations or policies may:*

(a) Establish different timelines and review procedures for different types of applicants; and

(b) Authorize or require an applicant to submit an abbreviated application, the contents of such an application and criteria that the State Public Charter School Authority will use to determine whether to invite the applicant to submit a full application that meets the requirements of NRS 386.520 or deny the abbreviated application and recommend that the applicant make substantial revisions and submit the application during another application cycle.

12. *The State Public Charter School Authority may enter into a contract with any qualified person to:*

(a) Foster the development of high-quality charter management organizations, educational management organizations and other persons to operate charter schools in this State;

(b) Solicit applications to form charter schools from high-quality applicants;

(c) Provide training concerning the governance and management of charter schools to governing bodies of charter schools and applicants to form charter schools; or

(d) Provide professional development and support services to the administration and other employees of charter schools.

13. *The State Public Charter School Authority may provide compensation pursuant to a contract entered into pursuant to subsection 12 using any money raised by the State Public Charter School Authority from private donors for that purpose or any money received from fees paid to the State Public Charter School Authority.*

14. 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. 23. 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 June 11, 2013, grant a written charter to the governing body of the charter school or, on or after June 11, 2013, 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 386.649, inclusive, **and sections 2 to 8, 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. *A sponsor may require, as a condition of granting a request for an amendment to a governing body that has been granted a written charter, such a governing body to agree to the revocation of the written charter and to enter into a charter contract.* 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 *in a facility in which the charter school has not previously operated* and is not eligible to receive apportionments *for pupils enrolled in such a facility* 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. 24. 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 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 charter contract 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 charter contract. ~~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 386.649, inclusive, **and sections 2 to 8, 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 charter contract 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 **in a facility in which the charter school has not previously operated** and is not eligible to receive apportionments pursuant to NRS 387.124 **for pupils enrolled in such a facility** 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. 25. NRS 386.528 is hereby amended to read as follows:

386.528 1. ~~The~~ **Each sponsor of a charter school shall adopt a performance framework [that is required to be incorporated] and incorporate the performance framework** into the charter contract pursuant to paragraph (a) of subsection 1 of NRS 386.527 . **The performance framework** 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 386.649, inclusive ~~††~~, ***and sections 2 to 8, 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 ~~††~~ ***in a manner that complies with all applicable federal and state laws.***

6. ***The sponsor of the charter school may aggregate data reported by the State and collected by the sponsor concerning pupil achievement and school performance at separate facilities operated by the same governing body or charter management organization and across all grades served by the charter school for the purpose of evaluating and reporting pupil achievement and school performance. Such an aggregation of data may include, without limitation, a weighted average of data concerning pupil achievement and school performance of each elementary school, junior high school, middle school or high school program operated by the charter school. The sponsor may also disaggregate such data by facility and by grade level or group of grade levels to provide greater transparency and accountability. The sponsor may also adopt policies for determining pupil achievement and school performance at a charter school.***

7. The State Board may adopt regulations to place requirements on the manner in which data is reported by the sponsor, including, without limitation, the manner in which data must be aggregated or disaggregated in any report.

Sec. 26. NRS 386.530 is hereby amended to read as follows:

386.530 1. 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 **and each facility that constitutes 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 386.649, inclusive ~~1-1~~, **and sections 2 to 8, 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 ~~1-1~~ 3; 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 386.649, inclusive ~~1-1~~, **and sections 2 to 8, inclusive, of this act. Such criteria must include, without limitation, the performance indicators, measures and metrics included in the performance framework.**

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 to the sponsor 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. 27. NRS 386.535 is hereby amended to read as follows:

386.535 Except as otherwise provided in NRS 386.5351:

1. The sponsor of a charter school may *reconstitute the governing body of a charter school*, 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 386.649, inclusive, *and sections 2 to 8, 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 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; ~~to~~

(c) There is reasonable cause to believe that *reconstitution*, 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 ~~to~~ ;

(d) *The sponsor determines that the committee to form the charter school or charter management organization, as applicable, or any member of the committee to form the charter school or charter management organization,*

as applicable, or the governing body of the charter school has at any time made a material misrepresentation or omission concerning any information disclosed to the sponsor;

(e) The charter school is a high school that has a graduation rate for the immediately preceding school year that is less than 60 percent;

(f) The charter school is an elementary or middle school or junior high school that is rated in the lowest 5 percent of elementary schools, middle schools or junior high schools in the State in pupil achievement and school performance, as determined by the Department pursuant to the statewide system of accountability for public schools; or

(g) Pupil achievement and school performance at the charter school is unsatisfactory as determined by the Department pursuant to criteria prescribed by regulation by the Department to measure the performance of any public school.

2. Before the sponsor **reconstitutes a governing body**, 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 **reconstitute the governing body**, 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 **reconstitute the governing body**, 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 **reconstitute the governing body**, 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 ~~+~~ **or the sponsor determines that the deficiency is evidence of an ongoing pattern of deficiencies in a particular area.**

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 ***governing body of a charter school is reconstituted, 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 ***reconstitution or termination, as applicable,*** not later than 10 days after ***reconstituting the governing body,*** revoking the written charter or terminating the charter contract.

Sec. 28. NRS 386.5351 is hereby amended to read as follows:

386.5351 1. The sponsor of a charter school shall ***reconstitute the governing body of a charter school,*** 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.

2. 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—~~ ***subsection 1, unless the sponsor determines that the governing body lacks the capacity to improve pupil achievement and school performance.***

3. ***The Superintendent of Public Instruction may exempt a charter school from the provisions of subsection 1 if the Superintendent determines that there has been a significant change to the statewide system of accountability that justifies such an exemption. In such cases, the years before and after the exemption is awarded shall be deemed to be consecutive years for the purposes of subsection 1.***

4. If a ***governing body is reconstituted,*** 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 ***reconstitution, revocation or*** termination not later than 10 days after ***reconstituting the governing body,*** revoking the written charter or terminating the charter contract.

~~3—~~ 5. The provisions of NRS 386.535 do not apply to the ***reconstitution of a governing body, the*** revocation of a written charter or termination of a charter contract pursuant to this section.

Sec. 29. NRS 386.5351 is hereby amended to read as follows:

386.5351 1. The sponsor of a charter school shall 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.

2. 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 *subsection 1* ~~this subsection. —2—~~, *unless the sponsor determines that the governing body lacks the capacity to improve pupil achievement and school performance.*

3. *The Superintendent of Public Instruction may exempt a charter school from the provisions of subsection 1 if the Superintendent determines that there has been a significant change to the statewide system of accountability that justifies such an exemption. In such cases, the years before and after the exemption is awarded shall be deemed to be consecutive years for the purposes of subsection 1.*

4. If a *governing body is reconstituted 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 *reconstitution or* termination not later than 10 days after *reconstituting the governing body or* terminating the charter contract.

~~3-3~~ 5. The provisions of NRS 386.535 do not apply to the termination of a charter contract pursuant to this section.

Sec. 30. NRS 386.536 is hereby amended to read as follows:

386.536 1. If a charter school ceases to operate voluntarily, if a charter contract is not renewed or ~~upon revocation of~~ *if a written charter is revoked or termination of* a charter contract ~~it is terminated and the sponsor does not recruit a governing body of another charter school to operate another campus of the other charter school to replace the charter school whose written charter is revoked or whose charter contract is terminated pursuant to section 6 of this act, as applicable, the governing body of the charter school shall:~~

(a) Give written notice of the closure to:

(1) The sponsor of the charter school, unless the closure results from the revocation of the written charter or the non-renewal or termination of a charter contract, as applicable;

(2) The Director of the Department of Business and Industry;

(3) The board of trustees of the school district in which the charter school is located, unless the board of trustees is the sponsor of the charter school and the closure results from the revocation of the written charter or the non-renewal or termination of a charter contract, as applicable;

(4) The Department;

(5) The parents or legal guardians of the pupils enrolled in the charter school; and

(6) The creditors of the charter school;

(b) Except as otherwise provided in subsections 4 and 5, 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;

(c) As soon as practicable, develop and present to the sponsor of the charter school a written plan for the closure of the charter school;

(d) Maintain an office at the charter school or elsewhere, with regular hours of operation and voice messaging stating the hours of operation;

(e) Maintain existing insurance coverage in force for the period required by the sponsor of the charter school;

(f) Conduct a financial audit and an inventory of all the assets of the charter school and cause a written report of the audit and inventory to be prepared for the sponsor of the charter school and the Department;

(g) Prepare a written list of the creditors of the charter school, identifying secured creditors and the assets in which those creditors have a security interest;

(h) Supply any information or documents required by the sponsor of the charter school; and

(i) Protect all the assets of the charter school from theft, misappropriation, deterioration or other loss.

2. The notice of the closure required by subsection 1 must include:

(a) The date of closure;

(b) A statement of the plan of the charter school to assist pupils to identify and transfer to another school; and

(c) The telephone number, mailing address and physical address of the office required by subsection 1.

3. The administrator appointed pursuant to subsection 1 shall carry out the duties prescribed for the governing body of the charter school by paragraphs (c) to (i), inclusive, of subsection 1 if the governing body ceases to exist or is otherwise unable to perform those duties and 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.

4. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 3, the governing body of the charter school shall appoint a qualified person to assume those duties.

5. 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 4, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 3.

6. In addition to performing the duties set forth in subsection 3, the administrator appointed by the governing body of the charter school or the sponsor, or the qualified person appointed to carry out the duties of the administrator, shall:

(a) Cause to be paid and discharged all the liabilities and obligations of the charter school to the extent of the charter school's assets;

(b) Terminate any lease, service agreement or any other contract of the charter school that is not necessary to complete the closure of the charter school;

(c) Supply any information or documents required by the sponsor of the charter school; and

(d) After the financial affairs of the charter school have been wound up and the closure of the charter school has otherwise been completed, cause a financial audit to be prepared and cause a written report of the audit to be prepared for the sponsor of the charter school and the Department.

7. 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. 31. NRS 386.536 is hereby amended to read as follows:

386.536 1. If a charter school ceases to operate voluntarily, if a charter contract is not renewed or ~~upon termination of~~ **if a charter contract ~~is~~ is terminated and the sponsor does not recruit a governing body of another charter school to operate another campus of the other charter school to replace the charter school whose written charter is revoked or whose charter contract is terminated pursuant to section 6 of this act,** as applicable, the governing body of the charter school shall:

(a) Give written notice of the closure to:

(1) The sponsor of the charter school, unless the closure results from the non-renewal or termination of a charter contract;

(2) The Director of the Department of Business and Industry;

(3) The board of trustees of the school district in which the charter school is located, unless the board of trustees is the sponsor of the charter school and the closure results from the non-renewal or termination of a charter contract;

(4) The Department;

(5) The parents or legal guardians of the pupils enrolled in the charter school; and

(6) The creditors of the charter school;

(b) Except as otherwise provided in subsections 4 and 5, 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;

(c) As soon as practicable, develop and present to the sponsor of the charter school a written plan for the closure of the charter school;

(d) Maintain an office at the charter school or elsewhere, with regular hours of operation and voice messaging stating the hours of operation;

(e) Maintain existing insurance coverage in force for the period required by the sponsor of the charter school;

(f) Conduct a financial audit and an inventory of all the assets of the charter school and cause a written report of the audit and inventory to be prepared for the sponsor of the charter school and the Department;

(g) Prepare a written list of the creditors of the charter school, identifying secured creditors and the assets in which those creditors have a security interest;

(h) Supply any information or documents required by the sponsor of the charter school; and

(i) Protect all the assets of the charter school from theft, misappropriation, deterioration or other loss.

2. The notice of the closure required by subsection 1 must include:

(a) The date of closure;

(b) A statement of the plan of the charter school to assist pupils to identify and transfer to another school; and

(c) The telephone number, mailing address and physical address of the office required by subsection 1.

3. The administrator appointed pursuant to subsection 1 shall carry out the duties prescribed for the governing body of the charter school by paragraphs (c) to (i), inclusive, of subsection 1 if the governing body ceases to exist or is otherwise unable to perform those duties and 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.

4. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 3, the governing body of the charter school shall appoint a qualified person to assume those duties.

5. 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 4, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 3.

6. In addition to performing the duties set forth in subsection 3, the administrator appointed by the governing body of the charter school or the sponsor, or the qualified person appointed to carry out the duties of the administrator, shall:

(a) Cause to be paid and discharged all the liabilities and obligations of the charter school to the extent of the charter school's assets;

(b) Terminate any lease, service agreement or any other contract of the charter school that is not necessary to complete the closure of the charter school;

(c) Supply any information or documents required by the sponsor of the charter school; and

(d) After the financial affairs of the charter school have been wound up and the closure of the charter school has otherwise been completed, cause a financial audit to be prepared and cause a written report of the audit to be prepared for the sponsor of the charter school and the Department.

7. 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. 32. 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 ~~to 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 ~~to the board of trustees of a school district and a college or university within the Nevada System of Higher Education, and the contents of the application;~~

(f) The criteria and type of investigation that must be applied by the board of trustees ~~to 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 *to the board of trustees of a school district and a college or*

university within the Nevada System of Higher Education pursuant to NRS 386.527 and the contents of the application ~~††~~; *and*

(h) In consultation with the State Public Charter School Authority, other sponsors of charter schools, governing bodies of charter schools and persons who may be affected:

(1) Requirements for the annual independent audits of charter schools, including, without limitation, required training for prospective auditors on the expectations and scope of the audits; and

(2) Ethics requirements for the governing bodies of charter schools.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.490 to 386.649, inclusive, *and sections 2 to 8, 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 ~~††~~; *and*

(d) Qualifications, in addition to those prescribed pursuant to NRS 386.520, of a charter management organization or committee to form a charter school that is authorized to file an application to form a charter school.

3. *The State Public Charter School Authority shall adopt regulations that prescribe:*

(a) The process for submission to the State Public Charter School Authority of an application to form a charter school, and the contents of such an application;

(b) The process for submission to the State Public Charter School Authority of an application to renew a charter contract, and the contents of such an application;

(c) The process for submission to the State Public Charter School Authority of an amendment to a written charter or charter contract pursuant to NRS 386.527 and the contents of the application; and

(d) The procedure for the investigation that the State Public Charter School Authority will conduct of an application to form a charter school, an application to renew a charter contract or an application to request an amendment of a written charter or charter contract, and the criteria that the State Public Charter School Authority will use to evaluate such applications.

Sec. 33. 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 ~~to 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 ~~to the board of trustees of a school district and a college or university within the Nevada System of Higher Education, and the contents of the application;~~

(f) The criteria and type of investigation that must be applied by the board of trustees ~~to 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 charter contract; ~~and~~

(g) The process for submission of an amendment of a charter contract *to the board of trustees of a school district and a college or university within the Nevada System of Higher Education* pursuant to NRS 386.527 and the contents of the application ~~to~~; and

(h) In consultation with the State Public Charter School Authority, other sponsors of charter schools, governing bodies of charter schools and persons who may be affected:

(1) Requirements for the annual independent audits of charter schools, including, without limitation, required training for prospective auditors on the expectations and scope of the audits; and

(2) Ethics requirements for the governing bodies of charter schools.

2. The Department may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.490 to 386.649, inclusive, *and sections 2 to 8, 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 ~~to~~; and

(d) Qualifications, in addition to those prescribed pursuant to NRS 386.520, of a charter management organization or committee to form a charter school that is authorized to file an application to form a charter school.

3. The State Public Charter School Authority shall adopt regulations that prescribe:

(a) The process for submission to the State Public Charter School Authority of an application to form a charter school, and the contents of such an application;

(b) The process for submission to the State Public Charter School Authority of an application to renew a charter contract, and the contents of such an application;

(c) The process for submission to the State Public Charter School Authority of an amendment to a charter contract pursuant to NRS 386.527 and the contents of the application; and

(d) The procedure for the investigation that the State Public Charter School Authority will conduct of an application to form a charter school, an application to renew a charter contract or an application to request an amendment of a charter contract, and the criteria that the State Public Charter School Authority will use to evaluate such applications.

Sec. 34. NRS 386.545 is hereby amended to read as follows:

386.545 1. The Department and the board of trustees of a school district shall:

(a) Upon request, provide information to the general public concerning the formation and operation of charter schools; and

(b) Maintain a list available for public inspection that describes the location of each charter school.

2. The sponsor of a charter school shall:

(a) Provide reasonable assistance to an applicant for a charter school and to a charter school in carrying out the provisions of NRS 386.490 to 386.649, inclusive ~~to 386.649, inclusive~~, **and sections 2 to 8, inclusive, of this act;**

(b) Provide technical and other reasonable assistance to a charter school for the operation of the charter school;

(c) Provide information to the governing body of a charter school concerning the availability of money for the charter school, including, without limitation, money available from the Federal Government;

(d) Provide timely access to the electronic data concerning the pupils enrolled in the charter school that is maintained pursuant to NRS 386.650; and

(e) Provide appropriate information, education and training to a charter school and the governing body of a charter school concerning the applicable provisions of this title and any other laws and regulations that affect charter schools and the governing bodies of charter schools.

3. If the board of trustees of a school district is the sponsor of a charter school, the sponsor shall:

(a) Provide the charter school with an updated list of available substitute teachers within the school district.

(b) Provide access to school buses for use by the charter school for field trips. The school district may charge a reasonable fee for the use of the school buses ~~†~~, ***which must not be greater than the amount that the board of trustees is authorized to charge the charter school for services pursuant to NRS 386.560.***

(c) If the school district offers summer school or Internet-based credit recovery classes, allow the pupils enrolled in the charter school to participate if space is available. The school district shall apply the same fees, if any, for participation of the pupils enrolled in the charter school as it applies to pupils enrolled in the school district.

4. If the Department prescribes a process for charter schools to report certain information, the Department may request the identified information regardless if that information is required to be submitted by charter schools pursuant to a specific statute. Upon such a request, a charter school shall provide the information if the Department includes a detailed description of the requested information and the mechanism by which the Department will pay or reimburse the charter school for the requested information, if the provision of the information will incur any costs for the charter school.

Sec. 35. NRS 386.547 is hereby amended to read as follows:

386.547 The State ~~Board~~ **Public Charter School Authority** shall:

1. ~~Review~~ ***Before March 1 of each even-numbered year:***

(a) ***Review*** all statutes and regulations from which charter schools are *not* exempt and determine whether such ~~exemption~~ ***statutes and regulations*** assisted or impeded the charter schools in achieving their ~~educational~~ ***academic, fiscal and organizational*** goals and objectives ~~†~~;

(b) ***Make recommendations to the Legislative Committee on Education concerning any legislation that would assist charter schools in achieving their academic, fiscal and organizational goals; and***

(c) ***Make recommendations to the State Board and the Department concerning any changes to regulations that would assist charter schools in achieving their academic, fiscal and organizational goals.***

2. Make available information concerning the formation and operation of charter schools in this State ***and the academic, fiscal and organizational performance of each charter school in this State*** to pupils, parents and legal guardians of pupils, teachers and other educational personnel and members of the general public. ***The State Public Charter School Authority shall update such information annually.***

Sec. 36. NRS 386.549 is hereby amended to read as follows:

386.549 1. ~~The~~ ***Unless a waiver is granted pursuant to subsection 6 of NRS 386.520, the*** governing body of 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 of a pupil enrolled in the charter school who is not a teacher or an administrator at the charter school.

(d) Two members who possess knowledge and experience 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 governing body of a charter school may include, without limitation, parents and representatives of nonprofit organizations and businesses. ~~Not~~ ***Unless a waiver is granted pursuant to subsection 6 of NRS 386.520, not*** more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business. A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

3. A person may serve on the governing body only if the person submits an affidavit to the sponsor of the charter school indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has ***received training or*** read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other ***training and*** material designed to assist the governing bodies of charter schools, if such ***training and*** material is provided to the person by the sponsor ~~or~~ ***or an application to form a charter school or amend a written charter or charter contract provided that the member would receive such training or read and understand such material.***

(c) ***Complies with the requirements of section 7 of this act.***

4. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

5. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which ~~the charter school~~ ***a facility operated by the charter school where pupils receive instruction*** is located. Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive

a salary of not more than \$80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.

6. 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. 37. NRS 386.549 is hereby amended to read as follows:

386.549 1. Unless a waiver is granted pursuant to subsection 6 of NRS 386.520, the governing body of 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 of a pupil enrolled in the charter school who is not a teacher or an administrator at the charter school.

(d) Two members who possess knowledge and experience 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 governing body of a charter school may include, without limitation, parents and representatives of nonprofit organizations and businesses. Unless a waiver is granted pursuant to subsection 6 of NRS 386.520, not more than two persons who serve on the governing body may represent the same organization or business or otherwise represent the interests of the same organization or business. A majority of the members of the governing body must reside in this State. If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

3. A person may serve on the governing body only if the person submits an affidavit to the sponsor of the charter school indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has received training or read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other training and material designed to assist the governing bodies of charter schools, if such training and material is provided to the person by the

sponsor or an application to form a charter school or amend ~~to a written charter or~~ charter contract provided that the member would receive such training or read and understand such material.

(c) Complies with the requirements of section 7 of this act.

4. The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

5. The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which a facility operated by the charter school where pupils receive instruction is located. Upon an affirmative vote of a majority of the membership of the governing body, each member is entitled to receive a salary of not more than \$80 for attendance at each meeting, as fixed by the governing body, not to exceed payment for more than one meeting per month.

6. 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. 38. NRS 386.550 is hereby amended to read as follows:

386.550 1. A charter school shall:

(a) Comply with all laws and regulations relating to discrimination and civil rights.

(b) Remain nonsectarian, including, without limitation, in its educational programs, policies for admission and employment practices.

(c) Refrain from charging tuition or fees, *except for tuition or fees that the board of trustees of a school district is authorized to charge*, levying taxes or issuing bonds.

(d) Comply with any plan for desegregation ordered by a court that is in effect in the school district in which the charter school is located.

(e) Comply with the provisions of chapter 241 of NRS.

(f) Except as otherwise provided in this paragraph, schedule and provide annually at least as many days of instruction as are required of other public schools located in the same school district as the charter school is located. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction for a waiver from providing the days of instruction required by this paragraph. The Superintendent of Public Instruction may grant such a request if the governing body demonstrates to the satisfaction of the Superintendent that:

(1) Extenuating circumstances exist to justify the waiver; and

(2) The charter school will provide at least as many hours or minutes of instruction as would be provided under a program consisting of 180 days.

(g) Cooperate with the board of trustees of the school district in the administration of the examinations administered pursuant to NRS 389.550 and, if the charter school enrolls pupils at a high school grade level, the end-of-course examinations administered pursuant to NRS 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807 to the pupils who are enrolled in the charter school.

(h) Comply with applicable statutes and regulations governing the achievement and proficiency of pupils in this State.

(i) Provide instruction in the core academic subjects set forth in subsection 1 of NRS 389.018, as applicable for the grade levels of pupils who are enrolled in the charter school, and provide at least the courses of study that are required of pupils by statute or regulation for promotion to the next grade or graduation from a public high school and require the pupils who are enrolled in the charter school to take those courses of study. This paragraph does not preclude a charter school from offering, or requiring the pupils who are enrolled in the charter school to take, other courses of study that are required by statute or regulation.

(j) If the parent or legal guardian of a child submits an application to enroll in kindergarten, first grade or second grade at the charter school, comply with NRS 392.040 regarding the ages for enrollment in those grades.

(k) Refrain from using public money to purchase real property or buildings without the approval of the sponsor.

(l) Hold harmless, indemnify and defend the sponsor of the charter school against any claim or liability arising from an act or omission by the governing body of the charter school or an employee or officer of the charter school. An action at law may not be maintained against the sponsor of a charter school for any cause of action for which the charter school has obtained liability insurance.

(m) Provide written notice to the parents or legal guardians of pupils in grades 9 to 12, inclusive, who are enrolled in the charter school of whether the charter school is accredited by the Commission on Schools of the Northwest Association of Schools and of Colleges and Universities.

(n) Adopt a final budget in accordance with the regulations adopted by the Department. A charter school is not required to adopt a final budget pursuant to NRS 354.598 or otherwise comply with the provisions of chapter 354 of NRS.

(o) If the charter school provides a program of distance education pursuant to NRS 388.820 to 388.874, inclusive, comply with all statutes and regulations that are applicable to a program of distance education for purposes of the operation of the program.

2. A charter school shall not provide instruction through a program of distance education to children who are exempt from compulsory attendance authorized by the State Board pursuant to subsection 1 of NRS 392.070. As used in this subsection, “distance education” has the meaning ascribed to it in NRS 388.826.

Sec. 39. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or in which a pupil enrolled in the charter school resides or with the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation, transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers. If the board of trustees of a school district or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the governing body and the sponsor must enter into a service agreement pursuant to NRS 386.561 before the provision of such services. ***If the board of trustees of a school district provides services to a charter school pursuant to this section, it shall not charge more than its cost for providing such services determined on a cost per pupil basis.***

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. A charter school may:

(a) Acquire by construction, purchase, devise, gift, exchange or lease, or any combination of those methods, and construct, reconstruct, improve, maintain, equip and furnish any building, structure or property to be used for any of its educational purposes and the related appurtenances, easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities and lands;

(b) Mortgage, pledge or otherwise encumber all or any part of its property or assets;

(c) Borrow money and otherwise incur indebtedness; and

(d) Use public money to purchase real property or buildings with the approval of the sponsor.

5. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

↪ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

6. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the pupil resides shall authorize the pupil to participate in sports at the public school that he or she would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

↪ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate ~~††~~ ***unless there is space available on the transportation provided by the board of trustees and the parent of the pupil or the charter school makes arrangements for the pupil to be at a designated place to be picked up at a designated time.***

7. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 5 and 6 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes, or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 40. NRS 386.562 is hereby amended to read as follows:

386.562 1. A contract or a proposed contract between a charter school or a proposed charter school and a contractor or an educational management organization must not:

(a) Give to the contractor or educational management organization direct control of educational services, financial decisions, the appointment of members of the governing body, or the hiring and dismissal of an administrator or financial officer of the charter school or proposed charter school;

(b) Authorize the payment of loans, advances or other monetary charges from the contractor or educational management organization which are greater than 15 percent of the total expected funding received by the charter school or proposed charter school from the State Distributive School Account;

(c) Require the charter school or proposed charter school to prepay any fees to the contractor or educational management organization;

(d) Require the charter school or proposed charter school to pay the contractor or educational management organization before the payment of other obligations of the charter school or proposed charter school during a period of financial distress;

(e) Allow a contractor or educational management organization to cause a delay in the repayment of a loan or other money advanced by the contractor or educational management organization to the charter school or proposed charter school, which delay would increase the cost to the charter school or proposed charter school of repaying the loan or advance;

(f) Require the charter school or proposed charter school to enroll a minimum number of pupils for the continuation of the contract between the charter school or proposed charter school and the contractor or educational management organization;

(g) Require the charter school or proposed charter school to request or borrow money from this State to pay the contractor or educational management organization if the contractor or educational management organization will provide financial management to the charter school or proposed charter school;

(h) Contain a provision which restricts the ability of the charter school or proposed charter school to borrow money from a person or entity other than the contractor or educational management organization;

(i) Provide for the allocation to the charter school or proposed charter school of any indirect cost incurred by the contractor or educational management organization;

(j) Authorize the payment of fees to the contractor or educational management organization which are not attributable to the actual services provided by the contractor or educational management organization;

(k) Allow any money received by the charter school or proposed charter school from this State or from the board of trustees of a school district to be transferred to or deposited in a bank, credit union or other financial institution outside this State, including money controlled by the contractor or educational management organization; ~~for~~

(l) Except as otherwise provided in this paragraph, provide incentive fees to the contractor or educational management organization. A contract or a proposed contract may provide to the contractor or educational management organization incentive fees that are based on the academic improvement of pupils enrolled in the charter school ~~for~~;

(m) Require automatic renewal of the contract or provide that the contract remains in effect if the governing body of a charter school is reconstituted, a written charter is revoked or a charter contract is terminated pursuant to NRS 386.535 or 386.5351;

(n) Contain any provision that would delay or prevent the approval of an application by the governing body of the charter school for an exemption from federal taxation pursuant to 26 U.S.C. § 501(c)(3);

(o) Require the governing body of the charter school to pay any costs associated with ensuring that services comply with state and federal law;

(p) Provide that the contractor or educational management organization is not liable for failing to comply with the requirements of the contract; or

(q) Provide for the enforcement of terms of the contract that conflict with an applicable written charter, charter contract or federal or state law.

2. As used in this section, “contractor” or “educational management organization” means a corporation, business, organization or other entity, whether or not conducted for profit, with whom a committee to form a charter school or the governing body of a charter school, as applicable, contracts to assist with the operation, management or provision and implementation of educational services and programs of the charter school or proposed charter school. The term includes a corporation, business, organization or other entity that directly employs and provides personnel to a charter school or proposed charter school.

Sec. 41. NRS 386.562 is hereby amended to read as follows:

386.562 1. A contract or a proposed contract between a charter school or a proposed charter school and a contractor or an educational management organization must not:

(a) Give to the contractor or educational management organization direct control of educational services, financial decisions, the appointment of members of the governing body, or the hiring and dismissal of an administrator or financial officer of the charter school or proposed charter school;

(b) Authorize the payment of loans, advances or other monetary charges from the contractor or educational management organization which are greater than 15 percent of the total expected funding received by the charter school or proposed charter school from the State Distributive School Account;

(c) Require the charter school or proposed charter school to prepay any fees to the contractor or educational management organization;

(d) Require the charter school or proposed charter school to pay the contractor or educational management organization before the payment of other obligations of the charter school or proposed charter school during a period of financial distress;

(e) Allow a contractor or educational management organization to cause a delay in the repayment of a loan or other money advanced by the contractor or educational management organization to the charter school or proposed charter school, which delay would increase the cost to the charter school or proposed charter school of repaying the loan or advance;

(f) Require the charter school or proposed charter school to enroll a minimum number of pupils for the continuation of the contract between the charter school or proposed charter school and the contractor or educational management organization;

(g) Require the charter school or proposed charter school to request or borrow money from this State to pay the contractor or educational management organization if the contractor or educational management

organization will provide financial management to the charter school or proposed charter school;

(h) Contain a provision which restricts the ability of the charter school or proposed charter school to borrow money from a person or entity other than the contractor or educational management organization;

(i) Provide for the allocation to the charter school or proposed charter school of any indirect cost incurred by the contractor or educational management organization;

(j) Authorize the payment of fees to the contractor or educational management organization which are not attributable to the actual services provided by the contractor or educational management organization;

(k) Allow any money received by the charter school or proposed charter school from this State or from the board of trustees of a school district to be transferred to or deposited in a bank, credit union or other financial institution outside this State, including money controlled by the contractor or educational management organization;

(l) Except as otherwise provided in this paragraph, provide incentive fees to the contractor or educational management organization. A contract or a proposed contract may provide to the contractor or educational management organization incentive fees that are based on the academic improvement of pupils enrolled in the charter school;

(m) Require automatic renewal of the contract or provide that the contract remains in effect if the governing body of a charter school is reconstituted ~~by a written charter is revoked~~ or a charter contract is terminated pursuant to NRS 386.535 or 386.5351;

(n) Contain any provision that would delay or prevent the approval of an application by the governing body of the charter school for an exemption from federal taxation pursuant to 26 U.S.C. § 501 (c)(3);

(o) Require the governing body of the charter school to pay any costs associated with ensuring that services comply with state and federal law;

(p) Provide that the contractor or educational management organization is not liable for failing to comply with the requirements of the contract; or

(q) Provide for the enforcement of terms of the contract that conflict with an applicable ~~written charter~~ charter contract or federal or state law.

2. As used in this section, “contractor” or “educational management organization” means a corporation, business, organization or other entity, whether or not conducted for profit, with whom a committee to form a charter school or the governing body of a charter school, as applicable, contracts to assist with the operation, management or provision and implementation of educational services and programs of the charter school or proposed charter school. The term includes a corporation, business, organization or other entity that directly employs and provides personnel to a charter school or proposed charter school.

Sec. 42. NRS 386.577 is hereby amended to read as follows:

386.577 1. After deducting the costs directly related to administering the Account for Charter Schools, the State Public Charter School Authority may use the money in the Account for Charter Schools, including repayments of principal and interest on loans made from the Account, and interest and income earned on money in the Account, only to make loans at or below market rate to charter schools for the costs ~~incurred~~ **identified in the loan application for use:**

- (a) In preparing a charter school to commence its first year of operation; ~~and~~
- (b) To improve a charter school that has been in operation ~~it~~ ; **and**
- (c) **To fund recruitment of teachers and pupils to new charter school facilities and enrollment of pupils in such facilities.**

2. The total amount of a loan that may be made to a charter school pursuant to subsection 1 must not exceed the lesser of an amount equal to \$500 per pupil enrolled or to be enrolled at the charter school or \$200,000.

Sec. 43. 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 State Public Charter School Authority 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 State Public Charter School Authority shall, within the limits of money available for use in the Account, make loans to charter schools whose applications have been approved. If the State Public Charter School Authority makes a loan from the Account, the State Public Charter School Authority shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. The State ~~Board~~ **Public Charter School Authority:**

- (a) Shall adopt regulations that prescribe the:
 - (1) Annual deadline for submission of an application to the State Public Charter School Authority 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. 44. 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 ~~it~~ **and section 6 of this act**, 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 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 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. 45. NRS 386.584 is hereby amended to read as follows:

386.584 1. If a charter school provides instruction to pupils enrolled in a high school grade level and the charter school requires those pupils to satisfy requirements for graduation from high school that are less than the requirements imposed by the school district in which the charter school is located, the charter school shall not issue a high school diploma of the school district but may issue a high school diploma which clearly indicates that it is a diploma issued by a charter school. If a charter school requires its pupils to satisfy requirements for graduation from high school that meet or exceed the requirements of the school district in which the charter school is located, the charter school may issue a high school diploma of the school district or a high school diploma of the charter school.

2. A charter school shall submit the form for a diploma of the charter school to the Department for approval if the form differs from the form of the school district in which the charter school is located.

3. The provisions of this section do not ~~authorize~~ :

(a) **Authorize** a charter school to impose requirements for graduation from high school that are less than the requirements of the applicable state statutes and regulations.

(b) **Require a charter school that imposes requirements for graduation from high school that are more stringent than the requirements of applicable state statutes and regulations and more stringent than the requirements of the school district in which the charter school is located to issue a high school diploma to a pupil who has not met the requirements for graduation from the charter school even if the pupil has met the requirements of applicable state statutes and regulations or the requirements of the school district in which the charter school is located.**

Sec. 46. NRS 386.585 is hereby amended to read as follows:

386.585 1. A governing body of a charter school shall adopt:

(a) Written rules of behavior required of and prohibited for pupils attending the charter school; and

(b) Appropriate punishments for violations of the rules.

2. Except as otherwise provided in subsection 3, if suspension or expulsion of a pupil is used as a punishment for a violation of the rules, the charter school shall ensure that, before the suspension or expulsion, the pupil **and, if the pupil is under 18 years of age, the parent or guardian of the pupil**, has been given

notice of the charges against him or her, an explanation of the evidence and an opportunity for a hearing. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such a hearing must be closed to the public.

3. A pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process or who is selling or distributing any controlled substance or who is found to be in possession of a dangerous weapon as provided in NRS 392.466 may be removed from the charter school immediately upon being given an explanation of the reasons for his or her removal and pending proceedings, which must be conducted as soon as practicable after removal, for suspension or expulsion of the pupil.

4. A pupil who is enrolled in a charter school and participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented or who receives early intervening services, may, in accordance with the procedural policy adopted by the governing body of the charter school for such matters, be:

(a) Suspended from the charter school pursuant to this section for not more than 10 days.

(b) Suspended from the charter school for more than 10 days or permanently expelled from school pursuant to this section only after the governing body has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

5. A copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments must be:

(a) Distributed to each pupil at the beginning of the school year and to each new pupil who enters school during the year.

(b) Available for public inspection at the charter school.

6. The governing body of a charter school may adopt rules relating to the truancy of pupils who are enrolled in the charter school if the rules are at least as restrictive as the provisions governing truancy set forth in NRS 392.130 to 392.220, inclusive. If a governing body adopts rules governing truancy, it shall include the rules in the written rules adopted by the governing body pursuant to subsection 1.

Sec. 47. NRS 386.590 is hereby amended to read as follows:

386.590 1. Except as otherwise provided in this subsection, ~~at least 70 percent of the teachers~~ **each teacher** who ~~provide~~ **provides** instruction at a charter school must be ~~licensed teachers~~ **highly qualified**. If a charter school is a vocational school, the charter school shall, to the extent practicable, ensure that ~~at least 70 percent of the teachers~~ **each teacher** who ~~provide~~ **provides** instruction at the school ~~are licensed teachers~~ **is highly qualified**, but in no event may ~~more~~ **less** than 50 percent of the teachers who provide instruction at the school be ~~unlicensed teachers~~.

~~2. A governing body of a charter school shall employ:~~

~~—(a) If the charter school offers instruction in kindergarten or grade 1, 2, 3, 4, 5, 6, 7 or 8, a licensed teacher to teach pupils who are enrolled in those grades. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).~~

~~—(b) If the charter school offers instruction in grade 9, 10, 11 or 12, a licensed teacher to teach pupils who are enrolled in those grades for the subjects set forth in subsection 4. If required by subsection 3 or 4, such a teacher must possess the qualifications required by 20 U.S.C. § 6319(a).~~

~~—(c) In addition to the requirements of paragraphs (a) and (b):~~

~~—(1) **highly qualified.**~~

2. If a **vocational** charter school specializes in arts and humanities, physical education or health education, a ~~licensed~~ teacher **must be highly qualified** to teach those courses of study.

~~{(2)}~~ 3. If a **vocational** charter school specializes in the construction industry or **any** other building industry, ~~licensed~~ teachers **must be highly qualified** to teach courses of study relating to the industry if those teachers are employed full-time.

~~{(3)}~~ 4. If a **vocational** charter school specializes in the construction industry or other building industry and the school offers courses of study in computer education, technology or business, ~~licensed~~ teachers **must be highly qualified** to teach those courses of study if those teachers are employed full-time.

~~{3}~~ 5. A person who is initially hired by the governing body of a charter school on or after January 8, 2002, to teach in a program supported with money from Title I must ~~possess the qualifications required by 20 U.S.C. § 6319(a).~~ **be highly qualified.** For the purposes of this subsection, a person is not “initially hired” if the person has been employed as a teacher by another school district or charter school in this State without an interruption in employment before the date of hire by his or her current employer.

~~{4}~~ 6. A teacher who is employed by a charter school, regardless of the date of hire, must, on or before July 1, 2006, ~~possess the qualifications required by 20 U.S.C. § 6319(a)~~ **be highly qualified** if the teacher teaches one or more of the following subjects:

- (a) English, reading or language arts;
- (b) Mathematics;
- (c) Science;
- (d) Foreign language;
- (e) Civics or government;
- (f) Economics;
- (g) Geography;
- (h) History; or
- (i) The arts.

~~{5} Except as otherwise provided in NRS 386.588, a charter school may employ a person who is not licensed pursuant to the provisions of chapter 391~~

of NRS to teach a course of study for which a licensed teacher is not required pursuant to subsections 2, 3 and 4 if the person has:

~~— (a) A degree, a license or a certificate in the field for which the person is employed to teach at the charter school; and~~

~~— (b) At least 2 years of experience in that field.~~

~~6.1~~ 7. Except as otherwise provided in NRS 386.588, a charter school shall employ such administrators for the school as it deems necessary. A person employed as an administrator must possess:

(a) A valid teacher's license issued pursuant to chapter 391 of NRS with an administrative endorsement;

(b) A master's degree in school administration, public administration or business administration; or

(c) At least 5 years of experience in school administration, public administration or business administration and a baccalaureate degree.

~~7.1~~ 8. Except as otherwise provided in subsection ~~8.1~~ 9, the portion of the salary or other compensation of an administrator employed by a charter school that is derived from public funds must not exceed the salary or other compensation, as applicable, of the highest paid administrator in a comparable position in the school district in which the charter school is located. For purposes of determining the salary or other compensation of the highest paid administrator in a comparable position in the school district, the salary or other compensation of the superintendent of schools of that school district must not be included in the determination.

~~8.1~~ 9. If the salary or other compensation paid to an administrator employed by a charter school from public funds exceeds the maximum amount prescribed in subsection ~~7.1~~ 8, the sponsor of the charter school shall conduct an audit of the salary or compensation. The audit must include, without limitation, a review of the reasons set forth by the governing body of the charter school for the salary or other compensation and the interests of the public in using public funds to pay that salary or compensation. If the sponsor determines that the payment of the salary or other compensation from public funds is justified, the sponsor shall provide written documentation of its determination to the governing body of the charter school and to the Department. If the sponsor determines that the payment of the salary or other compensation from public funds is not justified, the governing body of the charter school shall reduce the salary or compensation paid to the administrator from public funds to an amount not to exceed the maximum amount prescribed in subsection ~~7.1~~ 8.

~~9.1~~ 10. A charter school shall not employ a person pursuant to this section if the person's license to teach or provide other educational services has been revoked or suspended in this State or another state.

~~10.1~~ 11. On or before November 15 of each year, a charter school shall submit to the Department, in a format prescribed by the Superintendent of Public Instruction, the following information for each person who is licensed

pursuant to chapter 391 of NRS and who is employed by the governing body on October 1 of that year:

- (a) The amount of salary or compensation of the licensed person, including, without limitation, verification of compliance with subsection ~~{7,}~~ 8, if applicable to that person; and
- (b) The designated assignment, as that term is defined by the Department, of the licensed person.

12. As used in this section, “highly qualified” has the meaning ascribed to it in 20 U.S.C. § 7801.

Sec. 48. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

- (a) Plans that have been adopted by the Department and the school districts **and charter schools** in this State;
- (b) Plans that have been adopted in other states;
- (c) The information reported pursuant to paragraph (v) of subsection 2 of NRS 385.347 and similar information included in the annual report of accountability information prepared by the State Public Charter School Authority and a college or university within the Nevada System of Higher Education that sponsors a charter school pursuant to subsection 3 of NRS 385.347;
- (d) The results of the assessment of needs conducted pursuant to subsection 6; and
- (e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

- (a) Incorporate educational technology into the public schools of this State;
- (b) Increase the number of pupils in the public schools of this State who have access to educational technology;
- (c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;
- (d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and
- (e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

- (a) Administrative support;
- (b) Equipment; and
- (c) Office space,

↪ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

- (a) The State Board.
- (b) The board of trustees of each school district.
- (c) The superintendent of schools of each school district.
- (d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

- (1) Repair, replace and maintain computer systems.
- (2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

- (a) The recommendations set forth in the plan pursuant to subsection 2;
- (b) The plan for educational technology of each school district, if applicable;
- (c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and
- (d) Any other information deemed relevant by the Commission.

↪ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 49. NRS 388.800 is hereby amended to read as follows:

388.800 1. The Trust Fund for Educational Technology is hereby created in the State General Fund. The Trust Fund must be administered by the Superintendent of Public Instruction. The Superintendent may accept gifts and grants of money from any source for deposit in the Trust Fund. Any such money may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with subsection 3.

2. The interest and income earned on the money in the Trust Fund must be credited to the Trust Fund.

3. The money in the Trust Fund may be used only for the distribution of money to school districts *and charter schools* to be used in kindergarten through 12th grade to obtain and maintain hardware and software for computer systems, equipment for transfer of data by modem through connection to telephone lines, and other educational technology as may be approved by the Commission for use in classrooms.

Sec. 50. NRS 388.805 is hereby amended to read as follows:

388.805 The Department shall, in consultation with the Commission, adopt regulations that establish a program whereby school districts *and charter schools* may apply to the Commission on Educational Technology for money from the Trust Fund for Educational Technology.

Sec. 51. NRS 391.170 is hereby amended to read as follows:

391.170 1. Except as otherwise provided in subsection 2, a teacher or other employee for whom a license is required is not entitled to receive any portion of public money for schools as compensation for services rendered unless he or she:

(a) Is legally employed by the board of trustees of the school district or the governing body of the charter school in which he or she is teaching or performing other educational functions.

(b) Has a license authorizing him or her to teach or perform other educational functions at the level and, except as otherwise provided in NRS 391.125, in the field for which he or she is employed, issued in accordance with law and in full force at the time the services are rendered.

2. The provisions of subsection 1 do not prohibit the payment of public money to teachers or other employees who are employed by a charter school ~~for whom a license is~~ **who are** not required **to be highly qualified** pursuant to the provisions of NRS 386.590.

3. As used in this section, “highly qualified” has the meaning ascribed to it in 20 U.S.C. § 7801.

Sec. 52. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as provided in subsection 4, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
- (b) Sick leave.
- (c) Vacation leave.
- (d) Holidays.
- (e) Other paid or nonpaid leaves of absence.
- (f) Insurance benefits.
- (g) Total hours of work required of an employee on each workday or workweek.
- (h) Total number of days’ work required of an employee in a work year.
- (i) ~~Discharge~~ **Except as otherwise provided in subsection 6, discharge** and disciplinary procedures.
- (j) Recognition clause.
- (k) The method used to classify employees in the bargaining unit.
- (l) Deduction of dues for the recognized employee organization.
- (m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.
- (n) No-strike provisions consistent with the provisions of this chapter.
- (o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.
- (p) General savings clauses.
- (q) Duration of collective bargaining agreements.
- (r) Safety of the employee.
- (s) Teacher preparation time.

- (t) Materials and supplies for classrooms.
- (u) The policies for the transfer and reassignment of teachers.
- (v) Procedures for reduction in workforce consistent with the provisions of this chapter.

(w) Procedures and requirements for the reopening of collective bargaining agreements that exceed 1 year in duration for additional, further, new or supplementary negotiations during periods of fiscal emergency. The requirements for the reopening of a collective bargaining agreement must include, without limitation, measures of revenue shortfalls or reductions relative to economic indicators such as the Consumer Price Index, as agreed upon by both parties.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. ***If the sponsor of a charter school reconstitutes the governing body of a charter school, the new governing body may terminate the employment of any teachers or other employees of the charter school, and any provision of any agreement negotiated pursuant to this chapter that provides otherwise is unenforceable and void.***

7. This section does not preclude, but this chapter does not require, the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

~~7.1~~ 8. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 53. Section 4 of this act is hereby amended to read as follows:

Sec. 4. 1. The State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education as applicable, which sponsors a charter school may hold a public hearing concerning any request to amend ~~the written charter or~~ a charter contract of the charter school it sponsors, including, without limitation a request to amend a written charter or charter contract for the purpose of:

(a) Expanding the charter school to offer instruction in grade levels for which the charter school does not already offer instruction.

(b) Increasing the total enrollment of a charter school or the enrollment of pupils in a particular grade level in the charter school for a school year to more than 120 percent of the enrollment prescribed in the ~~written charter or~~ charter contract for that school year.

(c) Reducing the total enrollment of a charter school or the enrollment of pupils in a particular grade level in the charter school for a school year to less than 80 percent of the enrollment prescribed in ~~the written charter or~~ charter contract for that school year.

(d) Seeking to acquire an additional facility in any county of this State to expand the enrollment of the charter school.

(e) Consolidating the operations of multiple charter schools pursuant to section 5 of this act.

2. A ~~written charter or~~ charter contract may not be amended in any manner described in subsection 1 unless the amendment is approved by the State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable.

3. The State Public Charter School Authority, the board of trustees of the school district or a college or university within the Nevada System of Higher Education, as applicable, must deny a request to amend a ~~written charter or~~ charter contract in the manner described in paragraphs (d) or (e) of subsection 1 if the State Public Charter School Authority, the board of trustees or a college or university within the Nevada System of Higher Education, as applicable, determines that:

(a) The charter school is not meeting the requirements of the performance framework concerning academics, finances or operation established pursuant to NRS 386.528; or

(b) The governing body does not have a comprehensive and feasible plan to operate additional facilities.

Sec. 54. Section 5 of this act is hereby amended to read as follows:

Sec. 5. The sponsor of a charter school may approve an amendment to ~~to a written charter or~~ a charter contract to consolidate the operations of two or more charter schools if:

1. The sponsor of a charter school for which ~~to a written charter has been revoked or~~ a charter contract has been terminated has approved a request by the governing body of the charter school requesting the amendment to negotiate with the owner, mortgagor or lienholder of the facilities in which the charter school has been operated for the purpose of operating an additional campus of the other charter school pursuant to section 6 of this act. If charter schools are consolidated under such conditions, the prior academic, operational and fiscal performance of the charter school ~~whose written charter has been revoked or~~ whose charter contract has been terminated will not be attributed to the consolidated charter school.

2. Two or more governing bodies submit a request for an amendment to consolidate their charter contracts, governing bodies and operations to form a single charter school operating one or more campuses under a new charter contract. If charter schools are consolidated under such conditions:

(a) The new charter contract will be in effect for the duration of the term of the written charter or charter contract which was closest to its date of expiration before consolidation; and

(b) The academic, operational and fiscal performances of all charter schools that have been consolidated will be attributed to the consolidated charter school.

Sec. 55. Section 6 of this act is hereby amended to read as follows:

Sec. 6. 1. If the sponsor of a charter school reconstitutes the governing body of a charter school pursuant to NRS 386.535 or 386.5351, the sponsor must appoint new members to the governing body who meet the qualifications for membership set forth in NRS 386.549. The sponsor shall not reappoint more than 40 percent of the members of the previous governing body. Before appointing new members to the governing body, the sponsor must consider:

(a) Input from members of the community in which the charter school is located and parents of pupils who attend the charter school.

(b) Any relevant credentials, experience or other qualifications of a potential member, including, without limitation, whether the potential member resides in the geographic area served by the charter school or has experience in education.

2. If the sponsor of a charter school ~~revokes a written charter or~~ terminates a charter contract pursuant to 386.535 or 386.5351, the sponsor may:

(a) Petition the district court to appoint a receiver, to be paid from the funds of the charter school, to oversee and manage the charter school until other arrangements are made for pupils who attend the school.

(b) Issue a request for proposals inviting the governing body of another charter school to negotiate with the owner, mortgagor or lienholder of the facilities in which the charter school operated for the purpose of operating an additional campus of the other charter school under the sponsorship of either the sponsor of the charter school ~~for which the written charter has been revoked or~~ the charter contract has been terminated or the sponsor of the charter school that intends to operate an additional campus. If the governing body proposes to operate an additional campus of the other charter school under the sponsorship of:

(1) The sponsor of the charter school for which ~~the written charter has been revoked or~~ the charter contract has been terminated and the sponsor is not the sponsor of the charter school currently operated by the governing body, the governing body must, before the additional campus begins operating, also submit to the sponsor of the charter school ~~for which the written charter has been revoked or~~ the charter contract has been terminated and receive approval for an application to form a charter school pursuant to NRS 386.520.

(2) The sponsor of the charter school currently operated by the governing body, the governing body must, before the additional campus begins operating, also submit a request for and receive approval of an amendment to its ~~written charter or~~ charter contract to consolidate charter schools pursuant to NRS 386.527 and sections 4 and 5 of this act.

3. Before selecting a governing body to operate another campus of an existing charter school to replace a charter school ~~whose written charter has been revoked or~~ whose charter contract has been terminated pursuant to subsection 2, the sponsor must consider:

(a) The performance record of the charter school in this State and other states;

(b) The plan of the governing body for improving pupil achievement and school performance;

(c) The suitability of the proposed academic program for pupils who were enrolled in the charter school before ~~the revocation of the written charter or~~ the termination of the charter contract; and

(d) Input from members of the community in which the charter school is located and parents who were enrolled in the charter school before ~~the revocation of the written charter or~~ the termination of the charter contract, including, without limitation, the input described in subsection 4.

4. A sponsor that solicits proposals to operate an additional campus of an existing charter school shall allow parents of pupils who were enrolled in the charter school before ~~the revocation of the written charter or~~ the termination of the charter contract to interview governing bodies

who submit proposals and, if three or more proposals are submitted pursuant to paragraph (b) of subsection 2, cast an advisory vote for the governing body they would prefer be given the opportunity to operate the campus.

5. If a governing body is selected pursuant to this section to operate another campus of an existing charter school to replace a charter school ~~whose written charter has been revoked or~~ whose charter contract has been terminated and any necessary amendments or applications are approved, the charter school must enroll pupils who were enrolled in the charter school ~~whose written charter was revoked or~~ whose charter contract was terminated before enrolling other pupils.

6. If the sponsor of a charter school reconstitutes the governing body of a charter school, the principal of the charter school shall:

(a) Review each employee of the charter school to determine whether to retain the employee based on the needs of the school and the ability of the employee to improve pupil achievement and school performance at the charter school. The new governing body may terminate the employment of any teachers or other employees of the charter school.

(b) Collaborate with the new governing body in making hiring determinations for the charter school.

7. If the sponsor of a charter school selects a governing body to operate another campus of an existing charter school to replace a charter school ~~whose written charter has been revoked or~~ whose charter contract has been terminated, the new governing body is not required to offer employment to any teacher or other employee of the charter school ~~whose written charter has been revoked or~~ whose charter contract has been terminated.

Sec. 56. Section 33 of Assembly Bill No. 448 of this session is hereby amended to read as follows:

Sec. 33. 1. During the sixth year that a school operates as an achievement charter school, the ~~Executive Director~~ **Department** shall evaluate the pupil achievement and school performance of the school. **The Executive Director shall provide the Department with such information and assistance as the Department determines necessary to perform such an evaluation.** If, as a result of such an evaluation, the ~~Executive Director~~ **Department** determines:

(a) That the achievement charter school has made adequate improvement in pupil achievement and school performance, the governing body of the achievement charter school must decide whether to:

(1) Convert to a public school under the governance of the board of trustees of the school district in which the school is located;

(2) Seek to continue as a charter school subject to the provisions of NRS 386.490 to 386.649, inclusive, and section 11 of this act by applying to the board of trustees of the school district in which the school is located,

the State Public Charter School Authority or a college or university within the Nevada System of Higher Education to sponsor the charter school pursuant to NRS 386.525; or

(3) Remain an achievement charter school for at least 6 more years.

(b) That the achievement charter school has not made adequate improvement in pupil achievement and school performance, the ~~[school must continue]~~ Department shall direct the Executive Director to notify the parent or legal guardian of each pupil enrolled in the achievement charter school that the achievement charter school has not made adequate improvement in pupil achievement and school performance. Such notice must include, without limitation, information regarding:

(1) Public schools which the pupil may be eligible to attend, including, without limitation, charter schools, programs of distance education offered pursuant to NRS 388.820 to 388.874, inclusive, and alternative programs for the education of pupils at risk of dropping out of school pursuant to NRS 388.537;

(2) The opportunity for the parent to establish an education savings account pursuant to section 7 of Senate Bill No. 302 of this session and enroll the pupil in a private school, have the pupil become an opt-in child or provide for the education of the pupil in any other manner authorized by section 11 of Senate Bill No. 302 of this session;

(3) Any other alternatives for the education of the pupil that are available in this State; and

(4) The actions that may be considered by the Department with respect to the achievement charter school and the manner in which the parent may provide input.

2. Upon deciding that the achievement charter school has not made adequate improvement in pupil achievement and school performance pursuant to paragraph (b) of subsection 1, the Department must decide whether to:

(a) Convert the achievement charter school to a public school under the governance of the board of trustees of the school district in which the school is located; or

(b) Continue to operate the school as an achievement charter school for at least 6 more years. ~~[The]~~

3. If the Department decides to continue to operate a school as an achievement charter school pursuant to subsection 2, the Executive Director ~~[shall evaluate]~~ must:

(a) Terminate the contract with the charter management organization, educational management organization or other person that operated the achievement charter school;

(b) Enter into a contract with a different charter management organization, educational management organization or other person to operate the achievement charter school after complying with the provisions of section 21 of this act;

(c) Require the charter management organization, educational management organization or other person with whom the Executive Director enters into a contract to operate the achievement charter school to appoint a new governing body of the achievement charter school in the manner provided pursuant to section 21.5 of this act, and must not reappoint more than 40 percent of the members of the previous governing body; and

(d) Evaluate the pupil achievement and school performance of such a school at least each 3 years of operation thereafter.

~~{2.}~~ **4.** If an achievement charter school is converted to a public school under the governance of the board of trustees of a school district pursuant to paragraph (a) of subsection 1, the board of trustees must employ any teacher, administrator or paraprofessional who wishes to continue employment at the school and meets the requirements of chapter 391 of NRS to teach at the school. Any administrator or teacher employed at such a school who was employed by the board of trustees as a postprobationary employee before the school was converted to an achievement charter school and who wishes to continue employment at the school after it is converted back into a public school must be employed as a postprobationary employee.

~~{3.}~~ **5.** If an achievement charter school becomes a charter school sponsored by the school district in which the charter school is located, the State Public Charter School Authority or a college or university within the Nevada System of Higher Education pursuant to paragraph (a) of subsection 1, the school is subject to the provisions of NRS 386.490 to 386.649, inclusive, and section 11 of this act, and the continued operation of the charter school in the building in which the school has been operating is subject to the provisions of NRS 386.560.

~~{4.}~~ **6.** As used in this section, “postprobationary employee” has the meaning ascribed to it in NRS 391.311.

~~{Sec. 56.}~~ **Sec. 57.** The provisions of NRS 288.150, as amended by section 52 of this act:

1. Apply to any collective bargaining agreement entered into, extended or renewed on or after the effective date of that section, and any provision of the agreement that is in conflict with that section, as amended, is void.

2. Do not apply to any collective bargaining agreement entered into before the effective date of that section during the current term of the agreement.

~~{Sec. 57.}~~ **Sec. 58.** 1. This section and sections 52 and ~~{56.}~~ **57** of this act become effective upon passage and approval.

2. Sections 1 to 15, inclusive, 17, 18, 19, 21, 22, 23, 25 to 28, inclusive, 30, 32, 34, 35, 36, 38, 39, 40, 42 to 51, inclusive, of this act become 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 January 1, 2016, for all other purposes.

3. Section 56 of this act becomes effective on July 1, 2016, if, and only if, Assembly Bill No. 448 of this session is enacted and becomes effective.

4. Sections 16, 20, 24, 29, 31, 33, 37, 41, 53, 54 and 55, inclusive, of this act become effective on January 1, 2020.

Assemblywoman Woodbury moved the adoption of the amendment.

Remarks by Assemblywoman Woodbury.

ASSEMBLYWOMAN WOODBURY:

Amendment 1023 amends Section 33 of Assembly Bill 448 to require the Department of Education to evaluate pupil achievement and school performance of an achievement charter school during the sixth year of operation. The Executive Director of the Achievement School District is required to provide the Department with the information necessary to evaluate pupil achievement and school performance of the school. If the achievement charter school has not made adequate improvement in pupil achievement and school performance, the amendment requires notice to the parent or legal guardian of each pupil enrolled in the school. The notice must include information regarding public schools the pupil may be eligible to attend; the opportunity for the parent to establish an Education Savings Account as provided for in S.B. 302; any other alternatives for education of the pupil that are available in this state; the actions about the school that may be considered by the Department and the manner in which the parent or legal guardian may participate in the hearings about the school.

If the achievement charter school has not made adequate progress in pupil achievement and school performance, the Department must hold a hearing to decide whether to convert the school to a public school under the governance of the board of trustees of the school district in which the school is located or continue to operate the school as an achievement charter school for at least six more years. If the Department decides to continue to operate the school as an achievement charter school, the Executive Director must terminate the contract with the charter management organization or educational management organization that operated the school, enter into a contract with a different operator, and require the operator to appoint a new governing body. No more than 40 percent of the members of the previous governing body may be reappointed.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 488.

Bill read third time.

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

Amendment No. 1043.

AN ACT relating to animals; authorizing the State Department of Agriculture to establish by regulation requirements for the registration of certain animal remedies, veterinary biologics and pharmaceuticals for veterinary purposes with the State Department of Agriculture; requiring the licensing of manufacturers, distributors and guarantors of commercial feed by the Department; requiring a licensee to submit certain fees and reports to the Department on an annual basis; creating the Commercial Feed Account in the State General Fund; authorizing the Department to conduct certain inspections and audits; establishing labeling requirements for commercial feed manufactured, distributed or guaranteed in this State; prohibiting the misbranding, adulteration or reuse of packaging of commercial feed; requiring the Department to publish certain information on an annual basis; making

various other changes relating to commercial feed; requiring the Department to establish fees; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-12 of this bill authorize the State Department of Agriculture to establish, by regulation, a program to carry out federal regulations concerning certain animal remedies, veterinary biologics and pharmaceuticals for veterinary purposes. **Section 8** of this bill requires the regulations to provide that any person wishing to sell certain animal remedies, veterinary biologics and pharmaceuticals for veterinary purposes must register such products with the Department. **Section 8** also requires the regulations to provide for: (1) certain application requirements for the registration of animal remedies, veterinary biologics and veterinary pharmaceuticals with the Department; and (2) a reasonable annual registration fee for each product. **Section 10** of this bill requires any fee collected for the registration of such products to be deposited in the Livestock Inspection Account. **Section 11** of this bill imposes a civil penalty on a person failing to register such products not to exceed: (1) \$250 for a first offense; (2) \$500 for a second offense; and (3) \$1,000 for each subsequent offense. Under **section 11**: (1) fifty percent of the penalties collected must be used to fund a program to provide loans to persons who are 21 years of age or less and who are engaged in agriculture; and (2) the other 50 percent of the penalties collected must be deposited in the Account for the Control of Weeds.

Existing law establishes certain requirements for the labeling of commercial feed for livestock in this State. (NRS 587.690) **Sections 16-46** of this bill enact new provisions relating to the labeling of commercial feed.

Section 28 of this bill provides that it is unlawful for a person to manufacture, distribute or act as a guarantor of commercial feed in this State without a license issued by the State Department of Agriculture. **Section 29** of this bill establishes certain requirements to obtain such a license.

Section 34 of this bill requires each licensee to submit to the Department on a quarterly basis certain fees and a report that includes a statement of the amount of commercial feed manufactured, distributed or guaranteed, as applicable, by the licensee in the immediately preceding calendar quarter.

Section 35 of this bill creates the Commercial Feed Account in the State General Fund and sets forth permissible uses of money in the Account.

Sections 36-38 of this bill authorize a representative of the Department to conduct certain inspections or audits related to commercial feed.

Section 39 of this bill sets forth requirements for labeling of commercial feed. **Section 40** of this bill prohibits misbranding commercial feed and sets forth the circumstances in which commercial feed is deemed to be misbranded. **Section 41** of this bill prohibits the adulteration of commercial feed and sets forth the circumstances in which commercial feed is deemed to be adulterated. **Section 42** of this bill generally prohibits the reuse of packaging of commercial feed.

Section 43 of this bill imposes a civil penalty on a person who violates any provision of **sections 16-46** of this bill and any regulations adopted pursuant thereto relating to commercial feed, in an amount not to exceed: (1) for a first offense, \$250; (2) for a second offense, \$500; and (3) for a third or subsequent offense, \$1,000.

Section 44 of this bill requires the Department to publish annually certain information relating to commercial feed.

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

Section 1. Title 50 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 13, 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 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. (Deleted by amendment.)

Sec. 4. *“Department” means the State Department of Agriculture.*

Sec. 5. *“Director” means the Director of the Department.*

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. 1. *The Department may establish, by regulation, a program to implement the requirements of federal regulations concerning veterinary feed directives, as defined in 21 U.S.C. § 354, including, without limitation, requirements for the registration of any animal remedy, veterinary biologic or pharmaceutical, as those terms are defined in those federal regulations.*

2. *The regulations adopted by the Department pursuant to subsection 1 must provide that:*

(a) Except as otherwise provided in this paragraph, no person shall sell, offer or expose for sale, or deliver to a user, an animal remedy, veterinary biologic or pharmaceutical, in package or in bulk, which has not been registered with the Department pursuant to this chapter and the regulations adopted pursuant thereto. Any product registered pursuant to NRS 586.010 to 586.450, inclusive, or under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§ 136 et seq., is not subject to the provisions of this chapter and the regulations adopted pursuant thereto.

(b) Except as otherwise provided by law, the manufacturer of each brand of animal remedy, veterinary biologic and pharmaceutical to be sold in this State, whether in package or in bulk, shall register such products with the Department annually pursuant to this chapter and the regulations adopted pursuant thereto. The regulations may authorize a manufacturer who sells more than one animal remedy, veterinary biologic or pharmaceutical in this State to register all such products with one application.

(c) An application for registration of an animal remedy, veterinary biologic or pharmaceutical must be made on forms provided by the

Department and must be accompanied by a reasonable annual registration fee established by the Department by regulation for each animal remedy, veterinary biologic and pharmaceutical.

(d) An application pursuant to paragraph (c) must:

(1) Be filed on or before July 1 of each year; and

(2) Include a list of all animal remedies, veterinary biologics and pharmaceuticals that the applicant intends to market in this State during the following fiscal year.

Sec. 9. (Deleted by amendment.)

Sec. 10. *The Department shall deposit all fees collected pursuant to this chapter in the Livestock Inspection Account created by NRS 561.344.*

Sec. 11. 1. *Any person violating the provisions of this chapter is subject to a civil penalty not to exceed:*

(a) For a first offense, \$250.

(b) For a second offense, \$500.

(c) For a third or subsequent offense, \$1,000.

2. *Of the money collected by the Department from a civil penalty pursuant to subsection 1:*

(a) Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or less; and

(b) The remaining 50 percent must be deposited in the Account for the Control of Weeds created by NRS 555.035.

Sec. 12. *The Director may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of this chapter and the regulations adopted pursuant thereto.*

Sec. 13. (Deleted by amendment.)

Sec. 13.5. NRS 561.344 is hereby amended to read as follows:

561.344 1. The Livestock Inspection Account is hereby created in the State General Fund for the use of the Department.

2. The following special taxes, fees and other money must be deposited in the Livestock Inspection Account:

(a) All special taxes on livestock as provided by law.

(b) Fees and other money collected pursuant to the provisions of chapter 564 of NRS.

(c) Fees collected pursuant to the provisions of chapter 565 of NRS.

(d) *Fees collected pursuant to the provisions of sections 2 to 13, inclusive, of this act.*

(e) Unclaimed proceeds from the sale of estrays and feral livestock by the Department pursuant to NRS 569.005 to 569.130, inclusive, or proceeds required to be deposited in the Livestock Inspection Account pursuant to a cooperative agreement established pursuant to NRS 569.031 for the management, control, placement or disposition of estrays and feral livestock.

~~+(e)~~ (f) Fees collected pursuant to the provisions of chapter 573 of NRS.

~~+(f)~~ (g) Fees collected pursuant to the provisions of chapter 576 of NRS.

~~((g))~~ **(h)** Laboratory fees collected for the diagnosis of infectious, contagious and parasitic diseases of animals, as authorized by NRS 561.305, and as are necessary pursuant to the provisions of chapter 571 of NRS.

3. Expenditures from the Livestock Inspection Account must be made only for carrying out the provisions of this chapter and chapters 564, 565, 569, 571, 573 and 576 of NRS ~~+~~ **and sections 2 to 13, inclusive, of this act.**

4. The interest and income earned on the money in the Livestock Inspection Account, after deducting any applicable charges, must be credited to the Account.

Sec. 14. (Deleted by amendment.)

Sec. 14.5. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407,

463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, and section 34 of this act, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 15. Chapter 587 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 46, inclusive, of this act.

Sec. 16. *As used in sections 16 to 46, inclusive of this act, unless the context otherwise requires, the words and terms defined in sections 17 to 26, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 17. 1. *“Commercial feed” means all materials or combinations of materials which are distributed or intended for distribution for use as feed or for mixing in feed. The term includes, without limitation, pet food, specialty pet food and mineral feed.*

2. *The term does not include:*

(a) *Unmixed whole seeds, including, without limitation, unmixed whole seeds which are physically altered, if such seeds are not chemically changed or adulterated.*

(b) *Commodities, including, without limitation, hay, straw, stover, silage, cobs, husks and hulls and individual chemical compounds and substances if those commodities, compounds or substances are not intermixed, mixed with other materials or adulterated.*

Sec. 18. 1. *“Distribute” means:*

(a) *To offer for sale, sell, exchange or barter commercial feed; or*

(b) *To supply, furnish or otherwise provide commercial feed to a contract feeder.*

2. *As used in this section, “contract feeder” has the meaning ascribed to it in section 27 of this act.*

Sec. 19. *“Drug” means any substance or article other than feed that is intended:*

1. *For use in the diagnosis, cure, mitigation, treatment or prevention of disease in an animal; or*

2. *To affect the structure or any function of an animal’s body.*

Sec. 20. *“Guarantor” means the person who is indicated on the label of commercial feed as having verified the accuracy of the information contained on the label relating to the ingredients, substances and elements contained in the commercial feed.*

Sec. 21. *“Label” means any written, printed or graphic representation:*

1. *On or affixed to the container in which commercial feed is distributed; or*

2. *On the invoice or delivery slip accompanying commercial feed.*

Sec. 22. *“Licensee” means a person who has obtained a license pursuant to section 28 of this act.*

Sec. 23. *“Manufacture” means to grind, mix, blend or further process commercial feed for distribution.*

Sec. 24. *“Mineral feed” means commercial feed primarily intended to supply mineral elements or inorganic nutrients.*

Sec. 25. *“Pet food” means any commercial feed prepared and distributed for consumption by domesticated dogs or cats.*

Sec. 26. *“Specialty pet food” means any commercial feed prepared and distributed for consumption by any domesticated animal kept primarily for personal enjoyment, other than a dog or cat.*

Sec. 27. 1. *The provisions of sections 16 to 46, inclusive, of this act do not apply to customer-formula feed, or a manufacturer, distributor or guarantor thereof, or a contract feeder.*

2. *As used in this section:*

(a) *“Contract feeder” means a person who as an independent contractor feeds commercial feed to animals pursuant to a contract whereby the commercial feed is supplied, furnished or otherwise provided to the person and whereby the person’s remuneration is determined in whole or in part by feed consumption, mortality, profits or the amount or quality of the product.*

(b) *“Customer-formula feed” means commercial feed which consists of a mixture of commercial feeds or ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.*

Sec. 28. 1. *Except as otherwise provided in subsection 2:*

(a) *It is unlawful for a person to manufacture, distribute or act as a guarantor of commercial feed in this State unless the person has been issued by the Department a license pursuant to section 30 of this act; and*

(b) *A person who manufactures, distributes or acts as a guarantor of commercial feed must obtain a license from the Department for each facility in this State:*

(1) *Where he or she intends to manufacture or distribute commercial feed.*

(2) *For which he or she is a guarantor of any or all of the commercial feed that is manufactured at or distributed from the facility.*

2. *A person is not required to obtain a license pursuant to subsection 1 if he or she conducts only retail sales of commercial feed and the packaging of the commercial feed includes a label indicating that the commercial feed is from a manufacturer or distributor who is licensed pursuant to subsection 1.*

Sec. 29. 1. *A person applying for a license to manufacture, distribute or be a guarantor of commercial feed must:*

(a) *File an application with the Department on a form prescribed and furnished by the Department; and*

(b) *Pay the fee for the issuance of a license established by the Department pursuant to subsection 2.*

2. *The Department shall establish a fee for the issuance and annual renewal of a license required by section 28 of this act in an amount not to exceed \$75.*

3. *A license expires on December 31 of each year. An application to renew a license must be received by the Department on or before December 31 of each year. If a licensee submits an application for renewal after December 31 of the year in which the license expires, the licensee must pay a late fee of \$20 in addition to the annual license fee established by the Department pursuant to subsection 2.*

Sec. 30. 1. *Except as otherwise provided in subsection 2 and section 31 of this act, the Department shall issue a license to or renew the license of an applicant who files with the Department a complete application and pays the fee established by the Department pursuant to section 29 of this act.*

2. *The Department may refuse to issue or renew or may suspend, revoke or place conditions on a license for a violation of any provision of sections 16 to 46, inclusive, of this act, but no license may be refused, suspended or revoked or have conditions imposed upon its issuance pursuant to this section until the Department has provided the applicant or licensee an opportunity for a hearing.*

Sec. 31. 1. *In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license required by section 28 of this act shall:*

(a) *Include the social security number of the applicant in the application submitted to the Department.*

(b) *Submit to the Department 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 Department shall include the statement required by subsection 1 in:*

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

(b) *A separate form prescribed by the Department.*

3. *A license must not be issued or renewed by the Department if the applicant:*

(a) *Fails to submit the statement required by subsection 1; or*

(b) *Indicates on the statement 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 Department 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. 32. 1. If the Department 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 licensee, the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the licensee by the district attorney or other public agency pursuant to NRS 425.550 stating that the licensee has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 33. 1. In addition to any other requirements set forth in this chapter, an applicant for the renewal of a license required by section 28 of this act must indicate in the application submitted to the Department whether the applicant has a state business license. If the applicant has a state business license, the applicant must include in the application the state business license number assigned by the Secretary of State upon compliance with the provisions of chapter 76 of NRS.

2. A license may not be renewed by the Department if:

(a) The applicant fails to submit the information required by subsection 1; or

(b) The State Controller has informed the Department pursuant to subsection 5 of NRS 353C.1965 that the applicant owes a debt to an agency that has been assigned to the State Controller for collection and the applicant has not:

(1) Satisfied the debt;

(2) Entered into an agreement for the payment of the debt pursuant to NRS 353C.130; or

(3) Demonstrated that the debt is not valid.

3. As used in this section:

(a) "Agency" has the meaning ascribed to it in NRS 353C.020.

(b) "Debt" has the meaning ascribed to it in NRS 353C.040.

Sec. 34. 1. Each licensee shall submit to the Department on or before the end of each calendar quarter:

(a) A report that includes, without limitation, a statement of the amount of commercial feed manufactured, distributed or guaranteed, as applicable, by the licensee in this State during the preceding calendar quarter; and

(b) The quarterly fee in the amount required pursuant to subsection 2.

2. Except as otherwise provided in subsection 3, the amount of the quarterly fee that a licensee must pay is the greater of:

(a) Five dollars; or

(b) The fee established by the Department by regulation to be paid per ton of commercial feed manufactured, distributed or guaranteed, as applicable, in this State, which may not exceed 15 cents per ton.

➔ If a licensee does not submit the amount required pursuant to this subsection on or before 15 days after the date on which it is due, the licensee must submit, in addition to that amount, a late fee in the amount of 50 percent of the amount due.

3. A licensee is not required to submit the fees required pursuant to subsection 2 for commercial feed if another licensee has submitted the required fees for the same commercial feed. The Department shall adopt regulations specifying the circumstances under which a licensee is not required to pay fees pursuant to this subsection.

4. Each licensee shall maintain records sufficient to verify that the information contained in a report submitted pursuant to subsection 1 is complete and accurate.

5. A report submitted pursuant to subsection 1 is ~~is a public record,~~ confidential.

Sec. 35. 1. All fees received pursuant to sections 29 and 34 of this act must be deposited in the Commercial Feed Account, which is hereby created in the State General Fund. The Director shall administer the Account. The money in the Account must be expended only to pay for the costs to the Department for administering the provisions of sections 16 to 46, inclusive, of this act, including, without limitation, the costs of inspection, sampling and analysis of commercial feed.

2. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account. Money that remains in the Account at the end of the 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.

Sec. 36. 1. After showing proper credentials, a representative of the Department may, during normal business hours, enter and inspect:

(a) Any building, factory, warehouse or other facility in this State where commercial feed is manufactured, processed, packaged or held for distribution;

(b) Any records, equipment, materials, containers and labels located in a building, factory, warehouse or other facility in this State where commercial feed is manufactured, processed, packaged or held for distribution; and

(c) Any vehicle used to transport or hold commercial feed,
➔ for the purposes of determining compliance with sections 16 to 46, inclusive, of this act, and any regulations adopted by the Department pursuant thereto.

2. *An inspection conducted pursuant to subsection 1 must be conducted and completed in a reasonable manner.*

3. *A representative of the Department who conducts an inspection pursuant to this section:*

(a) *May obtain samples of any commercial feed, ingredient, substance or element. If a representative obtains such a sample, the representative must provide the owner, operator or authorized agent of the building, factory, warehouse, facility or vehicle being inspected with a receipt describing all samples that were obtained.*

(b) *May enter any public or private part of the building, factory, warehouse, facility or vehicle being inspected.*

(c) *Must inform the owner, operator or authorized agent of the building, factory, warehouse, facility or vehicle being inspected when the inspection is completed.*

4. *Every sample obtained by a representative pursuant to subsection 3 must be tested in accordance with methods published by AOAC International, or its successor organization, or any other generally recognized method.*

5. *If the owner, operator or authorized agent refuses to allow an inspector of the Department to inspect the building, factory, warehouse, facility or vehicle, as applicable, the Department may obtain a search warrant from any court of competent jurisdiction to enter the premises and conduct the inspection.*

Sec. 37. *The Department may:*

1. *Inspect or audit any licensee at the request of the licensee.*

2. *Establish a schedule of fees for the costs of the inspection or audit.*

Sec. 38. 1. *If the Director or a representative of the Department has reasonable cause to believe that any commercial feed does not comply with the provisions of sections 16 to 46, inclusive, of this act, the Director or a representative of the Department may issue an order that:*

(a) *Prohibits the licensee from disposing of the lot of commercial feed until written permission is provided by the Director; and*

(b) *Requires the licensee to allow the Director or a representative of the Department to inspect the commercial feed.*

2. *If the Director or representative of the Department determines that the commercial feed:*

(a) *Complies with the provisions of sections 16 to 46, inclusive, of this act, the Director or representative of the Department must immediately rescind the order issued pursuant to paragraph (a) of subsection 1.*

(b) *Does not comply with the provisions of sections 16 to 46, inclusive, of this act, the Director or representative of the Department must provide to the licensee an explanation of how the commercial feed does not comply with the provisions of sections 16 to 46, inclusive, of this act. If the licensee does not demonstrate compliance with the provisions of sections 16 to 46, inclusive, of this act within 30 days after receipt of the explanation, the*

Director must begin proceedings to condemn the lot of commercial feed pursuant to the requirements established by the Department.

Sec. 39. 1. Commercial feed must have a label which includes:

(a) The quantity of the commercial feed by weight, liquid measure or count.

(b) The product name and brand name, if any, under which the commercial feed is distributed.

(c) The analysis, in the form and manner prescribed by the Department, of substances and elements included in the commercial feed.

(d) An ingredient list with the common or usual name of each ingredient used in the commercial feed. The Department may:

(1) Provide for the use of a collective term on the ingredient list for a group of ingredients which perform a similar function.

(2) Exempt certain commercial feed from the requirement to include an ingredient list on the label if the Department determines that such a list is not necessary for the interests of consumers.

(e) The name and principal mailing address of the manufacturer ~~and~~ or distributor of the commercial feed.

(f) If applicable, directions for the use of commercial feed that:

(1) Contains a drug; or

(2) Requires directions for the safe and effective use thereof.

(g) Any other statement that is required by the Department.

2. The Department may request that an applicant for a license or a licensee provide to the Department copies of any label for commercial feed which the person manufactures or distributes.

3. As used in this section:

(a) "Brand name" means any word, symbol or device, or any combination thereof, used to identify and distinguish the commercial feed of one manufacturer or distributor from another.

(b) "Product name" means the name which identifies the kind, class or specific use of commercial feed and distinguishes the commercial feed from other products bearing the same brand name.

Sec. 40. 1. It is unlawful for a person to misbrand commercial feed.

2. For the purposes of subsection 1, commercial feed is misbranded if:

(a) The label on the commercial feed does not meet the requirements set forth in section 39 of this act or is false or misleading;

(b) Any word, statement or other information required to appear on the label pursuant to section 39 of this act is:

(1) Not prominently or conspicuously displayed on the label; or

(2) Written in a way that is likely to be misunderstood by a person under the conditions of customary purchase and use; or

(c) The commercial feed is distributed under the name of a different commercial feed.

Sec. 41. 1. It is unlawful for a person to adulterate commercial feed.

2. For the purposes of subsection 1, commercial feed is adulterated if:

(a) It contains a poisonous or deleterious substance which may cause it to be injurious to the health of an animal;

(b) It contains a poisonous, deleterious or nonnutritive substance which is unsafe pursuant to section 406 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 346;

(c) It contains a food additive which is unsafe pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 348;

(d) It is a raw agricultural commodity that contains a pesticide which is unsafe pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 346a, unless:

(1) The raw agricultural commodity has been processed using a method such as canning, cooking, freezing, dehydrating or milling;

(2) The residue of the pesticide has been removed to the extent possible through such a method;

(3) The concentration of the pesticide in the commercial feed is not greater than the tolerance prescribed for the raw agricultural commodity; and

(4) Feeding the commercial feed to an animal is not likely to result in a pesticide residue in any edible product of the animal which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 346a;

(e) It contains any color additive which is unsafe pursuant to section 721 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 379e;

(f) It contains an animal drug which is unsafe pursuant to section 512 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 360b;

(g) It contains any filthy, putrid or decomposed substance or is for any other reason unfit to be used as commercial feed;

(h) It has been prepared, packaged or held under unsanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to the health of an animal;

(i) It contains the product of a diseased animal or an animal which has died in a manner which is unsafe within the meaning of section 402 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 342;

(j) The container of the commercial feed is composed, in whole or in part, of any poisonous or deleterious substance which may render the commercial feed injurious to the health of an animal;

(k) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 348;

(l) Any valuable component of the commercial feed has been, in whole or in part, omitted or abstracted;

(m) The composition or quality of the commercial feed is below or differs from that which is listed on the label;

(n) It contains a drug and the methods, facilities or controls used to manufacture, process or package the commercial feed do not conform to current practices of good manufacturing, unless the Department determines that such a practice is not appropriate for use in this State; or

(o) It contains viable weed seeds in an amount which exceeds the limits established by the Department. As used in this paragraph, "weed seeds" has the meaning ascribed to it in NRS 587.073.

Sec. 42. It is unlawful for a person to reuse any packaging, including, without limitation, a bag or tote for commercial feed, unless the packaging is cleaned pursuant to the methods prescribed by the Department.

Sec. 43. 1. A person who violates the provisions of sections 16 to 46, inclusive, of this act, or any regulation adopted pursuant thereto, is subject to a civil penalty not to exceed:

(a) For a first offense, \$250.

(b) For a second offense, \$500.

(c) For a third or subsequent offense, \$1,000.

2. Any money collected from the imposition of a civil penalty pursuant to subsection 1 must be accounted for separately and:

(a) Fifty percent of the money must be used to fund a program selected by the Director that provides loans to persons who are engaged in agriculture and who are 21 years of age or younger; and

(b) The remaining 50 percent of the money must be deposited in the Account for the Control of Weeds created by NRS 555.035.

Sec. 44. The Department shall publish annually:

1. Except as otherwise provided in this subsection, information concerning the sale of commercial feed and any data related to the production and use of commercial feed in this State. The Department shall not publish any information that discloses confidential or proprietary information regarding the operations of any manufacturer, distributor, guarantor or other person.

2. A report of the results of tests performed on samples of commercial feed obtained pursuant to section 36 of this act.

Sec. 45. The Department may cooperate with and enter into an agreement with any person or federal or state agency for the purposes of carrying out the provisions of sections 16 to 46, inclusive, of this act.

Sec. 46. The Department may adopt regulations to carry out the provisions of sections 16 to 46, inclusive, of this act.

Sec. 47. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 14, inclusive, of this act become effective:

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

(b) On July 1, 2015, for all other purposes.

3. Sections ~~14.5~~ 14.5 to 46, inclusive, of this act become effective:

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

(b) On January 1, 2016, for all other purposes.

4. Sections 31 and 32 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

Assemblyman Paul Anderson moved the adoption of the amendment.

Remarks by Assemblyman Paul Anderson.

ASSEMBLYMAN PAUL ANDERSON:

Senate Bill 488, as amended, authorizes the Department of Agriculture to establish a program, by regulation, to implement federal requirements concerning animal remedy, veterinary biologic, and veterinary pharmaceutical products.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Joint Resolution No. 13.

Resolution read third time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 1057.

SENATE JOINT RESOLUTION—Proposing to amend the Nevada Constitution to limit the total amount of certain property taxes that may be levied on real property.

Legislative Counsel's Digest:

This resolution proposes to amend the Nevada Constitution to limit the amount of certain property taxes which may be cumulatively levied per year on real property to ~~1.25~~ **1.25** percent of the base value of the property. Additionally, this resolution provides that: (1) if one-half or more of the ownership interest in certain real property is transferred, the base value of the property becomes the cash value of the property on the date the ownership interest is transferred; (2) an improvement to real property increases the base value of the property by the cash value of the improvement, unless the improvement replaces certain improvements which were destroyed, protects the safety of the occupants or improves accessibility to persons with disabilities; (3) the base value of real property cannot increase or decrease from year to year by more than 3 percent, except as otherwise set forth in this resolution; (4) an owner domiciled in Nevada who has attained the age of 62 years may transfer the base value of his or her principal residence to a new

residence of comparable value; and (5) an owner whose real property is taken by the exercise of eminent domain may transfer the base value of the condemned property to a new property of comparable value. **This resolution further provides that, for the purposes of recalculating the base value of real property subsequent to the material enhancement of an improvement to the property, an improvement to real property is not materially enhanced if the enhancement to the improvement does not increase the area of the improvement, as measured in square feet, by more than 15 percent.**

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That a new section, designated Section 7, be added to Article 10 of the Nevada Constitution to read as follows:

Sec. 7. 1. The maximum amount of tax ad valorem that may be cumulatively levied per year on real property is ~~##~~ 1.25 percent of the base value of the property. This limit does not apply to taxes ad valorem levied to pay the interest and principal of any bonded indebtedness or to pay any obligation under a contract made in connection with such bonded indebtedness.

2. Except as otherwise provided in subsections 3 to 7, inclusive, the base value of real property is the property's taxable value from which the assessed value for the Fiscal Year 2017-2018 was calculated.

3. Except as otherwise provided in this subsection and subsection 7, if one-half or more of an ownership interest in real property is transferred, the base value of the property becomes the cash value of the property as of the date of transfer of the ownership interest. The provisions of this subsection do not apply if the transfer of ownership interest is to the spouse, child or grandchild of the transferor, or if the transfer of ownership interest is to or from a separate legal entity of which the transferor is the beneficial owner.

4. Except as otherwise provided in subsection 7:

(a) If existing improvements to real property are materially enhanced or new improvements are constructed, except if constructed to replace existing improvements destroyed by natural disaster or other casualty, the base value of the property must be increased by the cash value of the enhancement or improvement, respectively. For the purposes of this paragraph, an improvement to real property is not materially enhanced if the enhancement to the improvement does not increase the area of the improvement, as measured in square feet, by more than 15 percent.

(b) If real property is converted to another use, the base value of the property must be redetermined after the conversion by appraisal at its cash value in accordance with the new use of the property.

5. Except as otherwise provided in subsections 3, 4 and 7, the base value of real property must not be increased from year to year by any amount greater than the lesser of the increase caused by inflation, if

any, or 3 percent. The base value of real property must be decreased from year to year:

(a) To reflect any substantial damage to or destruction of the property; and

(b) By an amount, not to exceed 3 percent, equal to any decrease in the value of the property caused by deflation or other economic or market conditions.

6. For the purposes of subsection 5, inflation and deflation must be measured by the Consumer Price Index for All Urban Consumers compiled by the United States Bureau of Labor Statistics for the preceding calendar year. If the Index specified in this subsection ceases to be compiled, the Legislature shall provide by law for another appropriate method of measuring inflation and deflation.

7. Notwithstanding any provision of this section to the contrary:

(a) An owner domiciled in this State who has attained the age of 62 years may replace his or her principal residence with another of comparable value and transfer to the new residence the base value of the old residence for the purpose of limiting the ad valorem tax on the new residence. If the cash value of the new residence exceeds the cash value of the old residence by more than 10 percent, the base value of the new residence must equal the base value of the old residence plus the amount by which the cash value of the new residence exceeds the cash value of the old residence.

(b) An improvement may be constructed or materially enhanced without changing the base value of real property if the construction or enhancement is necessary to protect the safety of the occupants or improve accessibility to persons with disabilities.

(c) An owner whose real property is taken by the exercise of eminent domain may replace the condemned property with property of comparable value and transfer to the new property the base value of the condemned property for the purpose of limiting the ad valorem tax on the property. If the cash value of the new property exceeds the cash value of the condemned property by more than 10 percent, the base value of the new property must equal the base value of the condemned property plus the amount by which the cash value of the new property exceeds the cash value of the condemned property.

8. The Legislature shall provide by law for:

(a) A uniform and just valuation of the base value of real property; and

(b) Any other measure necessary to implement this section.

9. If any provision of this section or the application thereof to any person, thing or circumstance is held invalid, the invalidity does not affect the provisions or application of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

10. As used in this section:

(a) “Cash value” means the most probable price which property would bring in a competitive and open market under all conditions requisite to a fair sale.

(b) “Comparable value” means either a lower cash value or up to 10 percent more in cash value.

(c) “Condemned property” means property taken by the exercise of eminent domain.

And be it further

RESOLVED, That Section 1 of Article 10 of the Nevada Constitution be amended to read as follows:

Section 1. 1. ~~{The}~~ **Except as otherwise provided in Section 7 of this Article, the** Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory, except mines and mining claims, which shall be assessed and taxed only as provided in Section 5 of this Article.

2. Shares of stock, bonds, mortgages, notes, bank deposits, book accounts and credits, and securities and choses in action of like character are deemed to represent interest in property already assessed and taxed, either in Nevada or elsewhere, and shall be exempt.

3. The Legislature may constitute agricultural and open-space real property having a greater value for another use than that for which it is being used, as a separate class for taxation purposes and may provide a separate uniform plan for appraisal and valuation of such property for assessment purposes. If such plan is provided, the Legislature shall also provide for retroactive assessment for a period of not less than 7 years when agricultural and open-space real property is converted to a higher use conforming to the use for which other nearby property is used.

4. Personal property which is moving in interstate commerce through or over the territory of the State of Nevada, or which was consigned to a warehouse, public or private, within the State of Nevada from outside the State of Nevada for storage in transit to a final destination outside the State of Nevada, whether specified when transportation begins or afterward, shall be deemed to have acquired no situs in Nevada for purposes of taxation and shall be exempt from taxation. Such property shall not be deprived of such exemption because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled or repackaged.

5. The Legislature may exempt motor vehicles from the provisions of the tax required by this Section, and in lieu thereof, if such exemption is granted, shall provide for a uniform and equal rate of assessment and taxation of motor vehicles, which rate shall not exceed five cents on one dollar of assessed valuation.

6. The Legislature shall provide by law for a progressive reduction in the tax upon business inventories by 20 percent in each year following the adoption of this provision, and after the expiration of the 4th year such inventories are exempt from taxation. The Legislature may exempt any other personal property, including livestock.

7. No inheritance tax shall ever be levied.

8. The Legislature may exempt by law property used for municipal, educational, literary, scientific or other charitable purposes, or to encourage the conservation of energy or the substitution of other sources for fossil sources of energy.

9. No income tax shall be levied upon the wages or personal income of natural persons. Notwithstanding the foregoing provision, and except as otherwise provided in subsection 1 of this Section, taxes may be levied upon the income or revenue of any business in whatever form it may be conducted for profit in the State.

10. The Legislature may provide by law for an abatement of the tax upon or an exemption of part of the assessed value of a single-family residence occupied by the owner to the extent necessary to avoid severe economic hardship to the owner of the residence.

Assemblyman Armstrong moved the adoption of the amendment.

Remarks by Assemblymen Armstrong and Hansen.

ASSEMBLYMAN ARMSTRONG:

Amendment 1057 increases the maximum rate that may be imposed from 1 percent of the base value of the property to 1.25 percent of the base value. A clarification is added specifying that, for the purposes of determining whether the base value of the property must be increased as a result of material enhancements to the property, an improvement to real property is not materially enhanced if the enhancement to the improvement does not increase the area of the improvement, as measured in square feet, by more than 15 percent.

ASSEMBLYMAN HANSEN:

Is there any cap on the 15 percent? If you have a million-square-foot building and you added 15 percent, it is a pretty substantial improvement. I was wondering if there is any kind of an upper limit on that.

ASSEMBLYMAN ARMSTRONG:

Thank you for that question. My answer to that is, I am not sure how many homes are a million square feet.

ASSEMBLYMAN HANSEN:

Is this limited to residential?

ASSEMBLYMAN ARMSTRONG:

Yes.

Amendment adopted.

Resolution ordered reprinted, reengrossed and to third reading.

Senate Bill No. 296.

Bill read third time.

Remarks by Assemblymen Gardner and Diaz.

ASSEMBLYMAN GARDNER:

Senate Bill 296 prohibits a party from including a claim for exemplary or punitive damages in certain pleadings at the commencement of a civil action and establishes a process by which a party may amend its pleadings to include such a claim, at a later date, after discovery.

The bill also sets forth conditions under which limits on exemplary or punitive damages do not apply to a manufacturer, distributor, or seller of a defective product, including the failure to take appropriate action after a governmental agency's final order altering the conditions of or prohibiting the sale of a given product; a finding by a governmental agency or court that the entity in question has made an unlawful payment to an official or employee of a governmental agency to secure or maintain product approval; the illegal withholding or misrepresentation from a governmental agency of information material to approval of the product and material to the harm suffered by the plaintiff; and a finding by a governmental agency that the entity, after the product was sold, knowingly violated applicable laws or regulations by failing to report risks of harm that are material and relevant to the harm alleged by the plaintiff.

This bill is a bill that will fix punitives. It puts products under the 3-to-1 cap, which is what we have a lot of other areas of law under. That is pretty much close to what the constitutional limit is already. The U.S. Supreme Court has already said it is a little bit fishy as to whether it is constitutional to impose 4-to-1 punitive damages or higher. I think it is a good bill. I think it protects companies but gives plaintiffs a fair shot. I urge your support.

ASSEMBLYWOMAN DIAZ:

I rise in opposition to Senate Bill 296. This bill, as amended, would have harmful effects on those injured by defective products. There are numerous instances across the country where individuals have been harmed by a consumer product, many of which have been approved and vetted by the appropriate governmental agencies. For instance, there was the superbug outbreak at a college campus in California late this year involving defective scopes. In the superbug outbreak, Olympus, the maker of the scopes, knew of outbreaks in Florida dating back to 2008 and an outbreak in Seattle dating back to 2012. Those earlier outbreaks involved the same scopes; however, the company failed to tell the FDA [Food and Drug Administration]. Should this bill pass, punitive damages will now be capped at 3 to 1 because the FDA has taken no action on the company's failure to report prior incidents.

Likewise in another example, GM [General Motors] has now recalled 24.6 million cars in the U.S. because of a faulty ignition switch that forces a car to turn off and prevents the airbags from deploying. GM engineers knew about the problem for a decade yet did not report it to the National Highway Traffic Safety Administration [NHTSA]. Despite all of the injuries, deaths, and recalls attributed to the issue, there has been no action to date by the NHTSA.

We, as elected officials, have a responsibility to our constituents and the residents of Nevada to ensure safety from harmful products that slip through the cracks of governmental regulation. Passing this legislation breaks that promise and denies our constituents the opportunity to feel assured that they will be made whole in a situation when they are harmed, injured, or even killed because a large corporation was negligent and the federal governmental entity failed to act.

Roll call on Senate Bill No. 296:

YEAS—20.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Fiore, Flores, Joiner, Kirkpatrick, Munford, Neal, Ohrenschall, Shelton, Spiegel, Sprinkle, Swank, Thompson, Trowbridge—20.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 296 having failed to receive a constitutional majority, Mr. Speaker declared it lost.

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

Assembly in recess at 7:40 p.m.

ASSEMBLY IN SESSION

At 7:41 p.m.
Mr. Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Fiore moved that Senate Bill No. 421 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 460.
Bill read third time.
Remarks by Assemblyman Gardner.

ASSEMBLYMAN GARDNER:

Senate Bill 460 makes various changes concerning the statewide system of accountability for public schools. Specifically, the bill requires the State Board of Education to adopt regulations prescribing an alternative performance framework to evaluate schools serving certain at-risk populations and the manner in which such schools will be included in the statewide system of accountability. It prescribes the eligibility criteria and application process for a public school to be rated using the alternative performance framework. It changes the automatic closure provisions for persistently underperforming charter schools to include those schools receiving the lowest possible annual rating for any three years in a five-year period. It also adds school restart as an alternative to school closure for persistently underperforming charter schools and requires the Department of Education to prescribe related regulations and, for purposes of accountability, prohibits the Department from considering a school's annual performance for the 2014-2015 school year.

Roll call on Senate Bill No. 460:

YEAS—40.

NAYS—None.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 460 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 506.
Bill read third time.
Remarks by Assemblyman Kirner.

ASSEMBLYMAN KIRNER:

Senate Bill 506, as amended, provides for the transfer of money in various accounts and funds for unrestricted General Fund use to offset the difference between projected revenues and collections in Fiscal Year 2015. The money transferred in the bill will be used to meet existing and future obligations of the state. The transfers included in the amended bill total \$42,077,493.

Roll call on Senate Bill No. 506:

YEAS—39.

NAYS—None.

EXCUSED—Dooling, Moore, Trowbridge—3.

Senate Bill No. 506 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 508.

Bill read third time.

Remarks by Assemblyman Sprinkle.

ASSEMBLYMAN SPRINKLE:

Senate Bill 508, as amended, expresses the intent of the Legislature to provide additional resources to the Nevada Plan expressed as a multiplier of the basic support guarantee to meet the needs of pupils, including, without limitation, pupils with disabilities, pupils who are limited English proficient, pupils who are at risk, and gifted and talented pupils.

Roll call on Senate Bill No. 508:

YEAS—31.

NAYS—Dickman, Ellison, Fiore, Hansen, Jones, Seaman, Shelton, Titus, Wheeler—9.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 508 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 230.

Bill read third time.

Remarks by Assemblyman Oscarson.

ASSEMBLYMAN OSCARSON:

Senate Bill 230 removes the limitation on the amount of compensation that may be awarded to certain victims of crime, the dependents of those victims, and certain members of the victim's household.

Roll call on Senate Bill No. 230:

YEAS—40.

NAYS—None.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 230 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 412.

Bill read third time.

Remarks by Assemblywoman Dickman.

ASSEMBLYWOMAN DICKMAN:

Senate Bill 412 provides a tax credit against the modified business tax to an employer who matches the contribution of an employee to either the Nevada College Savings Program, effective January 1, 2016, or the Nevada Higher Education Prepaid Tuition Program, effective July 1, 2016. The tax credit is in an amount equal to 25 percent of the matching contribution, not to exceed \$500 per contributing employee per year. Any unused credits may be carried forward for five years.

Roll call on Senate Bill No. 412:

YEAS—39.

NAYS—Benitez-Thompson.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 412 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 79.

Bill read third time.

Remarks by Assemblyman Hickey.

ASSEMBLYMAN HICKEY:

Senate Bill 79, in its first reprint, revises the definition of “other tobacco products” to specify that the term does not include an alternative nicotine product or a vapor product as those terms are defined pursuant to the bill.

The bill establishes that a vapor product is not taxable as an other tobacco product regardless of whether or not the nicotine in the product is derived from tobacco. The bill further establishes that an alternative nicotine product that is made or derived from tobacco is considered to be an other tobacco product and is subject to regulation and taxation in a manner consistent with other tobacco products.

Additionally, the bill clarifies that any alternative nicotine product or vapor product that is regulated by the United States Food and Drug Administration, under certain provisions, are excluded from the definitions of those terms.

Roll call on Senate Bill No. 79:

YEAS—28.

NAYS—Carlton, Dickman, Ellison, Fiore, Jones, Neal, Seaman, Shelton, Titus, Trowbridge, Wheeler—11.

EXCUSED—Dooling, Moore, O'Neill—3.

Senate Bill No. 79 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 92.

Bill read third time.

Remarks by Assemblymen Edwards, Elliot Anderson, and Dickman.

ASSEMBLYMAN EDWARDS:

In the interest of time, I will try to summarize this two-page write-up. Senate Bill 92 provides procedures for the designation as a turnaround school, a public school determined by the Department of Education to be underperforming. It requires the State Board of Education to establish by regulation the criteria for designating a school as underperforming and provides for the transfer of ineffective or minimally effective personnel from an underperforming school. It creates incentives for employees working in an underperforming school, requires the evaluation of a teacher or administrator at an underperforming school not be adversely impacted by student achievement data for two years after the school has been so designated, and prescribes a process for principals or school boards to reassign staff to or from an underperforming school.

Finally, it requires that reduction-in-workforce decisions be based upon employee performance and that further reductions consider other factors before seniority unless a teacher works in a subject area for which there is a shortage of teachers.

This is fantastic bill that has come to us today. I encourage everyone in this Assembly to vote for it because this will really help the kids.

ASSEMBLYMAN ELLIOT ANDERSON:

I rise in opposition to Senate Bill 92. We have a huge teacher shortage problem, and we have to start thinking not only in terms of capital but in human capital. We have so many teachers that we are struggling to retain, and this is a bill that makes a lot of people who are in the profession want to leave. They feel like they are being attacked, and we ought to consider that when we cannot hire enough teachers in Clark County. I think this is a good-intentioned bill at the wrong time for our state, so I urge this body's opposition to it.

ASSEMBLYWOMAN DICKMAN:

I rise in support of Senate Bill 92. I think these are exactly the kinds of reforms and accountability in education that we have been trying to achieve all session. I encourage everyone to please vote for this bill.

ASSEMBLYMAN EDWARDS:

I did leave off that the CCSD [Clark County School District] actually does support this. If anyone is looking for teachers, it is CCSD and they are absolutely in support of this measure. I hope you will be as well.

Roll call on Senate Bill No. 92:

YEAS—28.

NAYS—Elliot Anderson, Benitez-Thompson, Bustamante Adams, Carlton, Diaz, Joiner, Neal, Ohrenschall, Sprinkle, Swank, Thompson—11.

EXCUSED—Dooling, Moore, O'Neill—3.

Senate Bill No. 92 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 111.

Bill read third time.

Remarks by Assemblymen Titus and Ellison.

ASSEMBLYWOMAN TITUS:

Senate Bill 111, as amended, requires each uniformed peace officer employed by the Nevada Highway Patrol Division of the Department of Public Safety who routinely interacts with the public to wear a portable event recording device while on duty. "Portable event recording device" is defined as a device to be worn on the peace officer's body "which records both audio and visual events during an encounter with a member of the public while performing his or her duties as a peace officer."

Senate Bill 111, as amended, requires the Nevada Highway Patrol Division of the Department of Public Safety to adopt policies and procedures governing the use of portable event recording devices on or before July 1, 2016.

Senate Bill 111, as amended, appropriates State Highway Funds to the Nevada Highway Patrol Division of the Department of Public Safety in the amount of \$785,002 in FY [Fiscal Year] 2016 and \$475,104 in FY 2017.

Senate Bill 111, as amended, is effective upon passage and approval for the purposes of adopting policies and procedures. Section 6.7, providing Highway Fund appropriations for the portable event recording devices, becomes effective on July 1, 2015. For all other purposes, the act is effective January 1, 2017.

ASSEMBLYMAN ELLISON:

Just for clarification, there were several of the body cams that were proposed throughout the session. I did not know if they were taken into consideration when this one was voted for or not.

ASSEMBLYWOMAN TITUS:

Thank you for the question, Assemblyman from eastern Nevada. This is a requirement. This is mandatory only for the Nevada Highway Patrol, not for the other departments.

Roll call on Senate Bill No. 111:

YEAS—39.

NAYS—None.

EXCUSED—Dooling, Moore, O'Neill—3.

Senate Bill No. 111 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 214.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Senate Bill 214, as amended, creates a seven-member Nevada Advisory Council on Federal Assistance to advise and assist state and local agencies with respect to obtaining and maximizing federal assistance. Members serve two-year terms without compensation but are entitled to per diem and travel. Duties of the Council include addressing methods and models for identifying, procuring, utilizing, and maintaining federal assistance. The Department of Administration will provide administrative support to the Council.

Roll call on Senate Bill No. 214:

YEAS—34.

NAYS—Fiore, Shelton, Trowbridge—3.

EXCUSED—Dooling, Gardner, Moore, Ohrenschall, O'Neill—5.

Senate Bill No. 214 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 416.

Bill read third time.

Remarks by Assemblywoman Seaman.

ASSEMBLYWOMAN SEAMAN:

Senate Bill 416 requires an electric utility that owns certain generational assets in this state to provide the Public Utilities Commission of Nevada with a list of assets and to identify as surplus those not being used in generating electricity. Senate Bill 416 also authorizes the Commission to identify certain nonproductive electric utility assets as surplus. It requires an electric utility to create a plan for timely cleanup and disposal of surplus assets and to carry out such a plan for decommission and disposal of surplus assets.

Finally, S.B. 416 also requires the Governor's Office of Economic Development to assist an electric utility with the marketing of vacant or decommissioned assets for sale in redevelopment.

Roll call on Senate Bill No. 416:

YEAS—37.

NAYS—None.

EXCUSED—Dooling, Gardner, Moore, Ohrenschall, O'Neill—5.

Senate Bill No. 416 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 492.

Bill read third time.

Remarks by Assemblymen Armstrong, Fiore, Wheeler, Ellison, and Titus.

ASSEMBLYMAN ARMSTRONG:

Senate Bill 492, as amended, requires that all revenue collected by the Department of Motor Vehicles for the titling and registration of off-highway vehicles [OHV] must be deposited in the Revolving Account for the Administration of Off-Highway Vehicle Titling and Registration. Senate Bill 492, as amended, requires money in the account to be used by the Department of Motor Vehicles to pay the expenses of administering the titling and registering of OHVs. Senate Bill 492, as amended, requires the Department of Motor Vehicles to transfer to the Account for Off-Highway Vehicles, at least once each fiscal quarter, any amount in the account in excess of \$150,000 after paying the expenses of administering the titling and registration of off-highway vehicles.

ASSEMBLYWOMAN FIORE:

I just have a clarifying question for my colleague from Assembly District 21. I want to be certain that S.B. 492 has removed the \$12 dealer plate fee.

ASSEMBLYMAN WHEELER:

In answer to my colleague from Assembly District 4, yes. We did that in the amendment.

ASSEMBLYWOMAN FIORE:

Then, since it is not a violation of the tax pledge, I will vote yes.

ASSEMBLYMAN ELLISON:

I am a little confused. Is this also tied in with the bill of my colleague from Assembly District 38?

ASSEMBLYWOMAN TITUS:

No, it is not. Finally, after a year of collecting these fees, this bill directs them to now use these fees. It is not tied up with the bill that I had initiated. I support this bill.

Roll call on Senate Bill No. 492:

YEAS—37.

NAYS—None.

EXCUSED—Dooling, Gardner, Moore, Ohrenschall, O'Neill—5.

Senate Bill No. 492 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 502.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

Senate Bill 502 adds a nonrefundable \$1 technology fee for any transaction performed by the Department of Motor Vehicles for which a fee is charged. Senate Bill 502 requires the technology fee revenue to be used by the Department of Motor Vehicles for costs associated with the implementation, upgrade, and maintenance of the platform of information technology used by the Department. It also revises *Nevada Revised Statutes* 408.235 by increasing the Department of Motor Vehicles' administrative cap from 22 percent to 27 percent for the five-year implementation period of the Department's system modernization project.

Roll call on Senate Bill No. 502:

YEAS—29.

NAYS—Dickman, Ellison, Fiore, Jones, Seaman, Shelton, Titus, Wheeler—8.

EXCUSED—Dooling, Gardner, Moore, Ohrenschall, O'Neill—5.

Senate Bill No. 502 having received a two-thirds majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 513.

Bill read third time.

Remarks by Assemblyman Edwards.

ASSEMBLYMAN EDWARDS:

Senate Bill 513 establishes the state's share of the cost of monthly contributions or premiums for group insurance for each active state officer and employee. Senate Bill 513 also establishes the state's share of the cost of monthly contributions and premiums for group health insurance for retired employee group insurance not eligible for Medicare. For Medicare-eligible state retirees, Senate Bill 513 establishes a monthly state contribution. Finally, Senate Bill 513 establishes an exemption to the existing prohibition that no monthly state contribution towards retiree health insurance be provided to individuals initially hired on or after January 1, 2012.

Roll call on Senate Bill No. 513:

YEAS—39.

NAYS—None.

EXCUSED—Dooling, Gardner, Moore—3.

Senate Bill No. 513 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 266.

Bill read third time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 1055.

AN ACT relating to taxation; revising provisions relating to the rate, imposition and calculation of the tax on live entertainment; revising provisions governing the exemptions and exclusions from the tax on live entertainment; revising provisions governing the distribution of certain proceeds of the tax on live entertainment; revising various provisions relating to the tax on live entertainment; revising provisions governing investigations and the initiation of complaints by the State Gaming Control Board for violations relating to the tax on live entertainment; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes an excise tax on admission to certain facilities where live entertainment is provided. (Chapter 368A of NRS) Under existing law, if live entertainment is provided at an establishment that is not a licensed gaming establishment or certain smaller licensed gaming establishments, the tax is imposed only if consideration is collected for admission to the area or premises where live entertainment is provided. However, if live entertainment is provided at certain larger licensed gaming establishments, the tax is imposed whenever live entertainment is provided, regardless of whether consideration is collected for admission to the area or premises where the live entertainment is provided. (NRS 368A.060) **Section 1.5** of this bill revises these provisions

to provide that, regardless of whether live entertainment is provided at a gaming establishment, the tax is imposed only if consideration is collected for admission to the area or premises where live entertainment is provided.

Under existing law, the rate and imposition of the tax depends upon the size of the facility in which the live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of less than 7,500 persons, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility. If the live entertainment is provided at a facility with a maximum occupancy of at least 7,500 persons, the rate of the tax is 5 percent of the admission charge to the facility. (NRS 368A.200) **Section 3** of this bill revises the rate of the tax to provide that: (1) the rate of the tax is 9 percent of the admission charge to a facility where live entertainment is provided; and (2) the tax is not imposed on amounts paid for food, refreshments and merchandise. **Sections 1.03, 1.07, 1.5, 2, 2.1, 3 and 3.2** of this bill provide that the tax applies to escorts and escort services and that the rate of the tax is 9 percent of the total amount of consideration paid for the escort or escort service.

Under existing law, the “admission charge” on which the tax is based is defined as the total amount of consideration paid for the right or privilege to enter, or have access to, a facility where live entertainment is provided. (NRS 368A.010) **Section 1.4** of this bill revises this definition to specifically include in the tax membership fees, certain service charges and any other charge that is required to be paid in connection with admission to a facility where live entertainment is provided. **Section 1.4** also excludes from the tax: (1) the value of certain admissions provided to a patron on a complimentary basis; (2) a charge for access to a table, seat or lounge or for food, beverages or merchandise that are in addition to the charge for admission to the facility; and (3) certain license and rental fees for luxury suites, boxes or other similar products at a facility with a maximum occupancy of more than 7,500 persons.

Existing law excludes certain activities from the tax on admission to facilities where live entertainment is provided. (NRS 368A.090, 368A.200) **Sections 2 and 3** of this bill remove certain exclusions and, thus, pursuant to **section 1.5**, these activities would be subject to the tax on live entertainment if they constitute live entertainment and consideration is collected for admission to the facility where the activity is provided. **Sections 2 and 3** also add provisions that exclude the following from the tax: (1) certain uncompensated, spontaneous performances; (2) activities that do not constitute a performance, including, without limitation, go-go dancing; (3) certain marketing or promotional activities that are associated with the serving of food and beverages; (4) live entertainment provided by the Nevada Interscholastic Activities Association or by certain schools if only pupils or faculty provide the entertainment; (5) athletic events provided by institutions of the Nevada System of Higher Education, if students of such an institution are contestants in the event; and (6) an athletic event conducted by a professional team based

in this State if that team is a participant in the event. Finally, under **section 3**, the exclusion from the tax for race events at a race track in this State as a part of the National Association for Stock Car Racing (NASCAR) Sprint Cup Series is modified to apply only if two NASCAR races are held at the race track.

Section 2.5 of this bill sets forth a procedure by which the Nevada Gaming Commission and the Nevada Tax Commission, as applicable, may determine the amount upon which the tax on live entertainment is based under certain circumstances when that amount is not capable of reasonable determination.

Under existing law, live entertainment provided by certain nonprofit organizations is exempt from the tax on live entertainment. (NRS 368A.200) **Section 3** provides that this exemption applies only if the number of tickets to the live entertainment provided by the nonprofit organization which are offered for sale or other distribution to patrons is less than 7,500. Thus, under **section 3**, the tax on live entertainment applies to any live entertainment provided by a nonprofit organization for which 7,500 or more tickets are offered for sale or other distribution to patrons.

Existing law requires the State Gaming Control Board and the Department of Taxation to deposit all taxes, interest and penalties they receive from the tax on live entertainment in the State Treasury for credit to the State General Fund. (NRS 368A.240) **Section 3.1** of this bill requires the Department of Taxation, on or before October 1 of each year, to deposit \$150,000 from the taxes, interest and penalties it receives from the tax on live entertainment, for credit to the Nevada Arts Council which is a division of the Department of Tourism and Cultural Affairs. Under **section 3.1**, this money is authorized for expenditure by the Nevada Arts Council as a continuing appropriation.

Existing law requires the State Gaming Control Board to make investigations and to initiate a hearing by filing a complaint with the Nevada Gaming Commission if the Board is satisfied that a person or entity which is licensed, registered, found suitable or found preliminarily suitable or which previously obtained approval for an activity for which Commission approval was required or permitted should be limited, conditioned, suspended, revoked or fined. (NRS 463.310) **Section 5** of this bill similarly requires the Board to make investigations and to initiate a hearing by filing a complaint with the Commission if the Board is satisfied that such a person or entity has violated certain provisions relating to the tax on live entertainment.

Existing law also: (1) requires a licensed gaming establishment to maintain records relating to, report, pay and truthfully account for the tax on live entertainment; and (2) prohibits certain practices relating to falsifying information or books, records or accounts relating to the tax on live entertainment. (NRS 368A.160, 368A.350, 368A.360) **Section 4** of this bill provides that a violation of such provisions by a licensed gaming establishment **with the intent to avoid a payment of the tax which is known to be due.** is an unsuitable method of operation and is subject to investigation and disciplinary proceedings by the Board and the Commission.

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

Section 1. Chapter 368A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.03 and 1.07 of this act.

Sec. 1.03. 1. *“Escort” means a person who, for monetary consideration, in the form of a fee, commission or salary, dates, socializes, visits, consorts with or accompanies, or offers to date, socialize, visit, consort with or accompany, another or others to or about social affairs, entertainments or places of amusement or within any place of public resort or within any private quarters. The term does not include a person who advertises, or works as an employee, agent or independent contractor for a person who advertises, that sexual conduct will be provided to a patron, or who solicits, offers to provide or provides acts of sexual conduct to a patron.*

2. *As used in this section, “sexual conduct” means sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.*

Sec. 1.07. 1. *“Escort service” means a person who, for a fee, commission, profit, payment or other monetary consideration, furnishes, refers or offers to furnish or refer an escort to a patron, offers to introduce a patron to an escort, or who provides an escort to a patron. The term does not include a person who advertises that an escort will provide sexual conduct to a patron or who solicits, offers to provide or provides acts of sexual conduct to a patron.*

2. *As used in this section, “sexual conduct” has the meaning ascribed to it in section 1.03 of this act.*

Sec. 1.3. NRS 368A.010 is hereby amended to read as follows:

368A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 368A.020 to 368A.115, inclusive, **and sections 1.03 and 1.07 of this act** have the meanings ascribed to them in those sections.

Sec. 1.4. NRS 368A.020 is hereby amended to read as follows:

368A.020 ~~["Admission"]~~

1. *Except as otherwise provided in this section, “admission charge” means the total amount, expressed in terms of money, of consideration paid for the right or privilege to **enter or** have access to a facility where live entertainment is provided. ~~The~~*

2. *Except as otherwise provided in this section or NRS 368A.200 or any other specific statute, the term includes, without limitation, an entertainment fee, a cover charge, ~~a table reservation fee, or~~ a required minimum purchase of food, ~~refreshments~~ beverages or merchandise ~~[-], a membership fee and a service charge or any other fee or charge that is required to be paid in exchange for admission to a facility where live entertainment is provided.~~*

3. *The term does not include:*

(a) The value of an admission to a facility provided to a patron on a complimentary basis, unless the complimentary admission is associated with a separate purchase that is required for the patron to enter or have access to the facility; or

(b) A charge for the right or privilege of entering, or having access to, a particular portion within a facility, that is in addition to a charge described in subsection 1 or 2, including, without limitation, a charge for:

(1) Food, beverages or merchandise that is in addition to a required minimum purchase of food, beverages or merchandise as described in subsection 2; or

(2) Access to tables, seats, lounge chairs or particular areas near a swimming pool.

4. Except as otherwise provided in this subsection, the term does not include license or rental fees for luxury suites, boxes or similar products at facilities with a maximum occupancy of at least 7,500 persons. If the license or rental fee includes the admission of a certain number of patrons to a facility where a live entertainment event is provided, the admission charge is an amount equal to the lowest priced admission charge for the live entertainment event multiplied by the number of admissions to the live entertainment event included in the license or rental fee.

Sec. 1.5. NRS 368A.060 is hereby amended to read as follows:

368A.060 ~~1.1.~~ "Facility" means ~~1.~~

~~—(a) Any~~ any area or premises, *indoor or outdoor*, where live entertainment is provided and for which consideration is collected for the right or privilege of entering, *or having access to*, that area or those premises. ~~if the live entertainment is provided at:~~

~~—(1) An establishment that is not a licensed gaming establishment; or~~

~~—(2) A licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits.~~

~~—(b) Any area or premises where live entertainment is provided if the live entertainment is provided at any other licensed gaming establishment.~~

~~2. "Facility" encompasses, if live entertainment is provided at a licensed gaming establishment that is licensed for:~~

~~—(a) Less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, any area or premises where the live entertainment is provided and for which consideration is collected, from one or more patrons, for the right or privilege of entering that area or those premises, even if additional consideration is collected for the right or privilege of entering a smaller venue within that area or those premises; or~~

~~—(b) At least 51 slot machines or at least 6 games, any designated area on the premises of the licensed gaming establishment within which the live entertainment is provided.~~

Sec. 2. NRS 368A.090 is hereby amended to read as follows:

368A.090 1. “Live entertainment” means any activity provided for pleasure, enjoyment, recreation, relaxation, diversion or other similar purpose by a person or persons who are physically present when providing that activity to a patron or group of patrons who are physically present.

2. The term:

(a) Includes, without limitation, any one or more of the following activities:

(1) Music or vocals provided by one or more professional or amateur musicians or vocalists;

(2) Dancing performed by one or more professional or amateur dancers or performers ~~};~~ ***, including, without limitation, dancing performed by one or more persons who are nude or partially nude;***

(3) Acting or drama provided by one or more professional or amateur actors or players;

(4) Acrobatics or stunts provided by one or more professional or amateur acrobats, performers or stunt persons;

(5) Animal stunts or performances induced by one or more animal handlers or trainers, except as otherwise provided in subparagraph ~~{(7)}~~ ***(3)*** of paragraph (b);

(6) Athletic or sporting contests, events or exhibitions provided by one or more professional or amateur athletes, sportsmen or sportswomen;

(7) Comedy or magic provided by one or more professional or amateur comedians, magicians, illusionists, entertainers or performers;

(8) A show or production involving any combination of the activities described in subparagraphs (1) to (7), inclusive; ~~and~~

(9) A performance ~~involving one or more of the activities described in this paragraph~~ by a disc jockey who presents recorded music ~~}. For the purposes of this subparagraph, a disc jockey shall not be deemed to have engaged in a performance involving one or more of the activities described in this paragraph if the disc jockey generally limits his or her interaction with patrons to introducing the recorded music, making announcements of general interest to patrons, and explaining, encouraging or directing participatory activities between patrons.}; and~~

(10) An escort who is escorting one or more persons at a location or locations in this State.

(b) ~~{Excludes,}~~ ***Except as otherwise provided in subsection 3, excludes,*** without limitation, any one or more of the following activities:

(1) ~~{Instrumental or vocal music, which may or may not be supplemented with commentary by the musicians, in a restaurant, lounge or similar area if such music does not routinely rise to the volume that interferes with casual conversation and if such music would not generally cause patrons to watch as well as listen;~~

~~—(2) Occasional performances by employees whose primary job function is that of preparing, selling or serving food, refreshments or beverages to patrons, if such performances are not advertised as entertainment to the public;~~

~~— (3) Performances by performers of any type if the performance occurs in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, as long as the performers stroll continuously throughout the facility;~~

~~— (4) Performances in areas other than in nightclubs, lounges, restaurants or showrooms, if the performances occur in a licensed gaming establishment other than a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits, which enhance the theme of the establishment or attract patrons to the areas of the performances, as long as any seating provided in the immediate area of the performers is limited to seating at slot machines or gaming tables;~~

~~— (5) Television, radio, closed circuit or Internet broadcasts of live entertainment;~~

~~{(6)}~~ (2) Entertainment provided by a patron or patrons, including, without limitation, singing by patrons or dancing by or between patrons;

~~{(7)}~~ (3) Animal behaviors induced by animal trainers or caretakers primarily for the purpose of education and scientific research ~~}; and~~

~~— (8) An occasional activity, including, without limitation, dancing, that:~~

~~— (I) Does not constitute a performance;~~

~~— (II) Is not advertised as entertainment to the public;~~

~~— (III) Primarily serves to provide ambience to the facility; and~~

~~— (IV) Is conducted by an employee whose primary job function is not that of an entertainer.};~~

(4) An activity that is an uncompensated, spontaneous performance that is not longer than 20 minutes during a 60-minute period;

(5) An activity described in subparagraphs (1) to (8), inclusive, of paragraph (a) that does not constitute a performance, including, without limitation, go-go dancing; or

(6) Marketing or promotional activities, including, without limitation, dancing or singing that is for a period that does not exceed 20 minutes during a 60-minute period and that is associated with the serving of food and beverages.

3. *The exclusions set forth in paragraph (b) of subsection 2 do not apply to an activity provided by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, when the number of tickets to the activity offered for sale or other distribution is 15,000 or more.*

4. *As used in this section, “person who is nude or partially nude” means a natural person with any of the following less than completely or opaquely covered:*

(a) His or her genitals;

(b) The pubic region; or

(c) A female breast below a point immediately above the top of the areola.

Sec. 2.1. NRS 368A.110 is hereby amended to read as follows:

368A.110 “Taxpayer” means:

1. ~~HH~~ *Except as otherwise provided in subsection 4, if* live entertainment that is taxable under this chapter is provided at a licensed gaming establishment, the person licensed to conduct gaming at that establishment.

2. Except as otherwise provided in ~~subsection~~ **subsections 3 ~~H~~ and 4**, if live entertainment that is taxable under this chapter is not provided at a licensed gaming establishment, the owner or operator of the facility where the live entertainment is provided.

3. ~~HH~~ *Except as otherwise provided in subsection 4, if* live entertainment that is taxable under this chapter is provided at a publicly owned facility or on public land, the person who collects the taxable receipts.

4. *If live entertainment that is taxable under this chapter is provided by an escort, the escort or, if the escort works as an employee, agent or independent contractor for an escort service, the owner or operator of the escort service.*

Sec. 2.5. NRS 368A.150 is hereby amended to read as follows:

368A.150 1. If:

(a) The Board determines that a taxpayer who is a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the Board shall establish an amount upon which the tax imposed by this chapter must be based.

(b) The Department determines that a taxpayer who is not a licensed gaming establishment is taking any action with intent to defraud the State or to evade the payment of the tax or any part of the tax imposed by this chapter, the Department shall establish an amount upon which the tax imposed by this chapter must be based.

2. The amount established by the Board or the Department pursuant to subsection 1 must be based upon the tax liability of business entities that are deemed comparable by the Board or the Department to that of the taxpayer.

3. *If:*

(a) The Board determines that a taxpayer who is a licensed gaming establishment is liable for the tax imposed by this chapter but the amount upon which the tax must be based is vague or subjective, not capable of reasonable determination or is the subject of a dispute that cannot be proven to the reasonable satisfaction of the Nevada Gaming Commission, the Nevada Gaming Commission may establish the amount upon which the tax must be based by multiplying the number of admissions to the facility where the live entertainment was provided by an amount not to exceed \$50. The provisions of chapter 463 of NRS relating to the imposition of penalties and interest apply to the determination of the amount of tax owed by the taxpayer pursuant to this section.

(b) The Department determines that a taxpayer who is not a licensed gaming establishment is liable for the tax imposed by this chapter but the amount upon which the tax must be based is vague or subjective, not capable of reasonable determination or is the subject of a dispute that cannot be proven to the reasonable satisfaction of the Nevada Tax Commission, the Nevada Tax Commission may establish the amount upon which the tax must be based by multiplying the number of admissions to the facility where the live entertainment was provided by an amount not to exceed \$50. The provisions of chapter 360 of NRS relating to the imposition of penalties and interest apply to the determination of the amount of tax owed by the taxpayer pursuant to this section.

Sec. 3. NRS 368A.200 is hereby amended to read as follows:

368A.200 1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided ~~[- If the live entertainment is provided at a facility with a maximum occupancy of:~~

~~—(a) Less than 7,500 persons, the~~ *and on the charge for live entertainment provided by an escort at one or more locations in this State. The rate of the tax is ~~10~~:*

(a) Except as otherwise provided in paragraph (b), for admission to a facility in this State where live entertainment is provided, 9 percent of the admission charge to the facility. ~~[plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.]~~

(b) ~~[At least 7,500 persons, the rate of the tax is 5]~~ For live entertainment provided by an escort who is escorting one or more persons at a location or locations in this State, 9 percent of the ~~[admission charge to the facility.]~~ total amount, expressed in terms of money, of consideration paid for the live entertainment provided by the escort.

2. Amounts paid for:

(a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section ~~[-], only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500.~~

(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided ~~[or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer]~~ are not taxable pursuant to this section.

(c) Fees imposed, collected and retained by an independent financial institution in connection with the use of credit cards or debit cards to pay the admission charge to a facility where live entertainment is provided are not

taxable pursuant to this section. As used in this paragraph, “independent financial institution” means a financial institution that is not the taxpayer or an owner or operator of the facility where the live entertainment is provided or an affiliate of any of those persons.

~~3. [A business entity that collects any amount that is taxable pursuant to subsection 1 is liable for the tax imposed, but is entitled to collect reimbursement from any person paying that amount.~~

~~4. Any ticket for live entertainment must state whether the tax imposed by this section is included in the price of the ticket. If the ticket does not include such a statement, the taxpayer shall pay the tax based on the face amount of the ticket.~~

~~5.† The tax imposed by this section must be added to and collected from the purchaser at the time of purchase, whether or not the admission for live entertainment is purchased for resale. Each ticket for admission to a facility where live entertainment is provided must show on its face the admission charge or the seller of the admission shall prominently display a notice disclosing the admission charge at the box office or other place where the charge is made.~~

4. The tax imposed by subsection 1 does not apply to:

(a) Live entertainment that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

(b) *Live entertainment that is governed by the Nevada Interscholastic Activities Association pursuant to NRS 386.420 to 386.470, inclusive, or is provided or sponsored by an elementary school, junior high school, middle school or high school, if only pupils or faculty provide the live entertainment.*

(c) *An athletic contest, event, tournament or exhibition provided by an institution of the Nevada System of Higher Education, if students of such an institution are contestants in the contest, event, tournament or exhibition.*

(d) Live entertainment that is provided by or entirely for the benefit of a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS ~~†~~ ~~(e)†~~, *only if the number of tickets to the live entertainment which are offered for sale or other distribution to patrons, either directly or indirectly through a partner, subsidiary, client, affiliate or other collaborator, is less than 7,500.*

(e) Any boxing contest or exhibition governed by the provisions of chapter 467 of NRS.

~~†(d)†~~ (f) Live entertainment that is not provided at a licensed gaming establishment if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

~~†(e)†~~ (g) Live entertainment that is provided at a licensed gaming establishment that is licensed for less than 51 slot machines, less than 6 games, or any combination of slot machines and games within those respective limits,

if the facility in which the live entertainment is provided has a maximum occupancy of less than 200 persons.

~~{(f)} Merchandise sold outside the facility in which the live entertainment is provided, unless the purchase of the merchandise entitles the purchaser to admission to the entertainment.~~

~~—(g)—~~ **(h)** Live entertainment that is provided at a trade show.

~~{(h)}~~ **(i)** Music performed by musicians who move constantly through the audience if no other form of live entertainment is afforded to the patrons.

~~{(i)}~~ **(j)** Live entertainment that is provided at a licensed gaming establishment at private meetings or dinners attended by members of a particular organization or by a casual assemblage if the purpose of the event is not primarily for entertainment.

~~{(j)}~~ **(k)** Live entertainment that is provided in the common area of a shopping mall, unless the entertainment is provided in a facility located within the mall.

~~{(k)}~~ **(l)** Food and product demonstrations provided at a shopping mall, a craft show or an establishment that sells grocery products, housewares, hardware or other supplies for the home.

~~{(l)}~~ **(m)** Live entertainment that is incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction. For the purposes of this paragraph, live entertainment shall be deemed to be incidental to an amusement ride, a motion simulator or a similar digital, electronic, mechanical or electromechanical attraction if the live entertainment is:

(1) Not the predominant element of the attraction; and

(2) Not the primary purpose for which the public rides, attends or otherwise participates in the attraction.

~~{(m)} Live entertainment that is provided to the public in an outdoor area, without any requirements for the payment of an admission charge or the purchase of any food, refreshments or merchandise.~~

~~—(n) An outdoor concert, unless the concert is provided on the premises of a licensed gaming establishment.~~

~~—(o) Beginning July 1, 2007, race events}~~

(n) *A race* scheduled at a race track in this State ~~{as a part of}~~ **and sanctioned by** the National Association for Stock Car Auto Racing ~~{Nextel Cup Series, or its successor racing series, and all races associated therewith.~~

~~—(p) Beginning July 1, 2007, a baseball contest, event or exhibition conducted by professional minor league baseball players at a stadium in this State.~~

~~—(q) Live entertainment provided in a restaurant which is incidental to any other activities conducted in the restaurant or which only serves as ambience so long as there is no charge to the patrons for that entertainment.~~

~~—6. The Commission may adopt regulations establishing a procedure whereby a taxpayer that is a licensed gaming establishment may request an exemption from the tax pursuant to paragraph (q) of subsection 5. The~~

regulations must require the taxpayer to seek an administrative ruling from the Chair of the Board, provide a procedure for appealing that ruling to the Commission and further describe the forms of incidental or ambient entertainment exempted pursuant to that paragraph.

~~—7.1~~ , if two or more such races are held at that race track during the same calendar year.

(o) An athletic contest, event or exhibition conducted by a professional team based in this State if the professional team based in this State is a participant in the contest, event or exhibition.

5. As used in this section, ~~the maximum~~ :

(a) "Affiliate" has the meaning ascribed to it in NRS 463.0133.

(b) "Maximum occupancy" means, in the following order of priority:

~~1(a)~~ (1) The maximum occupancy of the facility in which live entertainment is provided, as determined by the State Fire Marshal or the local governmental agency that has the authority to determine the maximum occupancy of the facility;

~~1(b)~~ (2) If such a maximum occupancy has not been determined, the maximum occupancy of the facility designated in any permit required to be obtained in order to provide the live entertainment; or

~~1(c)~~ (3) If such a permit does not designate the maximum occupancy of the facility, the actual seating capacity of the facility in which the live entertainment is provided.

(c) "Operator" includes, without limitation, a person who operates a facility where live entertainment is provided or who presents, produces or otherwise provides live entertainment.

Sec. 3.1. NRS 368A.220 is hereby amended to read as follows:

368A.220 1. Except as otherwise provided in this section:

(a) Each taxpayer who is a licensed gaming establishment shall file with the Board, on or before the 15th day of each month, a report showing the amount of all taxable receipts for the preceding month or the month in which the taxable events occurred. The report must be in a form prescribed by the Board.

(b) All other taxpayers shall file with the Department, on or before the last day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Department.

2. The Board or the Department, if it deems it necessary to ensure payment to or facilitate the collection by the State of the tax imposed by NRS 368A.200, may require reports to be filed not later than 10 days after the end of each calendar quarter.

3. Each report required to be filed by this section must be accompanied by the amount of the tax that is due for the period covered by the report.

4. ~~The~~ *Except as otherwise provided in this subsection, the* Board and the Department shall deposit all taxes, interest and penalties ~~it receives~~ *they receive* pursuant to this chapter in the State Treasury for credit to the State General Fund. *On or before October 1 of each year, the Department shall deposit \$150,000 from the taxes, interest and penalties it receives pursuant*

to this chapter in the State Treasury for credit to the Nevada Arts Council created by NRS 233C.025. The amount deposited in the State Treasury for credit to the Nevada Arts Council pursuant to this subsection is hereby authorized for expenditure by the Nevada Arts Council as a continuing appropriation.

Sec. 3.2. NRS 368A.240 is hereby amended to read as follows:

368A.240 1. If a taxpayer:

(a) Is unable to collect all or part of an admission charge ~~for charges for food, refreshments and merchandise~~ **or charge for live entertainment provided by an escort**, which were included in the taxable receipts reported for a previous reporting period; and

(b) Has taken a deduction on his or her federal income tax return pursuant to 26 U.S.C. § 166(a) for the amount which the taxpayer is unable to collect, ➤ the taxpayer is entitled to receive a credit for the amount of tax paid on account of that uncollected amount. The credit may be used against the amount of tax that the taxpayer is subsequently required to pay pursuant to this chapter.

2. If the Internal Revenue Service disallows a deduction described in paragraph (b) of subsection 1 and the taxpayer claimed a credit on a return for a previous reporting period pursuant to subsection 1, the taxpayer shall include the amount of that credit in the amount of taxes reported pursuant to this chapter in the first return filed with the Board or the Department after the deduction is disallowed.

3. If a taxpayer collects all or part of an admission charge ~~for charges for food, refreshments and merchandise~~ **or charge for live entertainment provided by an escort**, for which the taxpayer claimed a credit on a return for a previous reporting period pursuant to subsection 2, the taxpayer shall include:

(a) The amount collected in the charges reported pursuant to paragraph (a) of subsection 1; and

(b) The tax payable on the amount collected in the amount of taxes reported, ➤ in the first return filed with the Board or the Department after that collection.

4. Except as otherwise provided in subsection 5, upon determining that a taxpayer has filed a return which contains one or more violations of the provisions of this section, the Board or the Department shall:

(a) For the first return of any taxpayer that contains one or more violations, issue a letter of warning to the taxpayer 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.

(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.

5. For the purposes of subsection 4, if the first violation of this section by any taxpayer was determined by the Board or the Department through an audit

which covered more than one return of the taxpayer, the Board or 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.

Sec. 4. NRS 368A.360 is hereby amended to read as follows:

368A.360 **1.** Any licensed gaming establishment liable for the payment of the tax imposed by NRS 368A.200 who willfully fails to report, pay or truthfully account for the tax is subject to the ~~revocation of~~ **investigatory or disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and may have its gaming license revoked** by the Commission.

2. A violation of any provision of this chapter, or any regulation adopted pursuant thereto, by a licensed gaming establishment, with the intent to avoid a payment of the tax imposed by NRS 368A.200 which is known to be due, is:

(a) *An unsuitable method of operation; and*

(b) *Subject to the investigatory and disciplinary proceedings that are set forth in NRS 463.310 to 463.318, inclusive, and shall be punished as provided in those sections.*

Sec. 4.1. NRS 463.15995 is hereby amended to read as follows:

463.15995 **1.** The Commission shall, with the advice and assistance of the Board, adopt regulations authorizing a gaming licensee to charge a fee for admission to an area in which gaming is conducted in accordance with the provisions of this section.

2. The regulations adopted by the Commission pursuant to this section must include, without limitation, provisions that:

(a) A gaming licensee may not charge a fee pursuant to this section unless:

(1) The Chair of the Board grants administrative approval of a request by a gaming licensee to charge such a fee; and

(2) Such administrative approval is not revoked or suspended by the Chair of the Board.

(b) The Chair of the Board may, in the Chair's sole and absolute discretion, grant, deny, limit, condition, restrict, revoke or suspend any administrative approval of a request by a gaming licensee to charge a fee pursuant to this section. In considering such a request, the Chair of the Board shall consider all relevant factors, including, without limitation:

(1) The size of the area;

(2) The amount of gaming that occurs within the area;

(3) The types and quantity of gaming offered;

(4) The business purpose of the area;

(5) Other amenities that are offered within the area;

(6) The amount of the costs and expenses incurred in creating the area;

(7) The benefit to the State in having gaming conducted within the area;

(8) The amount of the fee charged and whether the fee charged is unreasonable as compared to the prevailing practice within the industry; and

(9) Whether the area should more appropriately be treated as a gaming salon.

↪ The decision of the Chair of the Board regarding such a request may be appealed by the gaming licensee to the Commission pursuant to its regulations.

(c) A gaming licensee who charges a fee pursuant to this section:

(1) Shall deposit with the Board and thereafter maintain a refundable revolving fund in an amount determined by the Commission to pay the expenses of admission of agents of the Board or Commission to the area for which a fee for admission is charged.

(2) Shall arrange for access by agents of the Board or Commission to the area for which a fee for admission is charged.

(3) Shall, at all times that a fee is charged for admission to an area pursuant to this section in an establishment for which a nonrestricted license has been issued, provide for the public at least the same number of gaming devices and games in a different area for which no fee is charged for admission.

(4) Shall, at all times that a fee is charged for admission to an area pursuant to this section in an establishment for which a restricted license has been issued, post a sign of a suitable size in a conspicuous place near the entrance of the establishment that provides notice to patrons that they do not need to pay an admission fee or cover charge to engage in gaming.

(5) Shall not use a fee charged for admission to create a private gaming area that is not operated in association or conjunction with a nongaming activity, attraction or facility.

(6) Shall not restrict admission to the area for which a fee for admission is charged to a patron on the ground of race, color, religion, national origin or disability of the patron, and any unresolved dispute with a patron concerning restriction of admission shall be deemed a dispute as to the manner in which a game is conducted pursuant to NRS 463.362 and must be resolved pursuant to NRS 463.362 to 463.366, inclusive.

(d) If a gaming licensee who holds a nonrestricted license charges a fee pursuant to this section, unless the area for which a fee for admission is charged is otherwise subject to the excise tax on admission to any facility in this State where live entertainment is provided pursuant to chapter 368A of NRS, the determination of the amount of the liability of the gaming licensee for that tax:

(1) Includes the fees charged for admission pursuant to this section; and

(2) Does not include charges for food, ~~refreshments~~ **beverages** and merchandise collected in the area for which admission is charged.

Sec. 5. NRS 463.310 is hereby amended to read as follows:

463.310 1. The Board shall make appropriate investigations:

(a) To determine whether there has been any violation of this chapter or chapter ~~368A~~, 462, 464, 465 or 466 of NRS or any regulations adopted thereunder.

(b) To determine any facts, conditions, practices or matters which it may deem necessary or proper to aid in the enforcement of any such law or regulation.

- (c) To aid in adopting regulations.
- (d) To secure information as a basis for recommending legislation relating to this chapter or chapter ~~368A~~, 462, 464, 465 or 466 of NRS.

(e) As directed by the Commission.

2. If, after any investigation the Board is satisfied that:

(a) A license, registration, finding of suitability, preliminary finding of suitability, pari-mutuel license or prior approval by the Commission of any transaction for which the approval was required or permitted under the provisions of this chapter or chapter 462, 464 or 466 of NRS should be limited, conditioned, suspended or revoked; or

(b) A person or entity which is licensed, registered, found suitable or found preliminarily suitable pursuant to this chapter or chapter 464 of NRS or which previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS should be fined,

↪ the Board shall initiate a hearing before the Commission by filing a complaint with the Commission in accordance with NRS 463.312 and transmit therewith a summary of evidence in its possession bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the Board.

3. Upon receipt of the complaint of the Board, the Commission shall review the complaint and all matter presented in support thereof, and shall conduct further proceedings in accordance with NRS 463.3125 to 463.3145, inclusive.

4. After the provisions of subsections 1, 2 and 3 have been complied with, the Commission may:

(a) Limit, condition, suspend or revoke the license of any licensed gaming establishment or the individual license of any licensee without affecting the license of the establishment;

(b) Limit, condition, suspend or revoke any registration, finding of suitability, preliminary finding of suitability, pari-mutuel license, or prior approval given or granted to any applicant by the Commission;

(c) Order a licensed gaming establishment to keep an individual licensee from the premises of the licensed gaming establishment or not to pay the licensee any remuneration for services or any profits, income or accruals on the investment of the licensee in the licensed gaming establishment; and

(d) Fine each person or entity, or both, which is licensed, registered, found suitable or found preliminarily suitable pursuant to this chapter or chapter 464 of NRS or which previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS:

(1) Not less than \$25,000 and not more than \$250,000 for each separate violation of any regulation adopted pursuant to NRS 463.125 which is the subject of an initial or subsequent complaint; or

(2) Except as otherwise provided in subparagraph (1), not more than \$100,000 for each separate violation of the provisions of this chapter or chapter **368A**, 464 or 465 of NRS or of ~~the~~ **any** regulations ~~of the Commission~~ **adopted thereunder**, which is the subject of an initial complaint and not more than \$250,000 for each separate violation of the provisions of this chapter or chapter **368A**, 464 or 465 of NRS or of ~~the~~ **any** regulations ~~of the Commission~~ **adopted thereunder**, which is the subject of any subsequent complaint.

➔ All fines must be paid to the State Treasurer for deposit in the State General Fund.

5. For the second violation of any provision of chapter 465 of NRS by any licensed gaming establishment or individual licensee, the Commission shall revoke the license of the establishment or person.

6. If the Commission limits, conditions, suspends or revokes any license or imposes a fine, or limits, conditions, suspends or revokes any registration, finding of suitability, preliminary finding of suitability, pari-mutuel license or prior approval, it shall issue its written order therefor after causing to be prepared and filed its written decision upon which the order is based.

7. Any such limitation, condition, revocation, suspension or fine so made is effective until reversed upon judicial review, except that the Commission may stay its order pending a rehearing or judicial review upon such terms and conditions as it deems proper.

8. Judicial review of any such order or decision of the Commission may be had in accordance with NRS 463.315 to 463.318, inclusive.

Sec. 6. Any administrative regulations relating to the tax on live entertainment imposed pursuant to chapter 368A of NRS which were adopted by the Nevada Tax Commission or the Nevada Gaming Commission before July 1, 2015, and which conflict or are inconsistent with the provisions of this act are void, unless those regulations are amended before July 1, 2015, to be consistent with the provisions of this act.

Sec. 6.5. The provisions of this act apply only to taxable receipts that are collected pursuant to the provisions of chapter 368A of NRS on or after October 1, 2015.

Sec. 7. 1. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act.

2. Section 3.1 of this act becomes effective on July 1, 2015, for all other purposes.

3. Sections 1 to 3, inclusive, and 3.2 to 6.5, inclusive, become effective on October 1, 2015, for all other purposes.

Assemblyman Armstrong moved the adoption of the amendment.

Remarks by Assemblymen Armstrong and Kirkpatrick.

ASSEMBLYMAN ARMSTRONG:

The amendment specifies that a violation of the provisions of the live entertainment tax by a licensed gaming establishment is considered to be an unsuitable method of operation and subject to investigative proceedings by the Gaming Commission only if the violation occurs with the intent to avoid taxes known to be due

ASSEMBLYWOMAN KIRKPATRICK:

I want to put something in the record on the same point that Mr. Armstrong has. It reads, “with the intent to avoid a payment of the tax imposed by NRS 368A.200 which is known to be due.”

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 509.

Bill read third time.

Remarks by Assemblymen Shelton and Elliot Anderson.

ASSEMBLYWOMAN SHELTON:

Senate Bill 509 revises provisions related to the employees and duties of the State Public Charter School Authority. The bill makes various changes to the governance and staff structure of the Authority. It authorizes the Authority to adopt regulations related to the application and approval to form a charter school and to enter into agreements with school districts and higher education institutions related to charter school sponsorship. It requires the charter school sponsor to ensure compliance with the Family Educational Rights and Privacy Act [FERPA] and other state data privacy statutes, and the Charter School Authority is authorized to adopt regulations concerning its reporting of data concerning school performance and student achievement. It revises procedures related to the application for forming a charter school and authorizes an application to be submitted by a nonprofit charter management organization.

The bill exempts certain high-performing charter schools from the requirement that certain teachers be licensed, establishing alternative qualification for such teachers. It revises actions that may be taken when a charter school persistently underperforms and includes other provisions related to the Authority and the sponsorship and operation of charter schools, including that a sponsor may only reconstitute the governing body one time for those schools with a one-star school rating for five consecutive school years. It provides that a school’s annual rating for any school year before the 2015-2016 school year not be included in the count of annual ratings for this purpose.

This bill also amends Assembly Bill 448 of this legislative session to require the Department of Education to evaluate pupil achievement and school performance of an achievement charter school during the sixth year of operation. The Executive Director of the Achievement School District is required to provide the Department with the information necessary to evaluate pupil achievement and school performance of the school. The Department is required to notify parents and legal guardians of pupils in an achievement charter school if adequate progress in pupil achievement has not been met. The notice must include information regarding public schools, educational savings accounts, and any other alternatives for education of the pupil that are available in this state.

Finally, if adequate progress is not being made in pupil achievement and school performance, the Department is required to hold a hearing to decide whether or not to convert the school to a public school under the governance of the board of trustees of the local school district or to continue to operate the school as an achievement charter school for at least six more years. If the school continues to operate in this manner, the Executive Director must terminate the contract with the charter management organization or educational management organization.

ASSEMBLYMAN ELLIOT ANDERSON:

I want to thank the Department of Education and the State Charter School Authority for working with a few of us on amendments. I am really grateful that they did that, and I will be happy to vote for this.

Roll call on Senate Bill No. 509:

YEAS—40.

NAYS—None.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 509 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 488.

Bill read third time.

Remarks by Assemblymen Edwards and Fiore.

ASSEMBLYMAN EDWARDS:

Senate Bill 488 authorizes the State Department of Agriculture to establish a program to implement federal requirements concerning certain animal remedy, veterinary biologic, and veterinary pharmaceutical products. The bill, as amended, also requires a person who manufactures, distributes, or acts as a guarantor of commercial animal feed to purchase a license and authorizes the Department of Agriculture to perform certain inspections related to commercial animal feed.

ASSEMBLYWOMAN FIORE:

I rise in opposition to Senate Bill 488. This enacts new regulations for labeling animal feed. I mean, there are some good parts, there are some bad parts, but for me, the bad parts overrule the good parts. It requires a license to sell animal feed. It requires certain regulations for animal feed. It overregulates the manufacturing and selling of animal feed. I am a no because it increase fees and regulations.

Roll call on Senate Bill No. 488:

YEAS—34.

NAYS—Dickman, Fiore, Gardner, Jones, Shelton, Titus—6.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 488 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Senate Bill No. 266 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 266.

Bill read third time.

Remarks by Assemblymen Kirkpatrick, Fiore, Hansen, Hickey, Ellison, Titus, Dickman, Armstrong, and Wheeler.

ASSEMBLYWOMAN KIRKPATRICK:

I rise in support of Senate Bill 266. This bill, in its third reprint, restructures the live entertainment tax to establish that the tax, with certain exemptions, is based on the admission charge being paid for the right or privilege to enter or have access to either indoor or outdoor facilities where live entertainment is provided. The bill establishes provisions regarding a live entertainment tax to be imposed on escort services, certain nude dancing, performances by disc

jockeys, and certain live entertainment provided at a facility with a maximum occupancy of 15,000 or more. The current live entertainment rate of 10 percent or 5 percent based on a 7,500-seat threshold are deleted and are replaced by a single rate of 9 percent. Provisions of the current law regarding the tax being imposed on food, refreshments, and merchandise are also deleted. The bill also specifies that the tax does not apply to any facility with a maximum occupancy of less than 200; live entertainment provided by certain nonprofit organizations only if the number of tickets offered for sale or distribution to the live entertainment is less than 7,500; or live entertainment that is governed by Nevada Interscholastic Activities Association or sponsored by elementary, junior high, middle, or high school if students or faculty provide the live entertainment. I could go on a little bit more, but I wanted to get the main things. One of the things I left off was that the bill provides an annual appropriation of \$150,000 to the Nevada Arts Council.

This is a bill that is revenue neutral. It was structured to ensure that we have one tax rate as opposed to a bifurcated tax rate. This bill changes the threshold, so this is a tax decrease for many because it is one rate. Before, if you were in a facility of less than 7,500, you had to pay 10 percent plus the sales tax. Now you are only paying 9 percent. This is what we talked about with tax structure: broaden the base, lower the rate, and try to capture more folks. I would hope that my colleagues would welcome this. It has been a long time coming. DJs, outdoor concerts—a lot of folks should have always been paying, in my opinion, but if this passes tonight, then it is clear who should be paying.

ASSEMBLYWOMAN FIORE:

This is not a new speech. I am standing in opposition to S.B. 266. I think after what we did yesterday, I am not going to stand in support of more taxes for the people who come to our state. I stand in strong opposition.

ASSEMBLYMAN HANSEN:

This is probably one of the few taxes I want to stand and urge my colleagues to support. I rise in favor of Senate Bill 266. I want to commend our Minority Leader, who has worked diligently for all the sessions I have been here, trying to clean up the very convoluted and confusing tax situation with the live entertainment tax. That is a substantial contributive tax revenue to the General Fund. I want to congratulate her on that and urge the body to support this tax.

ASSEMBLYMAN HICKEY:

I rise in support of Senate Bill 266. Like my colleague from Sparks, I would like to commend the Minority Leader and former Speaker of this body for her work on this bill. We have heard, by way of sponsorship, that this is Senator Lipparelli's bill, but the truth be known, the Minority Leader is behind this effort to stabilize, broaden and, frankly, make fair a very, very complicated tax. She has done the yeoman's work. Later this evening, I know we are going to honor a couple of our prominent members who will be leaving this body, including the person just referenced. This is a testimony and a legacy of that work that will help Nevada make our tax system fairer and make it such that it will support our services and activities. For that, I rise in support and urge my colleagues to as well.

ASSEMBLYMAN ELLISON:

I rise in support of Senate Bill 266. Last session, we vetted this thing out and it did not pass. But from the work that has been done on this, it has been a very good job. Nevada Taxpayers Association was in support. Las Vegas Chamber of Commerce and the Nevada Resort Association were in support. It goes to show you that because of all the hard work, those individuals have come out to support this bill. I ask my colleagues to please support Senate Bill 266.

ASSEMBLYWOMAN TITUS:

I rise in support of Senate Bill 266. You have heard me harp on the fact that we need a fair tax system in this state. We do have to support our schools. We do have to pay for our infrastructure. We do have to fix things. I understand that. Fixing systems that are broken, broadening the bases, and including more are all part of a fair tax system. So I thank you, and I truly support this.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you to all my colleagues, but I will tell you this: I talked yesterday about people working together and getting things done. I know my colleague from the Senate was over here. This is really about him spending the last 120 days to help me look good. When we work together in a bipartisan fashion, Nevada wins. I am very excited and thankful to Senator Lipparelli.

ASSEMBLYWOMAN DICKMAN:

I, too, rise in support of Senate Bill 266. I have to admit that when this bill passed two years ago, I was very opposed to it. But this is to make it better, to make it more fair, and to address some of the issues with it. So I hope you will support this bill.

ASSEMBLYWOMAN FIORE:

I am going to stand with my team and rise in support of S.B. 266. I have to defer to my team, and I am going to support this bill. Thank you, Assemblywoman from District 1.

ASSEMBLYMAN ARMSTRONG:

I rise in support of Senate Bill 266. I know the Assemblywoman from District 1 has worked on this for many, many years. Senator Lipparelli's experience on the Gaming Control Board really contributed to this coming to fruition. I want to thank both of them for taking this on and making this a lot better.

ASSEMBLYMAN WHEELER:

I rise in very, very, very reluctant opposition to this bill. I know that the Minority Leader and the sponsor from the other side have worked very diligently making this tax come together and cleaning things up, and I thank them greatly for that. But what I see, and just in my own principles, when we are going to the hand that feeds us with the entertainment in this state where we live off tourism and we start taxing a little more and a little more—I understand that most of this is not a little more, but there are some spots where we will be adding a little more. I have to say no.

Roll call on Senate Bill No. 266:

YEAS—38.

NAYS—Shelton, Wheeler—2.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 266 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Judiciary, to which was referred Senate Bill No. 512, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

IRA HANSEN, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was referred Senate Bill No. 213, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAUL ANDERSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2015

I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 52.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 376.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

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

Assembly in recess at 8:41 p.m.

ASSEMBLY IN SESSION

At 9:43 p.m.

Mr. Speaker presiding.

Quorum present.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Bills Nos. 12, 70, 85, 94, 113, 114, 163, 170, 173, 203, 238, 263, 293, 295, 325, 341, 351, 364, 386, 388, 389, 409, 421, 428, 447, 448, 452, 457, 462, 466, 469, 472, 473, 482, 483; Assembly Joint Resolution No. 10; Senate Bills Nos. 69, 103, 128, 195, 225, 247, 292, 324, 360, 489, 491, 498, 507.

APPOINTMENT OF CONFERENCE COMMITTEES

Mr. Speaker appointed Assemblymen Hansen, Jones, and Bustamante Adams as a Conference Committee to meet with a like committee of the Senate for the further consideration of Assembly Bill No. 258.

REPORTS OF COMMITTEES

Mr. Speaker:

Your Committee on Ways and Means, to which were referred Senate Bills Nos. 428, 497, 514, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Ways and Means, to which was rereferred Assembly Bill No. 394, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAUL ANDERSON, *Chair*

Mr. Speaker:

Your Concurrent Committee on Ways and Means, to which were referred Senate Bills Nos. 133, 332, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

PAUL ANDERSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2015

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 172, Amendments Nos. 763, 1056, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bill No. 123.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 123.

Assemblyman Paul Anderson moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Trowbridge moved that the Assembly reconsider the action whereby Senate Bill No. 296 was refused passage.

Motion carried.

Assemblyman Paul Anderson moved that Senate Bills Nos. 514, 428, and 497 be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Paul Anderson moved that Assembly Bill No. 394 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 394.

Bill read third time.

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

Amendment No. 1062.

SUMMARY—Creates an advisory committee and a technical committee to develop a plan to reorganize the Clark County School District ~~and~~ **and revises certain provisions related to collective bargaining.** (BDR ~~§ 900~~ **22-900**)

AN ACT relating to education; **authorizing boards of trustees of contiguous school districts to consolidate their respective school districts;** creating an advisory committee and technical advisory committee for the purpose of developing a plan to reorganize the Clark County School District into certain local school precincts; providing for the membership, compensation and duties of the committees; **requiring the State Board of Education to adopt regulations** providing for the implementation of the plan; **revising provisions related to collective bargaining, contingent upon implementation of the plan;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~That~~ **Existing law requires each local government employer to engage in collective bargaining with the recognized employee organization, if any.**

for each appropriate bargaining unit among its employees. (NRS 288.150) For these purposes, effective upon implementation of the plan for the reorganization of the Clark County School District into local school precincts pursuant to sections 21-29 of this bill, section 20.7 of this bill provides that the District remains a local government employer with respect to employees engaged in any centralized services or functions provided or performed by the District, while each local school precinct becomes the local government employer of employees engaged in the services or functions of the local school precinct. Existing law establishes a process for the resolution of impasses in bargaining involving a school district and an employee organization representing teachers or educational support personnel. (NRS 288.217) Section 20.9 of this bill revises these provisions to make them applicable also to a local school precinct.

Existing law creates county school districts, the boundaries of which are coterminous with the boundaries of the counties of this State. (NRS 386.010) Sections 20.1 and 20.2 of this bill authorize two or more boards of trustees of contiguous school districts to consolidate the respective school districts by interlocal agreement.

Section 25 of this bill provides for the creation of an advisory committee ~~and a technical advisory committee~~ for the purpose of developing a plan to reorganize the Clark County School District into ~~not less than five~~ local school precincts ~~1. Section 25 of this bill creates the advisory committee for the purpose of developing the plan, and section 26~~ and to study the distribution of federal, state and local funds and the impact of local school precincts on public school financing. Section 26 of this bill creates ~~the~~ a technical advisory committee for the purpose of assisting the advisory committee. Sections 25 and 26 also provide for the membership, compensation and duties of the respective committees. Section 27 of this bill requires the advisory committee, in consultation with the technical advisory committee, to contract with a consultant for the purposes of conducting a study with respect to developing the plan ~~and to establish certain benchmarks to ensure that the plan may be implemented before the 2017-2018 school year.~~ and with the study of the distribution of federal, state and local funds and the impact of the precincts on public school financing. Section 27 authorizes the advisory committee to request from the Interim Finance Committee an allocation of money to conduct the study. Section 27 prescribes the subject matter which must be contemplated by the advisory committee in developing the plan. Section 28 of this bill requires the Board of County Commissioners of Clark County to conduct certain public meetings within the County for the purpose of receiving public comment and input with respect to a proposed plan. Section 28 requires the advisory committee to file the plan with the State Board of Education, the Board of Trustees of the Clark County School District ~~and provides for the immediate implementation of the plan upon filing.~~ and the Director of the Legislative Counsel Bureau for transmittal

to the 79th Session of the Nevada Legislature. Section 28 also requires the State Board to adopt regulations necessary and appropriate to effectuate the implementation of the plan not later than the 2018-2019 school year. The plan must not be implemented until the regulations are adopted and effective.

WHEREAS, The system of public education in Nevada is organized by county school districts, the boundaries of which are coterminous with the boundaries of this State; and

WHEREAS, Recent statistics indicate that the Clark County School District is ranked as the fifth school district in the nation with the highest enrollment of pupils and the seventh largest by area in the continental United States, covering over 8,000 square miles; and

WHEREAS, The Clark County School District, with a pupil enrollment of approximately 315,000 pupils, accounts for 70 percent of the pupils who are enrolled in the public schools of this State; and

WHEREAS, The unique geography of this State has resulted in the concentration of some schools and pupils at locations that are considerably distant and remote from the centralized administrative offices of the various school districts; and

WHEREAS, Allowing smaller school districts to consolidate services, functions and personnel could result in cost effective savings and provide more accessibility for pupils and parents who reside in remote areas of this State; and

WHEREAS, Reconfiguring the structure of the Clark County School District into local school precincts will offer an educational system that is responsive to the needs and concerns of the residents of that school district; and

WHEREAS, The plan to develop local school precincts will take a considerable amount of time and study to ensure the plan is designed in a manner that benefits the residents of the Clark County School District, now, therefore,

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. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 20.1. NRS 277.103 is hereby amended to read as follows:

277.103 1. The governing bodies of a county, the largest city, and each other incorporated city which chooses to participate may consolidate the services provided by those governments, by interlocal agreement pursuant to the provisions of NRS 277.105.

2. **Two or more boards of trustees of contiguous school districts may consolidate the respective school districts, by interlocal agreement pursuant to the provisions of subsection 3 of NRS 277.105. The boundaries of a consolidated school district created by interlocal agreement must be coterminous with the boundaries of the contiguous school districts being consolidated.**

3. The provisions of this section and NRS 277.105 supplement, and in case of conflict prevail over, the provisions of NRS 277.110 to 277.180, inclusive.

Sec. 20.2. NRS 277.105 is hereby amended to read as follows:

277.105 1. In a county in which governmental services are consolidated, the governing bodies may establish a permanent administrative entity to perform specific functions throughout the participating cities and in the unincorporated area of the county, including, but not limited to:

- (a) Prevention and suppression of fire.
- (b) Sanitation and sewerage.
- (c) Planning, regulation of use of land and buildings, inspection of buildings for safety, and the issuance of building permits.
- (d) Regulation of business and gaming and issuance of business and gaming licenses.
- (e) Provision of parks and recreation, including the maintenance of existing facilities.
- (f) Provision of informational systems and data processing for the county and participating cities.
- (g) General services and the maintenance of buildings and vehicles for the county and participating cities.

2. The county and each participating city may negotiate concerning the manner of contributing to the budget of the administrative entity in proportion to the sum of revenues derived by each from taxes, licenses for business and gaming, and fees for services performed, in each city and in the unincorporated area of the county, respectively.

3. An interlocal agreement entered into between two or more boards of trustees for the purposes of consolidating contiguous school districts may set forth any terms and conditions necessary to facilitate the creation, operation, management and administration of the consolidated school district.

Sec. 20.3. Chapter 288 of NRS is hereby amended by adding thereto a new section to read as follows:

“Local school precinct” means a local school precinct that is organized in the Clark County School District in accordance with a plan developed and implemented pursuant to sections 21 to 29, inclusive, of this act.

Sec. 20.5. NRS 288.020 is hereby amended to read as follows:

288.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 288.025 to 288.075, inclusive, and section 20.3 of this act have the meanings ascribed to them in those sections.

Sec. 20.7. NRS 288.060 is hereby amended to read as follows:

288.060 ~~“Local~~

1. Except as otherwise provided in subsection 3, “local government employer” means any political subdivision of this State or any public or quasi-public corporation organized under the laws of this State. ~~and~~

2. The term includes, without limitation, counties, cities, unincorporated towns, school districts, charter schools, hospital districts, irrigation districts and other special districts.

3. Regarding the Clark County School District, the term means:

(a) With respect to any centralized services or functions provided or performed by the District in accordance with a plan developed and implemented pursuant to sections 21 to 29, inclusive, of this act, the District;
or

(b) With respect to the services or functions of a local school precinct not described in paragraph (a), the local school precinct.

Sec. 20.9. NRS 288.217 is hereby amended to read as follows:

288.217 1. The provisions of this section govern negotiations between school districts or local school precincts and employee organizations representing teachers and educational support personnel.

2. If the parties to a negotiation pursuant to this section have failed to reach an agreement after at least four sessions of negotiation, either party may declare the negotiations to be at an impasse and, after 5 days’ written notice is given to the other party, submit the issues remaining in dispute to an arbitrator. The arbitrator must be selected in the manner provided in subsection 2 of NRS 288.200 and has the powers provided for fact finders in NRS 288.210.

3. The arbitrator shall, within 30 days after the arbitrator is selected, and after 7 days’ written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearing must be held in the county in which the school district or local school precinct is located and the arbitrator shall arrange for a full and complete record of the hearing.

4. The parties to the dispute shall each pay one-half of the costs of the arbitration.

5. A determination of the financial ability of a school district or local school precinct must be based on:

(a) All existing available revenues as established by the school district or local school precinct and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the school district or local school precinct to provide an education to the children residing within the district ~~++~~ or local school precinct.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➡ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

6. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearing for a period of 3 weeks. If an agreement is reached, it must be submitted to the arbitrator, who shall certify it as final and binding.

7. If the parties do not enter into negotiations or do not agree within 30 days after the hearing held pursuant to subsection 3, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

8. The arbitrator shall, within 10 days after the final offers are submitted, render a decision on the basis of the criteria set forth in NRS 288.200. The arbitrator shall accept one of the written statements and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract between the parties.

9. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's reason for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

10. Within 45 days after the receipt of the decision from the arbitrator, the board of trustees of the school district or the governing body of the local school precinct, as applicable, shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 2;

(b) The statement of the arbitrator pursuant to subsection 9; and

(c) The overall fiscal impact of the decision which must not include a discussion of the details of the decision.

➡ The arbitrator must not be asked to discuss the decision during the meeting.

11. The superintendent of the school district or the executive head of the local school precinct shall report to the board of trustees or the governing body of the local school precinct, as applicable, the fiscal impact of the decision. The report must include, without limitation, an analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment.

12. As used in this section:

(a) "Educational support personnel" means all classified employees of a school district, other than teachers, who are represented by an employee organization.

(b) "Teacher" means an employee of a school district who is licensed to teach in this State and who is represented by an employee organization.

Sec. 21. As used in sections 21 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 22, 23 and 24 of this act have the meanings ascribed to them in those sections.

Sec. 22. "Advisory committee" means the advisory committee created by section 25 of this act.

Sec. 23. "Plan" means the plan ~~developed by the advisory committee in accordance with sections 21 to 28, inclusive,~~ required by paragraph (a) of subsection 1 of section 25 of this act.

Sec. 24. "Technical advisory committee" means the technical advisory committee created by section 26 of this act.

Sec. 24.5. The Legislature hereby finds and declares that a general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in sections 21 to 29, inclusive, of this act because of the number of atypical factors and special conditions relating to the Clark County School District.

Sec. 25. 1. There is hereby created an advisory committee to ~~develop~~ :

(a) Develop a plan and recommendations to reorganize the Clark County School District into ~~not less than five~~ local school precincts ~~before~~ not later than the ~~(2017-2018)~~ 2018-2019 school year.

(b) Study the distribution of federal, state and local funds and the impact of local school precincts on public school financing.

2. The advisory committee consists of nine members appointed as follows:

(a) Four members of the Senate who are elected from districts which include any area located within Clark County, two of whom are appointed by the Majority Leader of the Senate and two of whom are appointed by the Minority Leader of the Senate.

(b) Four members of the Assembly who are elected from districts which include any area located within Clark County, two of whom are appointed by the Speaker of the Assembly and two of whom are appointed by the Minority Leader of the Assembly.

(c) One ~~member~~ **Legislator** appointed by the Legislative Commission who is ~~a member of the general public, is a resident of~~ **elected from a district which includes any area located within Clark County, and represents the ethnic diversity of Clark County.**

3. At the first meeting of the advisory committee, the advisory committee shall elect a Chair and a Vice Chair from among its members.

4. A majority of the members of the advisory committee constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the advisory committee.

5. A vacancy in the membership of the advisory committee must be filled in the same manner as the original appointment.

6. Members of the advisory committee serve without compensation, except that a member is entitled, while engaged in the business of the advisory committee, to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 26. 1. To assist the advisory committee with technical expertise, input, advice and assistance, a technical advisory committee is hereby created consisting of the following members:

(a) One member ~~who is~~ appointed by the governing body of each incorporated city located within Clark County.

(b) ~~Two members who are~~ **One member appointed by the Governor.**

(c) **One member** appointed by the State Board of Education.

~~(c)~~ (d) One member ~~who is~~ appointed by the Board of Trustees of the Clark County School District.

(e) One member appointed by the Board of County Commissioners of Clark County.

(f) One member appointed by the Legislative Commission from a list of recommendations made by the Clark County Education Association.

(g) One member appointed by the Legislative Commission from a list of recommendations made by the Urban Chamber of Commerce.

(h) One member appointed by the Legislative Commission from a list of recommendations made by the Latin Chamber of Commerce, Nevada Inc.

(i) One member who is a parent or guardian of a pupil enrolled in the Clark County School District appointed by the Legislative Commission from a list of recommendations made by the Nevada Parent Teacher Association.

(j) One member appointed by the Legislative Commission from a list of recommendations made by the Las Vegas Asian Chamber of Commerce.

(k) Any other persons who have knowledge, experience or expertise in the matters before the advisory committee, appointed by the Chair of the advisory committee.

2. **At the first meeting of the technical advisory committee, the technical advisory committee shall elect a Chair and a Vice Chair from among its members.**

3. The members of the technical advisory committee serve without compensation, except that a member is entitled, while engaged in the business of the technical advisory committee, to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 27. 1. The advisory committee shall, in consultation with the technical advisory committee ~~and~~ **and to the extent money is available pursuant to subsection 2 and from any gifts or grants received for this purpose:**

(a) Contract with a qualified independent consultant to perform a study and assist the advisory committee with ~~developing~~ :

(1) Developing the plan ~~and~~ required by paragraph (a) of subsection 1 of section 25 of this act; and

(2) Studying the distribution of federal, state and local funds and the impact of local school precincts on public school financing.

(b) As soon as practicable, establish benchmarks that must be met within the Clark County School District to ensure that the plan may be implemented ~~before the 2017-2018~~ **not later than the 2018-2019** school year.

2. The advisory committee may request approval from the Interim Finance Committee for an allocation of money to conduct the **plan and the** study required pursuant to paragraph (a) of subsection 1.

3. The plan and the study conducted pursuant to paragraph (a) of subsection 1 must be completed on or before ~~October 1, 2016~~ **January 1, 2017.**

4. In developing the plan to reorganize the Clark County School District, the advisory committee must:

(a) Ensure equity in the reorganization of the Clark County School District with respect to the Nevada Plan.

(b) Take into consideration:

(1) The contiguous boundaries of each proposed local school precinct.

(2) The allocation, dedication and transfer of any revenue to a local school precinct that may be dedicated to capital projects and improvements for schools and school facilities, school programs, pupils or other costs directly incidental to the operation, management and administration of the local school precinct.

(3) The authority to issue bonds or otherwise raise revenue.

(4) The application for and receipt of any grant, gift or bequest.

(5) The creation and administration of accounts to manage any money received by a local school precinct.

(6) The transfer of any interest in real or personal property, including, without limitation, lease agreements.

(7) Precinct planning and management, including, without limitation, financial planning for school programs, pupil funding and capital projects and improvements.

(8) Administrative support, including, without limitation, accounting, data processing, payroll and purchasing agreements.

(9) The liability of a local school precinct with respect to any duties and obligations of the Board of Trustees of the Clark County School District which will be assumed by the governing body of a precinct.

(10) The civil and administrative liability of a local school precinct and its employees.

(11) Interlocal agreements between a local school precinct and a state, county or regional planning authority.

(12) Staffing, including, without limitation, the transfer, reassignment or hiring of personnel.

(13) Employment contracts and collective bargaining.

(14) Employee and pupil safety.

(15) The maintenance of schools, school facilities and school grounds.

(16) Transportation.

(17) Interscholastic athletics and activities.

(18) Curriculum.

(19) The provision of services and education to pupils:

(I) Who have limited proficiency in the English language.

(II) Who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.

(III) With disabilities.

(20) The composition of the governing body for each local school precinct and the compensation, if any, of the members of a governing body.

(c) Ensure that the Clark County School District is funded in accordance with the Nevada Plan and that such funding is distributed on a per pupil basis among the local school precincts created by the plan.

(d) Authorize one or more local school precincts to ~~request that~~ **consider and agree with** the Clark County School District ~~to issue bonds on behalf of the local school precincts.~~

~~(e) Require the Clark County School District to issue bonds upon receiving a request for such issuance pursuant to paragraph (d), except for good cause.~~

~~(f) Require a local school precinct on behalf of which bonds are issued pursuant to paragraph (e) to use the proceeds from the issuance of the bonds on a per pupil basis.~~ **to share in any bonding capacity of the District and to otherwise raise revenue.**

5. As used in this section, “Nevada Plan” means the formula created for providing state financial aid to public education prescribed in NRS 387.121.

Sec. 28. 1. Upon completion of ~~the preliminary findings and the proposed plan~~ ~~and the study~~ prepared pursuant to **subparagraph (1) of paragraph (a) of subsection 1 of section 27 of this act,** the Board of County Commissioners of Clark County shall conduct not less than ~~four~~ **six** public

meetings. Not less than one of the public meetings conducted pursuant to this section must be held in an unincorporated area of Clark County.

2. At each public meeting conducted pursuant to this section, the advisory committee and the consultant retained pursuant to paragraph (a) of subsection 1 of section 27 of this act shall present the preliminary findings and the proposed plan **prepared pursuant to subparagraph (1) of paragraph (a) of subsection 1 of section 27 of this act** for the purpose of receiving public comment and input.

3. Upon completion of the public meetings conducted pursuant to this section, the advisory committee shall:

- (a) Revise the proposed plan, as necessary;
- (b) File the proposed plan with the **State Board of Education and the Board of Trustees of the Clark County School District**; and
- (c) Submit a copy of the **proposed** plan to ~~the~~
 - ~~(1) The Superintendent of Public Instruction; and~~
 - ~~(2) The Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.~~

4. ~~Except as otherwise provided in subsection 5, the plan is effective immediately upon the filing of the proposed plan pursuant to subsection 3 and must be implemented for the 2017-2018 school year.~~ **The State Board of Education shall adopt regulations necessary and appropriate to effectuate the implementation of the proposed plan not later than the 2018-2019 school year.**

~~5. If the advisory committee files a plan pursuant to subsection 3 and makes a determination that there is sufficient time to implement the plan for the 2016-2017 school year, the plan is immediately effective upon the filing of the proposed plan and must be implemented for the 2016-2017 school year. The plan must not be implemented until the regulations are adopted and become effective.~~

Sec. 28.3. Upon notice from the State Board of Education that the plan developed pursuant to sections 21 to 29, inclusive, of this act has been implemented, the Governor shall issue a proclamation to that effect.

Sec. 28.5. The advisory committee shall submit a report of the results of the study required by paragraph (b) of subsection 1 of section 25 of this act and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

Sec. 29. ~~111~~ The members of the advisory committee and the technical advisory committee must be appointed on or before ~~July 10, 2015.~~

~~2. The Chair of the Legislative Commission shall call the first meeting of the advisory committee which must take place on or before August 7, 2015.~~ **January 1, 2016. The Chair of the advisory committee shall convene the first meeting of the technical advisory committee.**

Sec. 30. 1. This ~~act becomes~~ section and sections 20.1, 20.2 and 21 to 29, inclusive, of this act become effective upon passage and approval and expires by limitation on June 30, 2017, on July 1, 2015.

2. Sections 20.3 to 20.9, inclusive, of this act become effective upon the issuance of the proclamation by the Governor pursuant to section 28.3 of this act.

Assemblyman Gardner moved the adoption of the amendment.

Remarks by Assemblymen Gardner, Thompson, Hickey, and Stewart.

ASSEMBLYMAN GARDNER:

This last amendment did two things. We fixed a potential issue with bonding. I have a letter here from Brenda Erdoes that I will read into the record: "With the changes to Assembly Bill 394, we are removing the concerns raised regarding bonding in the letter submitted by Sherman and Howard dated May 21, 2015. The primary concerns raised by the letter with respect to the bonding issues in section 27 of the bill and the advisory study, which was created in the bill because of the proposed amendment to the first reprint, removed section 27 as well as all the provisions related to the advisory committee. The questions raised by the letter are no longer applicable." That was from our counsel, Brenda Erdoes. So it fixed that part of it.

It also said that now the Legislative Commission will approve the regulations from the Department of Education that will allow this plan to go forward. I ask for your support.

ASSEMBLYMAN THOMPSON:

I just have a few questions for my colleague. Why are we not doing a feasibility study on this before jumping into an implementation plan? It seems like the things we do in this institution, especially of this magnitude, always include a study. We come back and see if it is feasible and then we develop a plan.

ASSEMBLYMAN GARDNER:

Thank you for the question. This actually will call for a study. The study will go through the ability to do this. We will be hiring a third-party researcher who has done deconsolidations and who will be able to inform us how to do it through best practices. That would be part of the study that is part of this plan.

ASSEMBLYMAN THOMPSON:

I see "plan" written throughout the entire amendment. Secondly, can you give us examples of like-built communities that have succeeded in these types of efforts? Where have they done this and done this successfully? Where have they ensured that it does not become the haves and the have-nots, that it is as equitable as possible?

ASSEMBLYMAN GARDNER:

This exact format? No, I would not be able to give you an example of that because part of this is a hybrid that I have worked out with the Brookings Institution and some other think tanks down in Las Vegas. We have debated how to make it the most equitable. Part of this is our hybrid version of some other precincts for that exact reason: to make it as equitable as possible. That is the reason why it is going to be the precincts under the Clark County School District instead of breaking it up because of the issues we have had in other states, such as Utah. They broke up the school districts and the local funding was what created the haves and have-nots. Whoever has the Strip down in Las Vegas would have the most funding because they pay the property taxes. The way we are going to be doing that is making sure that the funding is equal throughout the entire Clark County. That is why our plan is kind of a hybrid of regular ones. We are going to be breaking it up, but the funding will stay exactly the same on a per-pupil basis.

ASSEMBLYMAN HICKEY:

I would like to see us go forward with this amendment and with this discussion. I think the question brought by our colleague about a feasibility study is a valid and a practical concern. The

fact of the matter is, this issue has not only been studied, it has been discussed and in many respects, the discussion has been requested for a long time. While I am not from the south, I think all of us in this body would benefit from seeing this process go forward. I think adding another layer of discretion for this body through the Legislative Commission will ensure that if it is feasible, it will be done in the most thoughtful of ways—in this body, in a bipartisan or even a partisan way, whatever would be the desire. The Legislative Commission is somewhat beyond that, and I think in that regard we could trust their input to this. I hope that we will not only support this amendment but the bill. Give it an opportunity, whether it is really able to go forward in the ways envisioned now. I think it is something that for the sake of our school system in Nevada is worthy of consideration.

ASSEMBLYMAN STEWART:

To my colleague from District 9, could you clarify again exactly what the Legislative Commission will approve?

ASSEMBLYMAN GARDNER:

Thank you for the question, my colleague from the double deuce. We are trying to get the Legislative Commission to approve the plan, but we were told by Brenda Erdoes that we could not do that directly. It is a constitutional issue. The idea was to have the State Board of Education implement regulations to allow the plan to go forward. The plan would not be allowed to go forward until it had been approved by the Legislative Commission. That way, the Legislative Commission would have a veto on this if it went squirrely or there were any issues with it.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 514.

Bill read third time.

Remarks by Assemblywoman Carlton.

ASSEMBLYWOMAN CARLTON:

I rise in support of Senate Bill 514. This is the appropriations bill. It was introduced in the Senate. It is required to sit for 24 hours. It started its clock at 11:00 in the Senate yesterday. It arrived in our house today. It is our appropriations bill that is included in the *Executive Budget*. Ways and Means spent close to 134 meetings covering over 400 budgets to address the funding model for the state. We would be happy to answer any questions. I do have it marked up, so I am ready to go.

Roll call on Senate Bill No. 514:

YEAS—34.

NAYS—Ellison, Fiore, Jones, Shelton, Titus, Wheeler—6.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 514 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 428.

Bill read third time.

Remarks by Assemblyman Oscarson.

ASSEMBLYMAN OSCARSON:

Senate Bill 428, as amended, appropriates \$1,140,613 from the State General Fund to the Division of Forestry of the State Department of Conservation and Natural Resources for the replacement of emergency response and firefighting equipment and vehicles and appropriates \$1,795,518 from the State General Fund to the State Department of Conservation and Natural

Resources for the forestry conservation camps for the replacement of critical vehicles used to transport crews.

Roll call on Senate Bill No. 428:

YEAS—39.

NAYS—Shelton.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 428 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 497.

Bill read third time.

Remarks by Assemblyman Sprinkle.

ASSEMBLYMAN SPRINKLE:

Senate Bill 497, as amended, provides General Fund appropriations to restore fund balances in various accounts authorized in Chapter 353 of the *Nevada Revised Statutes*. The General Fund appropriations are \$2 million to restore the balance of the State Claims Account, \$100,000 to restore the balance of the Emergency Account, \$2.5 million to restore the balance of the Reserve for Statutory Contingency Account, and \$9 million to restore the balance in the Interim Finance Committee Contingency Account.

Roll call on Senate Bill No. 497:

YEAS—39.

NAYS—Shelton.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 497 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Assembly Bill No. 394 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Paul Anderson moved that Senate Bill No. 421 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 394.

Bill read third time.

Remarks by Assemblymen Gardner and Silberkraus.

ASSEMBLYMAN GARDNER:

Assembly Bill 394 creates an advisory committee and a technical advisory committee to develop a plan for the reorganization of the Clark County School District into school precincts and provides for the membership and duties of each committee. The advisory committee, in consultation with the technical advisory committee, is authorized to enter into a contract with a consultant to perform a study and assist the advisory committee with developing the plan. Upon the completion of the plan, the Board of Commissioners of Clark County is required to conduct at

least six public meetings to receive public comment concerning the plan. The committee must file the final plan with the Board of Trustees of the Clark County School District and submit copies to the Superintendent of Public Instruction and the Director of the Legislative Counsel Bureau as well as filing with the State Board of Education. Once it is sent to the State Board of Education, the Board will implement the plan through regulations. Those regulations would then have to be approved by the Legislative Commission before it could go forward. This plan must be implemented before the 2018-2019 school year.

This has been something I have worked on for probably five-plus months, and I have been very thankful for the Minority Leader as well as many people in my caucus and her caucus. I believe we have come to something that we can all agree on, or at least we have knocked out most of the main issues. We have worked a lot of hours on this. I ask you for your support.

ASSEMBLYMAN SILBERKRAUS:

I rise in strong support of Assembly Bill 394. I would just like to take a moment to thank the Assemblyman to my right for his hard work and dedication over the last several months to work with all parties to come up with the best piece of legislation for the future of our children.

Roll call on Assembly Bill No. 394:

YEAS—35.

NAYS—Araujo, Carlton, Munford, Neal, Thompson—5.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 394 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 172.

The following Senate amendment was read:

Amendment No. 763.

AN ACT relating to public works; raising the estimated thresholds at or above which prevailing wage requirements apply to certain public work construction projects; increasing the amount of a preference in bidding on certain public works given to contractors and certain other persons who meet certain eligibility requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, any contract for a public work whose cost is \$100,000 or more is subject to the prevailing wage requirements. (NRS 338.080) The prevailing wage requirements also apply if a redevelopment agency provides financial incentives to the developer with a value of more than \$100,000. (NRS 279.500) **Sections 3 and 4** of this bill raise the threshold for the applicability of prevailing wage requirements from \$100,000 to ~~to \$250,000,~~ **\$500,000**, require this amount to be adjusted every 5 years for inflation, and also make a technical correction in **section 4** clarifying that if the relevant work will cost exactly ~~\$250,000,~~ **\$500,000**, the work is subject to the prevailing wage requirements.

Under existing law, a contractor, applicant to serve as a construction manager at risk or design-build team may qualify to receive a 5 percent

preference in bidding on certain contracts for public works if certain conditions, including the employment of a specified percentage of Nevada employees, are met. (NRS 338.1389, 338.147, 338.1693, 338.1725, 338.1727, 408.3886) **Sections 3.3, 3.5, 3.6, 3.7, 3.8 and 4.5** increase the amount of that preference in bidding to 7.5 percent.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 338.080 is hereby amended to read as follows:

338.080 **1.** None of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

~~1-1~~ **(a)** Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

~~1-2~~ **(b)** Apprentices recorded under the provisions of chapter 610 of NRS.

~~1-3~~ **(c)** Any contract for a public work whose cost is less than ~~\$100,000-
\$350,000-
\$500,000~~ **\$500,000**. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below ~~\$100,000-
\$350,000-
\$500,000~~ **\$500,000**.

2. The Labor Commissioner shall, on or before January 1, 2020, and every 5 years thereafter, adjust the amount set forth in paragraph (c) of subsection 1 to reflect inflation, as measured by the average percentage of increase or decrease in the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, for the preceding 5 years. The Labor Commissioner shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts to take effect on January 1 of that year.

Sec. 3.3. NRS 338.1389 is hereby amended to read as follows:

338.1389 **1.** Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a responsive and responsible contractor who:

(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(2) At the time the contractor submits his or her bid, provides a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(3) Within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117; and

(b) Not more than ~~15~~ 7.5 percent higher than the bid submitted by the lowest responsive and responsible bidder who:

(1) Does not provide, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4; or

(2) Does not submit, within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (d), inclusive, of subsection 1 of NRS 338.0117 for the duration of the contract,

➤ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to

the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public

works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works:

(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information; or

(b) Is found by the Board to have, within the preceding 5 years, materially breached a contract for a public work for which the cost exceeds \$5,000,000, the contractor is not eligible to receive a preference in bidding on public works.

10. 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 subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may receive a preference in bidding only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person who submitted a bid on the public work or an entity who believes that the contractor who was awarded the contract for the public work wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss

the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 3.5. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a contractor who:

(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative;

(2) At the time the contractor submits his or her bid, provides a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

(3) Within 2 hours after the completion of the opening of the bids by the local government or its authorized representative, submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117; and

(b) Not more than ~~4.5~~ 7.5 percent higher than the bid submitted by the lowest responsive and responsible bidder who:

(1) Does not provide, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4; or

(2) Does not submit, within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (d), inclusive, of subsection 1 of NRS 338.0117 for the duration of the contract,

➤ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on

an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his or her own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:

(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and

(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.

7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reappplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.

8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.

9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works:

(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information; or

(b) Is found by the Board to have, within the preceding 5 years, materially breached a contract for a public work for which the cost exceeds \$5,000,000, the contractor is not eligible to receive a preference in bidding on public works.

10. 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 subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.

11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may receive a preference in bidding only if both or all of the joint venturers separately meet the requirements of subsection 2.

12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

13. A person who submitted a bid on the public work or an entity who believes that the contractor who was awarded the contract for the public work wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and

(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.

14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.

Sec. 3.6. 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, 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 ~~15~~ 7.5 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 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 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. When ranking the applicants, the panel that conducted the interviews shall assign a relative weight of ~~15~~ 7.5 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.

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 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.

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. 3.7. NRS 338.1725 is hereby amended to read as follows:

338.1725 1. The public body shall select at least two but not more than four finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design-build team for the design and construction of the public work.

2. The public body shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 338.1721;

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work; and

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of ~~15~~ 7.5 percent to the possession of both a

certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. After the selection of finalists pursuant to this section, the public body shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and identify which of the finalists, if any, received an assignment of ~~15~~ 7.5 percent pursuant to paragraph (c) of subsection 2.

Sec. 3.8. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of ~~15~~ 7.5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team if the contractors submit signed affidavits that meet the requirements of subsection 1 of NRS 338.0117, and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team, and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to a preference in bidding on public works, or a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the

public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body or its authorized representative shall enter into negotiations with the most qualified applicant, as determined pursuant to the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected. If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. If a public body selects a final proposal and awards a design-build contract pursuant to subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 4. NRS 279.500 is hereby amended to read as follows:

279.500 1. The provisions of NRS 338.010 to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction which is awarded on or after October 1, 1991, by an agency for work to be done in a project.

2. If an agency:

(a) Provides property for development at less than the fair market value of the property;

(b) Provides a loan to a small business pursuant to NRS 279.700 to 279.740, inclusive; or

(c) Provides financial incentives to a developer with a value of ~~more than \$100,000, \$350,000 or more,~~ **\$500,000 or more,**

↪ regardless of whether the project is publicly or privately owned, the agency must provide in the loan agreement with the small business or the agreement with the developer, as applicable, that the development project is subject to the provisions of NRS 338.010 to 338.090, inclusive, to the same extent as if the agency had awarded the contract for the project. This subsection applies only to the project covered by the loan agreement between the agency and the small business or the agreement between the agency and the developer, as applicable. This subsection does not apply to future development of the property unless an additional loan, or additional financial incentives with a value of ~~more than \$100,000, \$350,000 or more,~~ **\$500,000 or more,** are provided to the small business or developer, as applicable.

3. *The Labor Commissioner shall, on or before January 1, 2020, and every 5 years thereafter, adjust the amount set forth in paragraph (c) of subsection 2 to reflect inflation, as measured by the average percentage of increase or decrease in the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, for*

the preceding 5 years. The Labor Commissioner shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts to take effect on January 1 of that year.

Sec. 4.5. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of ~~5~~ 7.5 percent to the design-build team's possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team, if the design-build team submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117, and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team, and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction

with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 5. 1. The amendatory provisions of this act do not apply to a public work or other project of construction, repair or reconstruction that is awarded before July 1, 2015.

2. As used in this section, “public work” has the meaning ascribed to it in NRS 338.010.

Sec. 6. (Deleted by amendment.)

Sec. 7. This act becomes effective on July 1, 2015.

Assemblyman Ellison moved that the Assembly concur in the Senate Amendment No. 763 to Assembly Bill No. 172.

Remarks by Assemblymen Ellison and Wheeler.

ASSEMBLYMAN ELLISON:

The amendment, among other things, makes various changes to the calculations of the prevailing wage, repeals provisions of Senate Bill 119 from earlier in this session which exempt public works projects of the school districts and the Nevada System of Higher Education from the requirement to pay prevailing wages and instead provides that the Labor Commission must set the prevailing wages on the public works at 90 percent of the rate of the prevailing wages on other public works. The amendment also sets the prevailing wage threshold at \$250,000 and removes the 2.5 percent increase in local bidder preference.

Apparently, this is something that both the union and nonunion folks worked on over on the Senate side.

ASSEMBLYMAN WHEELER:

I rise in great opposition to this amendment. This will undo all of the prevailing wage work that we did earlier in the session on S.B. 119. If you look at the actual numbers on this, with a 10 percent reduction in labor, this is only going to equate to, at most, about a 4 or 5 percent reduction in the overall project. Yet right after S.B. 119 was passed, we saw a bid out of West Wendover that was a full 10 percent off of the entire estimate and would obviously save the state quite a bit more money. That was exactly the point of what we did earlier in the session. I rise in strong opposition. Instead of building nine or ten schools in Clark County and the rest of the state and getting one free, now we can build nine and a half or ten and get one free? I do not think so. I think, ladies and gentlemen, we need to not adopt this amendment.

Motion carried by a constitutional majority.

The following Senate amendment was read:

Amendment No. 1056.

AN ACT relating to public works; **revising the manner in which the prevailing wage is determined; requiring the Labor Commissioner to determine the prevailing wage to be a certain percentage for certain public works of school districts and the Nevada System of Higher Education;** raising the estimated thresholds at or above which prevailing wage requirements apply to certain public work construction projects; ~~increasing the amount of a preference in bidding on certain public works given to contractors and certain other persons who meet certain eligibility requirements;~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires that mechanics and workers employed on certain public works be paid at least the wage prevailing for the type of work that the mechanic or worker performs in the locale in which the public work

is located. (NRS 338.020) Section 2.3 of this bill prescribes the manner in which the Labor Commissioner must determine the prevailing wage for such a public work.

Senate Bill No. 119 of this legislative session exempted public works of school districts and the Nevada System of Higher Education from the requirement to pay prevailing wage. Section 6.7 of this bill repeals those provisions of Senate Bill No. 119, thereby making school districts and the Nevada System of Higher Education subject to that requirement. Section 2.3 of this bill provides that the Labor Commissioner must set the prevailing wage on these public works at 90 percent of the rate of prevailing wage on other public works.

Under existing law, any contract for a public work whose cost is \$100,000 or more is subject to the prevailing wage requirements. (NRS 338.080) ~~The prevailing wage requirements also apply if a redevelopment agency provides financial incentives to the developer with a value of more than \$100,000. (NRS 279.500) Sections 3 and 4 of this bill raise~~ raises the threshold for the applicability of prevailing wage requirements from \$100,000 to ~~\$500,000, require this amount to be adjusted every 5 years for inflation, and also make a technical correction in section 4 clarifying that if the relevant work will cost exactly \$500,000, the work is subject to the prevailing wage requirements.~~

~~Under existing law, a contractor, applicant to serve as a construction manager at risk or design build team may qualify to receive a 5 percent preference in bidding on certain contracts for public works if certain conditions, including the employment of a specified percentage of Nevada employees, are met. (NRS 338.1389, 338.147, 338.1693, 338.1725, 338.1727, 408.3886) Sections 3.3, 3.5, 3.6, 3.7, 3.8 and 4.5 increase the amount of that preference in bidding to 7.5 percent.~~ \$250,000. Section 3 also exempts charter schools from prevailing wage requirements.

Section 5 of this bill provides that the amendatory provisions of this bill do not apply to a public work awarded before the effective date of this bill.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 2.3. NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain from the Labor Commissioner the prevailing wage in the county in which the public work is to be performed for each craft or type of work.

2. ~~To establish a~~ The prevailing wage in each county, including Carson City, ~~the~~ must be established as follows:

(a) The Labor Commissioner shall, annually, survey contractors who have performed work in the county.

(b) Based on the survey conducted pursuant to paragraph (a), where the rate of wages is the same for more than 50 percent of the total hours worked by each craft or type of work in that county on construction similar to the proposed construction, that rate will be determined as the prevailing wage.

(c) Where no such rate can be determined, the prevailing wage for a craft or type of work will be determined as the average rate of wages paid per hour based on the number of hours worked per rate, to that craft or type of work.

(d) The Labor Commissioner shall determine the prevailing wage to be 90 percent of the rate determined pursuant to paragraphs (a), (b) and (c) for:

(1) Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a school district or the Nevada System of Higher Education is a party; and

(2) A public work of, or constructed by, a school district or the Nevada System of Higher Education, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a school district or the Nevada System of Higher Education.

3. Within 30 days after the determination is issued:

(a) A public body or person entitled under subsection ~~151~~ 6 to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

~~131~~ 4. The Labor Commissioner shall hold a hearing in the locality in which the work is to be executed if the Labor Commissioner:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to subsection ~~121~~ 3.

↪ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.

~~141~~ 5. Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.

~~151~~ 6. At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

~~161~~ 7. The wages so determined must be filed by the Labor Commissioner and must be available to any public body which awards a contract for any public work.

~~171~~ 8. Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.

Sec. 2.7. 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 ~~the \$100,000~~ \$250,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

Sec. 3. NRS 338.080 is hereby amended to read as follows:

338.080 ~~HH~~ None of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

1. ~~HH~~ Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

2. ~~HH~~ Apprentices recorded under the provisions of chapter 610 of NRS.

3. ~~HH~~ Any contract for a public work whose cost is less than ~~\$100,000-\$500,000~~ \$250,000. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below ~~\$100,000-\$500,000~~.

~~2. The Labor Commissioner shall, on or before January 1, 2020, and every 5 years thereafter, adjust the amount set forth in paragraph (c) of subsection 1 to reflect inflation, as measured by the average percentage of increase or decrease in the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, for the preceding 5 years. The Labor Commissioner shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts to take effect on January 1 of that year, \$250,000.~~

4. Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a charter school is a party, notwithstanding any other provision of law.

5. A public work of, or constructed by, a charter school, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a charter school, notwithstanding any other provision of law.

Sec. 3.3. ~~NRS 338.1389 is hereby amended to read as follows:~~

~~338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.~~

~~2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:~~

~~(a) Submitted by a responsive and responsible contractor who:~~

~~(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382;~~

~~(2) At the time the contractor submits his or her bid, provides a valid certificate of eligibility to receive a preference in bidding on public works~~

issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and

~~— (3) Within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117; and~~

~~— (b) Not more than [5] 7.5 percent higher than the bid submitted by the lowest responsive and responsible bidder who:~~

~~— (1) Does not provide, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4; or~~

~~— (2) Does not submit, within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (d), inclusive, of subsection 1 of NRS 338.0117 for the duration of the contract;~~

~~— shall be deemed to be the best bid for the purposes of this section.~~

~~3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:~~

~~— (a) Paid directly, on his or her own behalf:~~

~~— (1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~— (2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000~~

~~for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~— (3) Any combination of such sales and use taxes and governmental services tax; or~~

~~— (b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~— (1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~— (2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:~~

~~— (a) Paid directly, on his or her own behalf:~~

~~— (1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~— (2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~— (3) Any combination of such sales and use taxes and governmental services tax; or~~

~~— (b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~— (1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~— (2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:~~

~~— (a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and~~

~~— (b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.~~

~~6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.~~

~~7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.~~

~~8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.~~

~~9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works:~~

~~(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information; or~~

~~(b) Is found by the Board to have, within the preceding 5 years, materially breached a contract for a public work for which the cost exceeds \$5,000,000, the contractor is not eligible to receive a preference in bidding on public works.~~

~~10. 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 subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.~~

~~11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may receive a preference in bidding only if both or all of the joint venturers separately meet the requirements of subsection 2.~~

~~12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.~~

~~13. A person who submitted a bid on the public work or an entity who believes that the contractor who was awarded the contract for the public work wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:~~

~~(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and~~

~~(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.~~

~~14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that~~

~~subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.~~ (Deleted by amendment.)

Sec. 3.5. ~~NRS 338.147 is hereby amended to read as follows:~~

~~338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.~~

~~2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:~~

~~(a) Submitted by a contractor who:~~

~~(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative;~~

~~(2) At the time the contractor submits his or her bid, provides a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and~~

~~(3) Within 2 hours after the completion of the opening of the bids by the local government or its authorized representative, submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117; and~~

~~(b) Not more than [5] 7.5 percent higher than the bid submitted by the lowest responsive and responsible bidder who:~~

~~(1) Does not provide, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 3 or 4; or~~

~~(2) Does not submit, within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (d), inclusive, of subsection 1 of NRS 338.0117 for the duration of the contract;~~

~~shall be deemed to be the best bid for the purposes of this section.~~

~~3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:~~

~~(a) Paid directly, on his or her own behalf;~~

~~— (1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~— (2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~— (3) Any combination of such sales and use taxes and governmental services tax; or~~

~~— (b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~— (1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~— (2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~— 4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:~~

~~— (a) Paid directly, on his or her own behalf:~~

~~— (1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~— (2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~— (3) Any combination of such sales and use taxes and governmental services tax; or~~

~~— (b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~— (1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~— (2) Certificate of eligibility to receive a preference in bidding on public works;~~

~~— 5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:~~

~~— (a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and~~

~~— (b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.~~

~~— 6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.~~

~~— 7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.~~

~~— 8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.~~

~~— 9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works:~~

~~— (a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information; or~~

~~— (b) Is found by the Board to have, within the preceding 5 years, materially breached a contract for a public work for which the cost exceeds \$5,000,000, the contractor is not eligible to receive a preference in bidding on public works.~~

~~— 10. 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 subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.~~

~~11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may receive a preference in bidding only if both or all of the joint venturers separately meet the requirements of subsection 2.~~

~~12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.~~

~~13. A person who submitted a bid on the public work or an entity who believes that the contractor who was awarded the contract for the public work wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the local government to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:~~

~~(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and~~

~~(b) Be filed with the local government not later than 3 business days after the opening of the bids by the local government or its authorized representative.~~

~~14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly. (Deleted by amendment.)~~

Sec. 3.6. ~~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, 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] 7.5 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 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 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. When ranking the applicants, the panel that conducted the interviews shall assign a relative weight of [5] 7.5 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.~~

~~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 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.~~

~~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. (Deleted by amendment.)~~

Sec. 3.7. ~~NRS 338.1725 is hereby amended to read as follows:~~

~~338.1725 1. The public body shall select at least two but not more than four finalists from among the design build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design build team for the design and construction of the public work.~~

~~2. The public body shall select finalists pursuant to subsection 1 by:~~

~~(a) Verifying that each design build team which submitted a preliminary proposal satisfies the requirements of NRS 338.1721;~~

~~(b) Conducting an evaluation of the qualifications of each design build team that submitted a preliminary proposal, including, without limitation, an evaluation of:~~

~~(1) The professional qualifications and experience of the members of the design build team;~~

~~(2) The performance history of the members of the design build team concerning other recent, similar projects completed by those members, if any;~~

~~— (3) The safety programs established and the safety records accumulated by the members of the design-build team; and~~

~~— (4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work; and~~

~~— (e) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of [5] 7.5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.~~

~~— 3. After the selection of finalists pursuant to this section, the public body shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and identify which of the finalists, if any, received an assignment of [5] 7.5 percent pursuant to paragraph (e) of subsection 2. (Deleted by amendment.)~~

Sec. 3.8. ~~[NRS 338.1727 is hereby amended to read as follows:~~

~~— 338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:~~

~~— (a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and~~

~~— (b) Set forth the date by which final proposals must be submitted to the public body.~~

~~— 2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.~~

~~— 3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of [5] 7.5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team if the contractors submit signed affidavits that meet the requirements of subsection 1 of NRS 338.0117, and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team, and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount~~

~~of that assistance for a particular public work because of the provisions of this subsection relating to a preference in bidding on public works, or a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.~~

~~4. A final proposal submitted by a design build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design build team to design and construct the public work described in subsection 1. A design build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.~~

~~5. A final proposal is exempt from the requirements of NRS 338.141.~~

~~6. After receiving and evaluating the final proposals for the public work, the public body or its authorized representative shall enter into negotiations with the most qualified applicant, as determined pursuant to the criteria set forth pursuant to subsections 1 and 3, and award the design build contract to the design build team whose proposal is selected. If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.~~

~~7. If a public body selects a final proposal and awards a design build contract pursuant to subsection 6, the public body shall:~~

~~(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design build team as set forth in the design build contract.~~

~~(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design build team.~~

~~8. A contract awarded pursuant to this section:~~

~~(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.~~

~~(b) Must specify:~~

~~(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;~~

~~—(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and~~

~~—(3) A date by which performance of the work required by the contract must be completed;~~

~~—(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.~~

~~—(d) Except as otherwise provided in paragraph (c), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.~~

~~—(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.~~

~~—(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.~~

~~—9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.]~~
(Deleted by amendment.)

Sec. 4. [NRS 279.500 is hereby amended to read as follows:

~~—279.500 1. The provisions of NRS 338.010 to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction which is awarded on or after October 1, 1991, by an agency for work to be done in a project.~~

~~—2. If an agency:~~

~~—(a) Provides property for development at less than the fair market value of the property;~~

~~—(b) Provides a loan to a small business pursuant to NRS 279.700 to 279.740, inclusive; or~~

~~—(c) Provides financial incentives to a developer with a value of [more than \$100,000,] **\$500,000 or more,**~~

~~—* regardless of whether the project is publicly or privately owned, the agency must provide in the loan agreement with the small business or the agreement with the developer, as applicable, that the development project is subject to the provisions of NRS 338.010 to 338.090, inclusive, to the same extent as if the agency had awarded the contract for the project. This subsection applies only to the project covered by the loan agreement between the agency and the small business or the agreement between the agency and the developer, as applicable. This subsection does not apply to future development of the property unless~~

an additional loan, or additional financial incentives with a value of [more than \$100,000,] ~~\$500,000 or more~~, are provided to the small business or developer, as applicable.

~~3. The Labor Commissioner shall, on or before January 1, 2020, and every 5 years thereafter, adjust the amount set forth in paragraph (c) of subsection 2 to reflect inflation, as measured by the average percentage of increase or decrease in the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, for the preceding 5 years. The Labor Commissioner shall determine the amount of the increase or decrease required by this subsection and establish the adjusted amounts to take effect on January 1 of that year.] (Deleted by amendment.)~~

Sec. 4.5. [NRS 408.3886 is hereby amended to read as follows:

~~408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:~~

~~(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and~~

~~(b) Set forth the date by which final proposals must be submitted to the Department.~~

~~2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of [5] 7.5 percent to the design-build team's possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team, if the design-build team submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117, and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team, and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.~~

~~3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.~~

~~4. After receiving the final proposals for the project, the Department shall:~~

~~— (a) Select the most cost effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;~~

~~— (b) Reject all the final proposals; or~~

~~— (c) Request best and final offers from all finalists in accordance with subsection 5.~~

~~— 5. If the Department determines that no final proposal received is cost effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:~~

~~— (a) Select the most cost effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or~~

~~— (b) Reject all the best and final offers.~~

~~— 6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:~~

~~— (a) Review and ratify the selection.~~

~~— (b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 2 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design build team as set forth in the design build contract.~~

~~— (c) Make available to the public a summary setting forth the factors used by the Department to select the successful design build team and the ranking of the design build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design build team.~~

~~— 7. A contract awarded pursuant to this section:~~

~~— (a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and~~

~~— (b) Must specify:~~

~~— (1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;~~

~~— (2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and~~

~~(3) A date by which performance of the work required by the contract must be completed.~~

~~8. A design build team to whom a contract is awarded pursuant to this section shall:~~

~~(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and~~

~~(b) Use the workforce of the prime contractor on the design build team to construct at least 15 percent of the project. (Deleted by amendment.)~~

Sec. 5. 1. The amendatory provisions of this act do not apply to a public work or other project of construction, repair or reconstruction that is awarded before ~~July 1, 2015,~~ **the effective date of this act.**

2. As used in this section, "public work" has the meaning ascribed to it in NRS 338.010.

Sec. 6. (Deleted by amendment.)

Sec. 6.3. **The Labor Commissioner shall, as soon as practicable on or after the effective date of this act, adopt regulations to carry out the provisions of this act. The Labor Commissioner shall prepare, distribute and administer the current prevailing wage survey and all subsequent surveys conducted to establish a prevailing wage in each county in strict compliance with the amendatory provisions of this act.**

Sec. 6.7. **Sections 1 and 3 to 6, inclusive, of Senate Bill No. 119 (Chapter 5, Statutes of Nevada 2015, at page 27) are hereby repealed.**

Sec. 7. This act becomes effective ~~on July 1, 2015,~~ **upon passage and approval.**

TEXT OF REPEALED SECTIONS

Section 1 of Senate Bill No. 119 (Chapter 5, Statutes of Nevada 2015, at page 27) is hereby repealed.

Section 1. NRS 338.080 is hereby amended to read as follows:

338.080 None of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

1. Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

2. Apprentices recorded under the provisions of chapter 610 of NRS.

3. Any contract for a public work whose cost is less than \$100,000. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below \$100,000.

4. *Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a school district, a charter school or the Nevada*

System of Higher Education is a party, notwithstanding any other provision of law.

5. A public work of, or constructed by, a school district, a charter school or the Nevada System of Higher Education or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by one of these entities, notwithstanding any other provision of law.

Sections 3 to 6, inclusive, of Senate Bill No. 119 (Chapter 5, Statutes of Nevada 2015, at page 27) are hereby repealed.

Sec. 3. NRS 353.545 is hereby amended to read as follows:

353.545 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to:

(a) Engage in or allow bid-shopping; or

(b) ~~{} Avoid~~ ***Except as otherwise provided in subsection 5 of NRS 353.590, avoid*** or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

5. ~~{} If~~ ***Except as otherwise provided in subsection 5 of NRS 353.590, if*** a lease-purchase or installment-purchase agreement involves the construction, alteration, repair or remodeling of an improvement:

(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or 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.

(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the

improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the government of this State or a political subdivision of this State had undertaken the project or had awarded the contract.

Sec. 4. NRS 353.590 is hereby amended to read as follows:

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, involves the construction, alteration, repair or remodeling of an improvement:

1. Except as otherwise provided in this section, the construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

- (a) Any law requiring competitive bidding; or
- (b) Chapter 341 of NRS.

2. ~~{The}~~ ***Except as otherwise provided in subsection 5, the*** person or entity that enters into the agreement for the actual construction, alteration, repair or remodeling of the improvement shall include in the 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.

3. ~~{The}~~ ***Except as otherwise provided in subsection 5, the*** State or a state agency, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the State or a state agency had undertaken the project or had awarded the contract.

4. The provisions of:

- (a) Paragraph (b) of subsection 9 of NRS 341.100; and
- (b) NRS 341.105,

➡ apply to the construction, alteration, repair or remodeling of the improvement.

5. For projects of or for the Nevada System of Higher Education where it is anticipated that payments under the agreement will be made with state appropriations, the Nevada System of Higher Education, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project are not required to comply with the provisions of NRS 338.013 to 338.090, inclusive.

Sec. 5. NRS 354.740 is hereby amended to read as follows:

354.740 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this State and the political subdivisions of this State to use lease-purchase and installment-purchase agreements provides an important and valuable option for these governmental entities and, when

this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to:

(a) Engage in or allow bid-shopping; or

(b) ~~Avoid~~ ***Except as otherwise provided in subsection 5 of NRS 353.590, avoid*** or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

5. ~~##~~ ***Except as otherwise provided in subsection 5 of NRS 353.590, if*** a lease-purchase or installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement:

(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall include in such a contract or 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.

(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the government of this State or a political subdivision of this State had undertaken the project or had awarded the contract.

Sec. 6. NRS 338.075 is hereby repealed.

Assemblyman Ellison moved that the Assembly concur in the Senate Amendment No. 1056 to Assembly Bill No. 172.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Kirner moved that the Assembly recede from its action on Senate Bill No. 146.

Motion carried.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 193, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 839 of the Assembly 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.

RANDY KIRNER

ERVEN NELSON

NELSON ARAUJO

Assembly Conference Committee

JAMES SETTELMAYER

PATRICIA FARLEY

BECKY HARRIS

Senate Conference Committee

Amendment No. CA4.

SUMMARY—Revises provisions governing the payment of **minimum wage and** compensation for overtime. (BDR 53-989)

AN ACT relating to employment; revising provisions governing the payment of **minimum wage and** compensation for overtime; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Labor Commissioner, in accordance with federal law, to establish by regulation the minimum wage which may be paid to an employee in private employment in this State. (NRS 608.250) Section 1.5 of this bill requires the Labor Commissioner, in adopting those regulations, to ensure that the minimum wage for each employee to which those regulations apply is \$9 per hour if the employer of the employee does not offer health insurance for the employee.

~~__The Fair Labor Standards Act of 1938 requires that compensation for overtime be paid to certain employees for hours worked in excess of 40 hours in any week of work. (29 U.S.C. § 207) Under existing Nevada law, certain employees, including certain classified employees of this State, certain employees of contractors working on public works projects and certain other employees of private employers, are entitled to compensation for overtime at a rate of 1 1/2 times an employee's regular wage rate for any hours worked in excess of 8 hours in any workday or in excess of 40 hours in any week of work. (NRS 284.180, 338.020, 608.018) Sections 2-4 of this bill ~~remove the~~ revise certain provisions which require payment of compensation for overtime for hours worked in ~~excess of 8 hours in any~~ a workday ~~, while retaining the provisions which require payment of compensation for overtime for hours worked in excess of 40 hours in any week of work.~~~~

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

Section 1. (Deleted by amendment.)

Sec. 1.5. Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:

In adopting the regulations establishing the minimum wage which may be paid pursuant to NRS 608.250 and in accordance with Section 16 of Article 15 of the Nevada Constitution, the Labor Commissioner shall ensure that the minimum wage for each employee to which those regulations apply is at least \$9 per hour if the employer does not offer health insurance for the employee.

Sec. 2. NRS 608.018 is hereby amended to read as follows:

608.018 1. ~~1. Except as otherwise provided in subsection 3, an~~ employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works:

- (a) More than 40 hours in any scheduled week of work; or
- (b) More than ~~10~~ 10 hours in any ~~workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.~~ 18-hour period.

2. ~~2. Except as otherwise provided in subsection 2, 3, an~~ employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works more than 40 hours in any scheduled week of work.

3. ~~2. The provisions of subsections 1 and 2 do not apply to:~~

- (a) Employees who are not covered by the minimum wage provisions of NRS 608.250;
- (b) Outside buyers;
- (c) Employees in a retail or service business if their regular rate is more than 1 1/2 times the minimum wage, and more than half their compensation for a representative period comes from commissions on goods or services, with the representative period being, to the extent allowed pursuant to federal law, not less than 1 month;
- (d) Employees who are employed in bona fide executive, administrative or professional capacities;
- (e) Employees covered by collective bargaining agreements which provide otherwise for overtime;
- (f) Drivers, drivers' helpers, loaders and mechanics for motor carriers subject to the Motor Carrier Act of 1935, as amended;
- (g) Employees of a railroad;
- (h) Employees of a carrier by air;
- (i) Drivers or drivers' helpers making local deliveries and paid on a trip-rate basis or other delivery payment plan;
- (j) Drivers of taxicabs or limousines;
- (k) Agricultural employees;
- (l) Employees of business enterprises having a gross sales volume of less than \$250,000 per year;
- (m) Any salesperson or mechanic primarily engaged in selling or servicing automobiles, trucks or farm equipment; and

(n) A mechanic or worker for any hours to which the provisions of subsection 3 ~~for 4~~ or 5 of NRS 338.020 apply.

Sec. 3. NRS 284.180 is hereby amended to read as follows:

284.180 1. The Legislature declares that since uniform salary and wage rates and classifications are necessary for an effective and efficient personnel system, the pay plan must set the official rates applicable to all positions in the classified service, but the establishment of the pay plan in no way limits the authority of the Legislature relative to budgeted appropriations for salary and wage expenditures.

2. Credit for overtime work directed or approved by the head of an agency or the representative of the head of the agency must be earned at the rate of time and one-half, except for those employees described in NRS 284.148.

3. Except as otherwise provided in subsections 4, 6, 7 and 9, ~~18~~ overtime is considered time worked in excess of:

- (a) Eight hours in 1 calendar day;
- ~~(b) Eight~~ Ten hours in any 16-hour 18-hour period; or
- ~~(c) (b) A 40-hour week.~~

4. Firefighters who choose and are approved for a 24-hour shift shall be deemed to work an average of 56 hours per week and 2,912 hours per year, regardless of the actual number of hours worked or on paid leave during any biweekly pay period. A firefighter so assigned is entitled to receive 1/26 of the firefighter's annual salary for each biweekly pay period. In addition, overtime must be considered time worked in excess of:

- (a) Twenty-four hours in one scheduled shift; or
- (b) Fifty-three hours average per week during one work period for those hours worked or on paid leave.

↪ The appointing authority shall designate annually the length of the work period to be used in determining the work schedules for such firefighters. In addition to the regular amount paid such a firefighter for the deemed average of 56 hours per week, the firefighter is entitled to payment for the hours which comprise the difference between the 56-hour average and the overtime threshold of 53 hours average at a rate which will result in the equivalent of overtime payment for those hours.

5. The Commission shall adopt regulations to carry out the provisions of subsection 4.

6. For employees who choose and are approved for a variable workday, overtime will be considered only after working 40 hours in 1 week.

7. Employees who are eligible under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour work schedule within a biweekly pay period and who choose and are approved for such a work schedule will be considered eligible for overtime only after working 80 hours biweekly ~~17~~, except those eligible employees who are approved for overtime in excess of one scheduled shift of 8 or more hours per day.

8. ~~17~~ An agency may experiment with innovative workweeks upon the approval of the head of the agency and after majority consent of the affected

employees. The affected employees are eligible for overtime only after working 40 hours in a workweek.

9. ~~10.~~ This section does not supersede or conflict with existing contracts of employment for employees hired to work 24 hours a day in a home setting. Any future classification in which an employee will be required to work 24 hours a day in a home setting must be approved in advance by the Commission.

10. ~~10.~~ All overtime must be approved in advance by the appointing authority or the designee of the appointing authority. No officer or employee, other than a director of a department or the chair of a board, commission or similar body, may authorize overtime for himself or herself. The chair of a board, commission or similar body must approve in advance all overtime worked by members of the board, commission or similar body.

11. ~~10.~~ The Budget Division of the Department of Administration shall review all overtime worked by employees of the Executive Department to ensure that overtime is held to a minimum. The Budget Division shall report quarterly to the State Board of Examiners the amount of overtime worked in the quarter within the various agencies of the State.

12. ~~11.~~ A state employee is entitled to his or her normal rate of pay for working on a legal holiday unless the employee is entitled to payment for overtime pursuant to this section and the regulations adopted pursuant thereto. This payment is in addition to any payment provided for by regulation for a legal holiday.

Sec. 4. NRS 338.020 is hereby amended to read as follows:

338.020 1. Every contract to which a public body of this State is a party, requiring the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor in the performance of public work, must contain in express terms the hourly and daily rate of wages to be paid each of the classes of mechanics and workers. The hourly and daily rate of wages must:

(a) Not be less than the rate of such wages then prevailing in the county in which the public work is located, which prevailing rate of wages must have been determined in the manner provided in NRS 338.030; and

(b) Be posted on the site of the public work in a place generally visible to the workers.

2. When public work is performed by day labor, the prevailing wage for each class of mechanics and workers so employed applies and must be stated clearly to such mechanics and workers when employed.

3. Except as otherwise provided in ~~subsection 4~~ subsections 4, 5, and 6, a contractor or subcontractor shall pay to a mechanic or worker employed by the contractor or subcontractor on the public work not less than one and one-half times the prevailing rate of wages applicable to the class of the mechanic or worker for each hour the mechanic or worker works on the public work in excess of:

(a) Forty ~~40~~ hours in any scheduled week of work by the mechanic or worker for the contractor or subcontractor, including, without limitation, hours

worked for the contractor or subcontractor on work other than the public work ~~or~~ ; or

(b) ~~Eight~~ **Ten** hours in any ~~workday~~ **18-hour period** that the mechanic or worker was employed by the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work, unless by mutual agreement the mechanic or worker works a scheduled **shift in excess of 10 hours** ~~per day for 4 calendar days~~ **in an 18-hour period** within any scheduled week of work.

4. **If a contractor or subcontractor and a mechanic or worker have entered into a mutual agreement described in paragraph (b) of subsection 3 and, through no fault of the contractor or subcontractor, the mechanic or worker does not complete a scheduled shift in excess of 10 hours in an 18-hour period within a scheduled week of work, the contractor or subcontractor:**

(a) May pay the mechanic or worker his or her regular rate of wages for the hours actually worked which do not exceed 40 hours within any scheduled week of work; and

(b) Shall pay the mechanic or worker not less than one and one-half times the prevailing rate of wages applicable to the class of the mechanic or worker for each hour that the mechanic or worker works on the public work in excess of 40 hours within any scheduled week of work.

5. The provisions of ~~subsection~~ **subsections 3 and 4** do not apply to a mechanic or worker who is covered by a collective bargaining agreement that provides for the payment of wages at not less than one and one-half times the rate of wages set forth in the collective bargaining agreement for work in excess of :

(a) ~~Forty~~ **40** hours in any scheduled week of work ~~or~~ ; or

(b) ~~Eight~~ **Ten** hours in any ~~workday~~ **18-hour period** unless the collective bargaining agreement provides that the mechanic or worker shall work a scheduled **shift in excess of 10 hours** ~~per day for 4 calendar days~~ **in an 18-hour period** within any scheduled week of work.

~~5.4~~ 6. The prevailing wage and any wages paid for overtime pursuant to subsection 3 ~~or~~ 4 **or 5** to each class of mechanics or workers must be in accordance with the jurisdictional classes recognized in the locality where the work is performed.

~~6.1~~ 7. Nothing in this section prevents an employer who is signatory to a collective bargaining agreement from assigning such work in accordance with established practice.

Sec. 5. NRS 444.300 is hereby amended to read as follows:

444.300 Any person employed by a children's camp on a written contract basis for a specified term longer than 1 week is exempt from the provisions of NRS 608.250 to 608.290, inclusive, **and section 1.5 of this act** and chapter 609 of NRS relating to daily and weekly hours of labor only if such camp is operated by a nonprofit organization which is exempt from federal income tax under I.R.C. § 501.

Assemblyman Kirner moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 193.

Remarks by Assemblyman Kirner.

ASSEMBLYMAN KIRNER:

The conference committee agreed to recommend that Assembly Amendment 839 to Senate Bill 193 be concurred in and that the bill be further amended to require the Labor Commissioner to establish a \$9-per-hour minimum wage if the employer does not offer health insurance for the employee and to require payment of compensation for overtime for hours worked in excess of 10 hours in an 18-hour period, with certain exceptions.

Motion carried by a constitutional majority.

Assemblywoman Fiore requested a roll call vote on the motion to adopt the report of the Conference Committee concerning Senate Bill No. 193.

The request was not sustained.

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

Assembly in recess at 10:17 p.m.

ASSEMBLY IN SESSION

At 10:20 p.m.

Mr. Speaker presiding.

Quorum present.

Assemblywoman Fiore withdrew the request for a roll call vote.

Assemblymen Titus, Shelton, and Wheeler requested a roll call vote on the motion to adopt the report of the Conference Committee concerning Senate Bill No. 193.

Roll call vote on the motion to adopt the report of the Conference Committee concerning Senate Bill No. 193.

YEAS—21.

NAYS—Paul Anderson, Armstrong, Carlton, Dickman, Edwards, Ellison, Fiore, Gardner, Jones, O'Neill, Oscarson, Seaman, Shelton, Silberkraus, Stewart, Titus, Trowbridge, Wheeler, Woodbury—19.

EXCUSED—Dooling, Moore—2.

The motion having failed to receive a constitutional majority, Mr. Speaker declared it lost.

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 376, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 810 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 8, which is attached to and hereby made a part of this report.

JIM WHEELER

JILL DICKMAN

EDGAR FLORES

Assembly Conference Committee

SCOTT HAMMOND

JAMES SETTELMEYER

KELVIN ATKINSON

Senate Conference Committee

Conference Amendment No. CA8.

AN ACT relating to motor carriers; revising provisions concerning an appeal of certain decisions of the Nevada Transportation Authority; revising provisions concerning an appeal of a final decision of the Taxicab Authority; **revising provisions relating to the regulation of taxicabs; transferring the authority to administer and collect certain excise taxes from the Nevada Transportation Authority and the Taxicab Authority to the Department of Taxation;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, any person who is aggrieved by a final decision of the Nevada Transportation Authority in an administrative hearing is entitled to judicial review. (NRS 233B.130, 706.2885, 706.771, 706.775) **Section 1.1** of this bill provides that any decision or action by the Nevada Transportation Authority which has the effect of substantially impairing, restricting or rescinding the ability or authorization of a fully regulated carrier to operate in this State or which refuses an applicant the ability or authorization to operate in this State as a fully regulated carrier is a final decision, and may be appealed directly to a court of competent jurisdiction for judicial review.

The Nevada Transportation Authority has regulatory authority over taxicab motor carriers in any county whose population is less than 700,000 (currently all counties except for Clark). (NRS 706.151, 706.881) In any county whose population is 700,000 or more (currently Clark County), the Taxicab Authority has regulatory authority over taxicab motor carriers. (NRS 706.881) Any person who is aggrieved by a final decision of the Taxicab Authority must appeal to the Nevada Transportation Authority. (NRS 706.8819) **Sections 3 and 8** of this bill provide that any person aggrieved by a final decision of the Taxicab Authority is entitled to judicial review, rather than requiring such a person to appeal to the Nevada Transportation Authority.

Existing law provides for the regulation of taxicabs by the Taxicab Authority in certain counties and the Nevada Transportation Authority in all other counties in this State. (Chapter 706 of NRS) Sections 1.5 and 1.7 of this bill allow, in areas regulated by the Taxicab Authority, for a person to operate a taxicab as an independent contractor in a similar manner as in areas regulated by the Nevada Transportation Authority. Sections 1.3 and 1.9 of this bill prohibit an employee of a person who holds a certificate of public convenience and necessity for the operation of a taxicab business from acting as a driver for a transportation network company during the same time the employee uses a taxicab provided by his or her employer or is paid to operate a taxicab for his or her employer. Sections 2.5, 7.7, 8.5, 8.7 and 8.9 of this bill allow a taxicab to use a device, method or system other than a taximeter to indicate and determine the passenger fare charged. Sections 3.5 and 8.3 of this bill revise provisions relating to the color and display of information on a taxicab. Section 5.5 of this bill eliminates a provision that allows the Nevada Transportation Authority to suspend the operation of a schedule or tariff and defer the

use of a rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice for 150 days while the relevant issue is being reviewed. Section 8.1 of this bill prohibits the Taxicab Authority from limiting the geographical area from which service is offered or provided by a taxicab.

Existing law provides for the collection by the Nevada Transportation Authority or the Taxicab Authority, as applicable, of an excise tax upon the connection of a passenger to a driver affiliated with a transportation network company, a common motor carrier of passengers or a taxicab in an amount of 3 percent of the fare charged to the passenger. (Sections 28, 51 and 52 of Assembly Bill No. 175 of the 2015 Session) Sections 9-38 and 40 of this bill provide for the transfer of the responsibility to administer and collect these excise taxes from the Nevada Transportation Authority and the Taxicab Authority to the Department of Taxation.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 1.1 to 1.9, inclusive, of this act.

Sec. 1.1. Any decision or action by the Authority which:

1. Has the effect of substantially impairing, restricting or rescinding the ability or authorization of a fully regulated motor carrier to operate in this State; or

2. Refuses an applicant the ability or authorization to operate as a fully regulated motor carrier in this State,

↪ is a final decision for the purpose of chapter 233B of NRS and may be appealed directly to a court of competent jurisdiction for judicial review.

Sec. 1.3. 1. A person who drives a taxicab as an employee of a person who holds a certificate of public convenience and necessity which was issued for the operation of a taxicab business shall not act as a driver, as defined by section 18 of Assembly Bill No. 176 of this session:

(a) Using the taxicab provided by his or her employer; or

(b) During any time for which the person receives wages from his or her employer for duties which include driving a taxicab.

2. A person who holds a certificate of public convenience and necessity which was issued for the operation of a taxicab business may terminate the employment of a person who violates the provisions of subsection 1.

Sec. 1.5. 1. A certificate holder may, upon approval from the Taxicab Authority, lease a taxicab to an independent contractor who is not a certificate holder. A certificate holder may lease only one taxicab to each independent contractor with whom the person enters into a lease agreement. The taxicab may be used only in a manner authorized by the certificate holder's certificate of public convenience and necessity.

2. A certificate holder who enters into a lease agreement with an independent contractor pursuant to this section shall submit a copy of the agreement to the Taxicab Authority for its approval. The agreement is not effective until approved by the Taxicab Authority.

3. A certificate holder who leases a taxicab to an independent contractor is jointly and severally liable with the independent contractor for any violation of the provisions of this chapter or the regulations adopted pursuant thereto, and shall ensure that the independent contractor complies with such provisions and regulations.

4. The Taxicab Authority or any of its employees may intervene in a civil action involving a lease agreement entered into pursuant to this section.

Sec. 1.7. 1. The Taxicab Authority shall adopt such regulations as are necessary to:

(a) Carry out the provisions of section 1.5 of this act; and
(b) Ensure that the taxicab business remains safe, adequate and reliable.

2. Such regulations must include, without limitation:

(a) The minimum qualifications for an independent contractor;

(b) Requirements related to liability insurance;

(c) Minimum safety standards; and

(d) The procedure for approving a lease agreement and the provisions that must be included in a lease agreement concerning the grounds for the revocation of such approval.

Sec. 1.9. 1. A driver who operates a taxicab as an employee of a certificate holder shall not act as a driver, as defined by section 18 of Assembly Bill No. 176 of this session:

(a) Using the taxicab provided by his or her employer; or

(b) During any time for which the person receives wages from his or her employer for duties which include the operation of a taxicab.

2. A certificate holder may terminate the employment of a driver, as defined by NRS 706.8814, who violates the provisions of subsection 1.

Sec. 2. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ~~and section 1.1 and 1.3 of this act~~, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 2.5. NRS 706.124 is hereby amended to read as follows:

706.124 "Taxicab" means a vehicle which is not operated over a fixed route, is designed or constructed to accommodate and transport not more than six passengers, including the driver, and ~~is~~

1. ~~Fitted with~~ Uses a taximeter or ~~has~~ some other device, method or system to indicate and determine the passenger fare charged for the distance traveled;

2. ~~Used~~ Is used in the transportation of passengers or light express, or both, for which a charge or fee is received; or

3. ~~Is operated~~ Is operated in any service which is held out to the public as being available for the transportation of passengers from place to place in the State of Nevada.

Sec. 3. NRS 706.166 is hereby amended to read as follows:

706.166 The Authority shall:

1. Subject to the limitation provided in NRS 706.168 and to the extent provided in this chapter, supervise and regulate:

(a) Every fully regulated carrier and broker of regulated services in this State in all matters directly related to those activities of the motor carrier and broker actually necessary for the transportation of persons or property, including the handling and storage of that property, over and along the highways.

(b) Every operator of a tow car concerning the rates and charges assessed for towing services performed without the prior consent of the operator of the vehicle or the person authorized by the owner to operate the vehicle and pursuant to the provisions of NRS 706.011 to 706.791, inclusive ~~††~~ , *and ~~section 1.1~~ sections 1.1 and 1.3 of this act.*

2. Supervise and regulate the storage of household goods and effects in warehouses and the operation and maintenance of such warehouses in accordance with the provisions of this chapter and chapter 712 of NRS.

3. Enforce the standards of safety applicable to the employees, equipment, facilities and operations of those common and contract carriers subject to the Authority or the Department by:

(a) Providing training in safety;

(b) Reviewing and observing the programs or inspections of the carrier relating to safety; and

(c) Conducting inspections relating to safety at the operating terminals of the carrier.

4. To carry out the policies expressed in NRS 706.151, adopt regulations providing for agreements between two or more fully regulated carriers or two or more operators of tow cars relating to:

(a) Fares of fully regulated carriers;

(b) All rates of fully regulated carriers and rates of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle;

(c) Classifications;

(d) Divisions;

(e) Allowances; and

(f) All charges of fully regulated carriers and charges of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, including charges between carriers and compensation paid or received for the use of facilities and equipment.

➡ These regulations may not provide for collective agreements which restrain any party from taking free and independent action.

~~{5. Review decisions of the Taxicab Authority appealed to the Authority pursuant to NRS 706.8819.}~~

Sec. 3.5. NRS 706.281 is hereby amended to read as follows:

706.281 1. In addition to any identifying device provided for in this chapter, each motor vehicle within the provisions of NRS 706.011 to 706.791, inclusive, and sections 1.1 and 1.3 of this act must have the name of the ~~person or~~ operator operating the vehicle ~~{prominently and conspicuously}~~ displayed on ~~both sides of~~ the vehicle in such location, size and style as may be specified by the Authority. The display shall not be deemed advertising for the purposes of NRS 706.285 unless additional information about the operator is included.

2. This section does not apply to motor vehicles:

(a) Weighing 10,000 pounds or less operated by private carriers and not operated in combination with any other vehicle.

(b) Operated by an employer for the transportation of the employees of that employer, whether or not the employees pay for the transportation.

Sec. 4. NRS 706.2885 is hereby amended to read as follows:

706.2885 1. A certificate of public convenience and necessity, permit or license issued in accordance with this chapter is not a franchise and may be revoked.

2. The Authority may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee, suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, and ~~section 1.1~~ sections 1.1 and 1.3 of this act for a period not to exceed 60 days.

3. Upon receipt of a written complaint or on its own motion, the Authority may, after investigation and hearing, revoke any certificate, permit or license. If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes the grantee's interest in the certificate, permit or license by so notifying the Authority in writing, the Authority may revoke the certificate, permit or license without a hearing.

4. ~~{The}~~ Except as otherwise provided in section ~~1.1~~ 1.1 of this act, the proceedings thereafter are governed by the provisions of chapter 233B of NRS.

Sec. 5. NRS 706.321 is hereby amended to read as follows:

706.321 1. Except as otherwise provided in subsection 2, every common or contract motor carrier shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

(1) Be open to public inspection; and

(2) Include all rates, fares and charges which the carrier has established and which are in force at the time of filing for any service performed in connection therewith by any carrier controlled and operated by it.

(b) As a part of that schedule, all regulations of the carrier that in any manner affect the rates or fares charged or to be charged for any service and all regulations of the carrier that the carrier has adopted to comply with the

provisions of NRS 706.011 to 706.791, inclusive ~~1~~, and ~~section 1~~ sections 1.1 and 1.3 of this act.

2. Every operator of a tow car shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

(1) Be open to public inspection; and

(2) Include all rates and charges for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which the operator has established and which are in force at the time of filing.

(b) As a part of that schedule, all regulations of the operator of the tow car which in any manner affect the rates charged or to be charged for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle and all regulations of the operator of the tow car that the operator has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~1~~, and ~~section 1~~ sections 1.1 and 1.3 of this act.

3. No changes may be made in any schedule, including schedules of joint rates, or in the regulations affecting any rates or charges, except upon 30 days' notice to the Authority, and all those changes must be plainly indicated on any new schedules filed in lieu thereof 30 days before the time they are to take effect. The Authority, upon application of any carrier, may prescribe a shorter time within which changes may be made. The 30 days' notice is not applicable when the carrier gives written notice to the Authority 10 days before the effective date of its participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have been previously filed with and approved by the Authority.

4. The Authority may at any time, upon its own motion, investigate any of the rates, fares, charges, regulations, practices and services filed pursuant to this section and, after hearing, by order, make such changes as may be just and reasonable.

5. The Authority may dispense with the hearing on any change requested in rates, fares, charges, regulations, practices or service filed pursuant to this section.

6. All rates, fares, charges, classifications and joint rates, regulations, practices and services fixed by the Authority are in force, and are prima facie lawful, from the date of the order until changed or modified by the Authority. ~~1, or pursuant to NRS 706.2883.~~

7. All regulations, practices and service prescribed by the Authority must be enforced and are prima facie reasonable unless suspended or found otherwise in an action brought for the purpose, or until changed or modified by the Authority itself upon satisfactory showing made.

Sec. 5.5. NRS 706.326 is hereby amended to read as follows:

706.326 1. Whenever there is filed with the Authority pursuant to NRS 706.321 any schedule or tariff stating a new or revised individual or joint rate,

fare or charge, or any new or revised individual or joint regulation or practice affecting any rate, fare or charge, or any schedule or tariff resulting in a discontinuance, modification or restriction of service, the Authority may commence an investigation or, upon reasonable notice, hold a hearing concerning the propriety of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice.

2. ~~¶ Pending the investigation or hearing and the decision thereon, the Authority, upon delivering to the common or contract motor carrier affected thereby a statement in writing of its reasons for the suspension, may suspend the operation of the schedule or tariff and defer the use of the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice, but not for a longer period than 150 days beyond the time when the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice would otherwise go into effect.~~

~~—3.¶~~ After full investigation or hearing, whether completed before or after the date upon which the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice is to go into effect, the Authority may make such order in reference to the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice as would be proper in a proceeding initiated after the rate, fare, charge, classification, regulation, discontinuance, modification, restriction or practice has become effective.

~~¶~~ 3. The Authority shall determine whether it is necessary to hold a hearing to consider the proposed change in any schedule stating a new or revised individual or joint rate, fare or charge. In making that determination, the Authority shall consider all timely written protests, any presentation the staff of the Authority may desire to present, the application and any other matters deemed relevant by the Authority.

Sec. 6. NRS 706.771 is hereby amended to read as follows:

706.771 1. Any person or any agent or employee thereof, who violates any provision of this chapter, any lawful regulation of the Authority or any lawful tariff on file with the Authority or who fails, neglects or refuses to obey any lawful order of the Authority or any court order for whose violation a civil penalty is not otherwise prescribed is liable to a penalty of not more than \$10,000 for any violation. The penalty may be recovered in a civil action upon the complaint of the Authority in any court of competent jurisdiction.

2. If the Authority does not bring an action to recover the penalty prescribed by subsection 1, the Authority may impose an administrative fine of not more than \$10,000 for any violation of a provision of this chapter or any rule, regulation or order adopted or issued by the Authority or Department pursuant to the provisions of this chapter. ~~¶A¶~~ ***Except as otherwise provided in section ~~¶¶~~ 1.1 of this act, a*** fine imposed by the Authority may be recovered by the Authority only after notice is given and a hearing is held pursuant to the provisions of chapter 233B of NRS.

3. All administrative fines imposed and collected by the Authority pursuant to subsection 2 are payable to the State Treasurer and must be credited to a separate account to be used by the Authority to enforce the provisions of this chapter.

4. A penalty or fine recovered pursuant to this section is not a cost of service for purposes of rate making.

Sec. 7. NRS 706.775 is hereby amended to read as follows:

706.775 1. In addition to any criminal penalty, any person who violates any provision of this chapter, or any lawful regulation, rule or order adopted or issued by the Department pursuant thereto is liable to the Department for an administrative fine as follows:

(a) For a first offense, a fine of \$500.

(b) For a second offense, a fine of \$1,000 or the total cost paid by the person for registration fees pursuant to NRS 482.480 and 482.482 and governmental services taxes pursuant to NRS 371.050 during the calendar year in which the offense was committed for the vehicle in which the offense was committed, whichever is greater, except that the amount of the fine must not exceed \$2,500.

(c) For a third offense, a fine of \$1,500 or the total cost paid by the person for registration fees pursuant to NRS 482.480 and 482.482 and governmental services taxes pursuant to NRS 371.050 during the calendar year in which the offense was committed for the vehicle in which the offense was committed, whichever is greater, except that the amount of the fine must not exceed \$2,500.

(d) For a fourth and any subsequent offense, a fine of \$2,500.

2. ~~The~~ *Except as otherwise provided in section ~~44~~ 1.1 of this act, the* Department shall afford to any person fined pursuant to subsection 1 an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the State Highway Fund.

Sec. 7.3. NRS 706.881 is hereby amended to read as follows:

706.881 1. The provisions of NRS 706.8811 to 706.885, inclusive, and sections 1.5, 1.7 and 1.9 of this act apply to any county:

(a) Whose population is 700,000 or more; or

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

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the Taxicab Authority is not required, the Taxicab Authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, and sections 1.5, 1.7 and 1.9 of this act within that county.

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

Sec. 7.7. NRS 706.8816 is hereby amended to read as follows:

706.8816 1. "Taxicab" means a motor vehicle or vehicles which is designed or constructed to accommodate and transport not more than six passengers, including the driver, and ~~is~~:

(a) ~~Fitted with~~ Uses a taximeter or some other device, method or system to indicate and determine the passenger fare charged;

(b) ~~Used~~ Is used in the transportation of passengers or light express or both for which a charge or fee is received; or

(c) ~~Operated~~ Is operated in any service which is held out to the public as being available for the transportation of passengers from place to place in the State of Nevada.

2. "Taxicab" does not include a motor vehicle of:

(a) A common motor carrier.

(b) A contract motor carrier which operates along fixed routes.

(c) An employer who operates the vehicle for the transportation of the employees of that employer, whether or not the employees pay for the transportation.

Sec. 8. NRS 706.8819 is hereby amended to read as follows:

706.8819 1. The Taxicab Authority shall conduct hearings and make final decisions in the following matters:

(a) Applications to adjust, alter or change the rates, charges or fares for taxicab service;

(b) Applications for certificates of public convenience and necessity to operate a taxicab service;

(c) Applications requesting authority to transfer any existing interest in a certificate of public convenience and necessity or in a corporation that holds a certificate of public convenience and necessity to operate a taxicab business;

(d) Applications to change the total number of allocated taxicabs in a county to which NRS 706.881 to 706.885, inclusive, and sections 1.5, 1.7 and 1.9 of this act apply; and

(e) Appeals from final decisions of the Administrator made pursuant to NRS 706.8822.

2. ~~{An appeal from the}~~ Any final decision of the Taxicab Authority ~~{must be made to the Nevada Transportation Authority.}~~ pursuant to this section is subject to judicial review pursuant to NRS 233B.130.

Sec. 8.1. NRS 706.8824 is hereby amended to read as follows:

706.8824 1. In determining whether circumstances require the establishment of a system of allocations or a change in existing allocations, the Taxicab Authority shall consider the interests, welfare, convenience, necessity and well-being of the customers of taxicabs.

2. Whenever circumstances require the establishment of a system of allocations, the Taxicab Authority shall allocate the number of taxicabs among

the certificate holders in the county in a manner which reflects the number of taxicabs operated by each certificate holder during the 5 years immediately preceding the date of establishment of the Taxicab Authority in the county.

3. Whenever circumstances require an increase in the existing allocations, the Taxicab Authority shall allocate the additional taxicabs equally among all the certificate holders who apply from the area to be affected by the allocation.

4. Unless a certificate holder puts the additionally allocated taxicabs into service within 30 days after the effective date of the increased allocation, the increased allocation to that certificate holder is void.

5. ~~The~~ **Except as otherwise provided in this subsection, the** Taxicab Authority may attach to the exercise of the rights granted by the allocation any terms and conditions which in its judgment the public interest may require. The Taxicab Authority may ~~;~~ **limit**.

(a) ~~The~~ **Not limit the** geographical area from which service is offered or provided.

(b) ~~The~~ **Limit the** hours of service ~~;~~ **, but such** a limitation must not reduce hours of service to less than 12 consecutive hours in a 24-hour period.

➔ If a limitation is placed on an allocation, taxicabs must be marked in a distinctive manner that indicates the limitation.

6. The Taxicab Authority shall review annually:

(a) The existing allocation of taxicabs; and

(b) The rates, charges or fares of the certificate holders in its jurisdiction.

Sec. 8.3. NRS 706.8835 is hereby amended to read as follows:

706.8835 1. A certificate holder shall display on each of the certificate holder's taxicabs the fare schedule under which it is being operated. The schedule must be permanently affixed:

(a) On the outside of both front doors in bold block letters which are ~~of a color which contrasts with the color of the taxicab and which are~~ not less than three-fourths of an inch in height; and

(b) Inside the taxicab so as to be visible and easily readable by passengers.

2. A certificate holder shall have a unit number and the name of the certificate holder displayed on ~~each side of~~ each taxicab in bold block letters not less than 4 inches in height and in a color which contrasts with the color of the taxicab.

Sec. 8.5. NRS 706.8836 is hereby amended to read as follows:

706.8836 1. A certificate holder shall ~~equip~~ **, for** each of the certificate holder's taxicabs **which is equipped** with a taximeter ~~, and shall~~ make provisions when installing the taximeter to allow sealing by the Administrator.

2. The Administrator shall approve the types of taximeters which may be used on a taxicab. All taximeters must conform to a 2-percent plus or minus tolerance on the fare recording, must be equipped with a signal device plainly visible from outside of the taxicab, must be equipped with a device which records fares and is plainly visible to the passenger and must register upon plainly visible counters the following items:

- (a) Total miles;
- (b) Paid miles;
- (c) Number of units;
- (d) Number of trips; and
- (e) Number of extra passengers or extra charges.

3. The Administrator shall inspect each taximeter before its use in a taxicab and shall, if the taximeter conforms to the standards specified in subsection 2, seal the taximeter.

4. Except as otherwise provided in subsection 5, a taximeter may be sealed by:

- (a) Affixing a physical security seal to each access point of the taximeter;
- or

- (b) Using an electronic security seal that is encrypted and protected by an audited authentication and authorization mechanism for each user that is accessible only by the Administrator.

5. The Administrator may require that each taximeter be sealed by an electronic security seal that is encrypted and protected by an audited authentication and authorization mechanism for each user that is accessible only by the Administrator if the Administrator:

- (a) Makes a finding that the technology for the sealing method is commercially available and will reduce the costs to the Taxicab Authority for inspecting taximeters; and

- (b) Provides notice to each certificate holder at least 12 months before requiring the use of the sealing method.

6. The Administrator may reinspect the taximeter at any reasonable time.

7. **A certificate holder shall, for each of the certificate holder's taxicabs which is equipped with a device, method or system to indicate and determine the passenger fare charged other than a taximeter, provide verification to the Administrator that the device, method or system adequately records fares and has an application or electronic means to plainly display to the passenger the rate and fare. Such a device, method or system must maintain and record:**

- (a) Total miles;**
- (b) Paid miles;**
- (c) Number of units;**
- (d) Number of trips; and**
- (e) Number of extra passengers or extra charges.**

8. For the purposes of this section, "sealing" means prohibiting access to the elements of the taximeter used to calculate the items specified in subsection 2 by anyone other than the Administrator.

Sec. 8.7. NRS 706.8844 is hereby amended to read as follows:

706.8844 1. A certificate holder shall require the certificate holder's drivers to keep a daily trip sheet in a form to be prescribed by the Taxicab Authority, including, without limitation, in electronic form.

2. At the beginning of each period of duty the driver shall record on the driver's trip sheet:

- (a) The driver's name and the number of the taxicab;
- (b) The time at which the driver began the period of duty by means of a time clock provided by the certificate holder;
- (c) ~~The~~ ***If the taxicab is equipped with a taximeter, the*** meter readings for total miles, paid miles, trips, units, extra passengers and extra charges; and
- (d) The odometer reading of the taxicab.

3. During each period of duty the driver shall record on the driver's trip sheet:

- (a) The time, place of origin and destination of each trip; and
- (b) The number of passengers and amount of fare for each trip.

4. At the end of each period of duty the driver shall record on the driver's trip sheet:

- (a) The time at which the driver ended the period of duty by means of a time clock provided by the certificate holder;
- (b) ~~The~~ ***If the taxicab is equipped with a taximeter, the*** meter readings for total miles, paid miles, trips, units and extra passengers; and
- (c) The odometer reading of the taxicab.

5. A certificate holder shall furnish a trip sheet form for each taxicab operated by a driver during the driver's period of duty and shall require the drivers to return their completed trip sheets at the end of each period of duty.

6. A certificate holder shall retain all trip sheets of all drivers in a safe place for a period of 3 years immediately succeeding December 31 of the year to which they respectively pertain and shall make such manifests available for inspection by the Administrator upon reasonable demand.

7. Any driver who maintains a trip sheet in a form less complete than that required by subsection 1 is guilty of a misdemeanor.

8. The Administrator shall prescribe the requirements for the use of an electronic version of a daily trip sheet. If a certificate holder requires its drivers to keep a daily trip sheet in electronic form, the certificate holder may comply with the requirements of this section:

(a) By maintaining the information collected from the daily trip sheet in a secure database and providing the Administrator with access to the information in the database at regular intervals established by the Administrator and upon reasonable demand; or

(b) By reporting the information to the Administrator on the computerized real-time data system implemented pursuant to subsection 4 of NRS 706.8825.

Sec. 8.9. NRS 706.8849 is hereby amended to read as follows:

706.8849 1. ~~1. If a taxicab is equipped with a taximeter, the~~ taxicab driver shall:

- (a) Ensure that the fare indicator on the taximeter of the taxicab reads zero before the time that the taxicab is engaged.
- (b) Ensure that the taximeter of the taxicab is engaged while the taxicab is on hire.

(c) Not make any charge for the transportation of a passenger other than the charge shown on the taximeter.

(d) Not alter, manipulate, tamper with or disconnect a sealed taximeter or its attachments nor make any change in the mechanical condition of the wheels, tires or gears of a taxicab with intent to cause false registration on the taximeter of the passenger fare.

~~(e) Not remove or alter fare schedules which have been posted in the taxicab by the certificate holder.~~

~~(f)~~ Not permit any person or persons other than the person who has engaged the taxicab to ride therein unless the person who has engaged the taxicab requests that the other person or persons ride in the taxicab. If more than one person is loaded by the taxicab driver as set forth in this paragraph, the driver shall, when one of the persons leaves the taxicab, charge that person the fare on the meter and reset the taximeter.

~~(g)~~ **2. A taxicab driver shall:**

(a) Not remove or alter fare schedules which have been posted in the taxicab by the certificate holder.

(b) Not drive a taxicab or go on duty while under the influence of, or impaired by, any controlled substance, dangerous drug, or intoxicating liquor or drink intoxicating liquor while on duty.

~~(b)~~ **(c)** Not use or consume controlled substances or dangerous drugs which impair a person's ability to operate a motor vehicle at any time, or use or consume any other controlled substances or dangerous drugs at any time except in accordance with a lawfully issued prescription.

~~(c)~~ **(d)** Not operate a taxicab without a valid driver's permit issued pursuant to NRS 706.8841 and a valid driver's license issued pursuant to NRS 483.325 in the driver's possession.

~~(d)~~ **(e)** Obey all provisions and restrictions of the certificate of public convenience and necessity issued to the driver's employer.

2. or the certificate holder with whom the driver contracts.

3. If a driver violates any provision of subsection 1 ~~or~~ **2.** the Administrator may, after a hearing, impose the following sanctions:

(a) For a first offense, 1 to 5 days' suspension of a driver's permit or a fine of not more than \$100, or both suspension and fine.

(b) For a second offense, 6 to 20 days' suspension of a driver's permit or a fine of not more than \$300, or both suspension and fine.

(c) For a third offense, a fine of not more than \$500.

➤ In addition to the other penalties set forth in this subsection, the Administrator may revoke a driver's permit for any violation of a provision of paragraph ~~(e)~~ **(b)** of subsection ~~1~~

~~3.~~ **2.**

4. Only violations occurring in the 12 months immediately preceding the most current violation may be considered for the purposes of subsection ~~2~~

3. The Administrator shall inspect the driver's record for that period to compute the number of offenses committed.

Sec. 9. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 10 to 32, inclusive, of this act.

Sec. 10. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 11 to 18, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 11. "Certificate holder" has the meaning ascribed to it in NRS 706.8813.

Sec. 12. "Common motor carrier of passengers" has the meaning ascribed to it in NRS 706.041.

Sec. 13. "Driver" has the meaning ascribed to it in section 18 of Assembly Bill No. 176 of this session.

Sec. 14. "Operator" has the meaning ascribed to it in NRS 706.101.

Sec. 15. "Taxicab" has the meaning ascribed to it in NRS 706.8816.

Sec. 16. "Taxpayer" means a:

1. Common motor carrier of passengers;
2. Taxicab; or
3. Transportation network company.

Sec. 17. "Transportation network company" has the meaning ascribed to it in section 19 of Assembly Bill No. 176 of this session.

Sec. 18. "Transportation services" has the meaning ascribed to it in section 20 of Assembly Bill No. 176 of this session.

Sec. 19. The provisions of chapter 360 of NRS relating to the payment, collection, administration and enforcement of taxes, including, without limitation, any provisions relating to the imposition of penalties and interest, shall be deemed to apply to the payment, collection, administration and enforcement of the excise tax imposed by sections 28, 51 and 52 of Assembly Bill No. 175 of this session to the extent that those provisions do not conflict with the provisions of this chapter.

Sec. 20. The Department shall adopt all necessary regulations to carry out the provisions of this chapter.

Sec. 21. The State Treasurer shall deposit any money the State Treasurer receives from the Department pursuant to sections 28, 51 and 52 of Assembly Bill No. 175 of this session:

1. For the first \$5,000,000 of the combined amount of such money received in each biennium, for credit to the State Highway Fund.
2. For any additional amount of such money received in each fiscal year, for credit to the State General Fund.

Sec. 22. 1. Each person responsible for maintaining the records of a taxpayer shall:

(a) Keep such records as may be necessary to determine the amount of the liability of the taxpayer pursuant to the provisions of this chapter;

(b) Preserve those records for 4 years or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and

(c) Make the records available for inspection by the Department upon demand at reasonable times during regular business hours.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 23. To verify the accuracy of any return filed by a taxpayer or, if no return is filed, to determine the amount required to be paid, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person who may be liable for the excise tax imposed by sections 28, 51 and 52 of Assembly Bill No. 175 of this session.

Sec. 24. If the Department determines that the excise tax imposed by sections 28, 51 and 52 of Assembly Bill No. 175 of this session or any penalty or interest has been paid more than once or has been erroneously or illegally collected or computed, the Department shall set forth that fact in the records of the Department and certify to the State Board of Examiners the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Examiners, the excess amount collected or paid must, after being credited against any amount then due from the person in accordance with NRS 360.236, be refunded to the person or his or her successors in interest.

Sec. 25. 1. Except as otherwise provided in NRS 360.235 and 360.395:

(a) No refund of the excise tax imposed by sections 28, 51 and 52 of Assembly Bill No. 175 of this session may be allowed unless a claim for refund is filed with the Department within 3 years after the last day of the month following the month for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Department within that period.

2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.

3. The failure to file a claim within the time prescribed in subsection 1 constitutes a waiver of any demand against the State on account of any overpayment.

Sec. 26. 1. Except as otherwise provided in subsection 2, NRS 360.320 or any other specific statute, interest must be paid upon any overpayment of the excise tax imposed by sections 28, 51 and 52 of Assembly Bill No. 175 of this session at the rate set forth in, and in accordance with the provisions of, NRS 360.2937.

2. If the Department determines that any overpayment has been made intentionally or by reason of carelessness, the Department shall not allow any interest on the overpayment.

Sec. 27. 1. Within 30 days after rejecting a claim for refund or credit in whole or in part, the Department shall serve written notice of its action on the claimant in the manner prescribed for service of a notice of deficiency determination. Within 30 days after the date of service of the notice, a

claimant who is aggrieved by the action of the Department may file an appeal with the Nevada Tax Commission.

2. If the Department fails to serve notice of its action on a claim for refund or credit within 6 months after the claim is filed, the claimant may consider the claim to be disallowed and file an appeal with the Nevada Tax Commission within 30 days after the last day of the 6-month period.

3. The final decision of the Nevada Tax Commission on an appeal is a final decision for the purposes of judicial review pursuant to chapter 233B of NRS.

Sec. 28. 1. A proceeding for judicial review of a decision of the Nevada Tax Commission may not be commenced or maintained by an assignee of the claimant or by any other person other than the person who paid the amount at issue in the claim.

2. The failure of a claimant to file a timely petition for judicial review constitutes a waiver of any demand against the State on account of any overpayment.

Sec. 29. 1. If judgment is rendered for the claimant in a proceeding for judicial review, any amount found by the court to have been erroneously or illegally collected must first be credited to any tax due from the claimant. The balance of the amount must be refunded to the claimant.

2. In any such judgment, interest must be allowed at the rate of 3 percent per annum upon any amount found to have been erroneously or illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.

Sec. 30. 1. No injunction, writ of mandate or other legal or equitable process may issue in any suit, action or proceeding in any court against this State or against any officer of the State to prevent or enjoin the collection of the excise tax imposed by sections 28, 51 and 52 of Assembly Bill No. 175 of this session or any amount of tax, penalty or interest required to be collected.

2. No suit or proceeding, including, without limitation, a proceeding for judicial review, may be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been filed within the time prescribed in section 25 of this act.

Sec. 31. 1. A person shall not, with intent to defraud the State or evade payment of the excise tax imposed by sections 28, 51 and 52 of Assembly Bill No. 175 of this session or any part of the taxes:

(a) Make, cause to be made or permit to be made any false or fraudulent return or declaration or false statement in any return or declaration.

(b) Make, cause to be made or permit to be made any false entry in books, records or accounts.

(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts.

2. Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.

Sec. 32. The remedies of the State provided for in this chapter are cumulative, and no action taken by the Department or the Attorney General constitutes an election by the State to pursue any remedy to the exclusion of any other remedy for which provision is made in those sections.

Sec. 33. NRS 360.2937 is hereby amended to read as follows:

360.2937 1. Except as otherwise provided in this section and NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A or 377C of NRS ~~17~~ **or sections 10 to 32, inclusive, of this act and sections 28, 51 and 52 of Assembly Bill No. 175 of this session,** any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of 0.25 percent per month from the last day of the calendar month following the period for which the overpayment was made.

2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

Sec. 34. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A, 377C, 444A or 585 of NRS ~~17~~ **or sections 10 to 32, inclusive, of this act and sections 28, 51 and 52 of Assembly Bill No. 175 of this session,** or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 0.75 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 35. Section 28 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 28. 1. In addition to any other fee or assessment imposed pursuant to this chapter, an excise tax is hereby imposed on the use of a digital network or software application service of a transportation network company to connect a passenger to a driver for the purpose of providing transportation services at the rate of 3 percent of the total fare charged for transportation services, which must include, without limitation, all fees, surcharges, technology fees, convenience charges for the use of a credit or debit card and any other amount that is part of the fare. The ~~{Commission}~~ **Department of Taxation** shall charge and collect from each transportation network company the excise tax imposed by this subsection.

2. The excise tax collected by the ~~{Commission}~~ **Department of Taxation** pursuant to subsection 1 must be deposited with the State Treasurer in accordance with the provisions of section ~~{53 of this act}~~ **21 of Senate Bill No. 376 of this session.**

Sec. 36. Section 51 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 51. 1. Except as otherwise provided in subsection 2 and in addition to any other fee or assessment imposed pursuant to this chapter, an excise tax is hereby imposed on the connection, whether by dispatch or other means, made by a common motor carrier of a passenger to a person or operator willing to transport the passenger at the rate of 3 percent of the total fare charged for the transportation, which must include, without limitation, all fees, surcharges, technology fees, convenience charges for the use of a credit or debit card and any other amount that is part of the fare. The ~~{Authority}~~ **Department of Taxation** shall charge and collect from each common motor carrier of passengers the excise tax imposed by this subsection.

2. The provisions of subsection 1 do not apply to an airport transfer service.

3. The excise tax collected by the ~~{Authority}~~ **Department of Taxation** pursuant to subsection 1 must be deposited with the State Treasurer in accordance with the provisions of section ~~{53 of this act}~~ **21 of Senate Bill No. 376 of this session.**

4. As used in this section, “airport transfer service” means the transportation of passengers and their baggage in the same vehicle, except by taxicab, for a per capita charge between airports or between an airport and points and places in this State. The term does not include charter services by bus, charter services by limousine, scenic tours or special services.

Sec. 37. Section 52 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 52. 1. Except as otherwise provided in subsection 2 and in addition to any other fee or assessment imposed pursuant to this chapter, an excise tax is hereby imposed on the connection, whether by dispatch or other means, made by a certificate holder of a passenger to a taxicab willing to transport the passenger at the rate of 3 percent of the total fare charged for the transportation, which must include, without limitation, all fees, surcharges, technology fees, convenience charges for the use of a credit or debit card and any other amount that is part of the fare. The ~~{Taxicab Authority}~~ **Department of Taxation** shall charge and collect from each certificate holder the excise tax imposed by this subsection.

2. The excise tax collected by the ~~{Taxicab Authority}~~ **Department of Taxation** pursuant to subsection 1 must be deposited with the State Treasurer in accordance with the provisions of section ~~{53 of this act}~~ **21 of Senate Bill No. 376 of this session.**

Sec. 38. The Legislative Counsel shall, in preparing the reprint and supplements to the Nevada Revised Statutes, make such changes as necessary to the placement within NRS of the provisions of Assembly Bill No. 175 of this session to carry out the provisions of this act which transfer the responsibility for collecting and administering the excise taxes imposed by Assembly Bill No. 175 of this session to the Department of Taxation.

~~{Sec. 9}~~ **Sec. 39.** The amendatory provisions of this act do not apply to any administrative hearings before the Taxicab Authority where a final decision was issued by the Taxicab Authority on or before January 1, 2016.

Sec. 40. 1. Section 53 of Assembly Bill No. 175 of this session is hereby repealed.

2. Sections 51 and 52 of Assembly Bill No. 176 of this session are hereby repealed.

~~{Sec. 10}~~ **Sec. 41.** NRS 706.2883 is hereby repealed.

~~{Sec. 11}~~ **Sec. 42. 1. This section and sections 9 to 35, inclusive, 38 and 40 of this act become effective upon passage and approval.**

2. Sections 36 and 37 of this act become effective on August 28, 2015.

3. Sections 1 to 8.9, inclusive, 39 and 41 of this act ~~{becomes}~~ become effective on January 1, 2016.

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

706.2883 Person aggrieved by action or inaction of Taxicab Authority entitled to judicial review; regulations of Nevada Transportation Authority regarding its review of decisions of Taxicab Authority. Any person who is aggrieved by any action or inaction of the Taxicab Authority pursuant to NRS 706.8819 is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS. The Nevada Transportation Authority may adopt such regulations as may be necessary to provide for its review of decisions of the Taxicab Authority.

Section 53 of Assembly Bill No. 175 of the 78th Session of the Nevada Legislature:

Sec. 53. The State Treasurer shall deposit any money the State Treasurer receives from the Public Utilities Commission of Nevada pursuant to section 28 of this act, the Authority pursuant to section 51 of this act and the Taxicab Authority pursuant to section 52 of this act:

- 1. For the first \$5,000,000 of the combined amount of such money received in each biennium, for credit to the State Highway Fund.*
- 2. For any additional amount of such money received in each fiscal year, for credit to the State General Fund.*

Section 51 of Assembly Bill No. 176 of the 78th Session of the Nevada Legislature:

Sec. 51. Section 28 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 28. 1. In addition to any other fee or assessment imposed pursuant to this chapter, an excise tax is hereby imposed on the use of a digital network or software application service of a transportation network company to connect a passenger to a driver for the purpose of providing transportation services at the rate of 3 percent of the total fare charged for transportation services, which must include, without limitation, all fees, surcharges, technology fees, convenience charges for the use of a credit or debit card and any other amount that is part of the fare. The ~~Commission~~ **Authority** shall charge and collect from each transportation network company the excise tax imposed by this subsection.

2. The excise tax collected by the ~~Commission~~ **Authority** pursuant to subsection 1 must be deposited with the State Treasurer in accordance with the provisions of section 53 of this act.

Section 52 of Assembly Bill No. 176 of the 78th Session of the Nevada Legislature:

Sec. 52. Section 53 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 53. The State Treasurer shall deposit any money the State Treasurer receives from the ~~Public Utilities Commission of Nevada~~ **Transportation Authority** pursuant to ~~section~~ **sections** 28 ~~of this act,~~ **and** 51 of this act and the Taxicab Authority pursuant to section 52 of this act:

1. For the first \$5,000,000 of the combined amount of such money received in each biennium, for credit to the State Highway Fund.
2. For any additional amount of such money received in each fiscal year, for credit to the State General Fund.

Assemblyman Wheeler moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 376.

Remarks by Assemblyman Wheeler.

ASSEMBLYMAN WHEELER:

The conference committee agreed to recommend Amendment 810 be concurred in and has agreed to recommend that the bill be further amended as set forth in Conference Amendment 8. The amendment reduces certain regulations related to taxicabs in an effort to level the playing field as it relates to transportation network companies.

Motion carried by a constitutional majority.

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 52, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 751 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 5, which is attached to and hereby made a part of this report.

ERVEN NELSON

DAVID GARDNER

JAMES OHRENSCHALL

Assembly Conference Committee

GREG BROWER

SCOTT HAMMOND

RUBEN KIHUEN

Senate Conference Committee

Conference Amendment No. CA5.

SUMMARY—Revises provisions governing ~~search warrants;~~ **criminal procedure.** (BDR 14-159)

AN ACT relating to ~~search warrants;~~ **criminal procedure; defining certain terms relating to the interception of wire, electronic or oral communications;** authorizing the use of secure electronic transmission for the submission of an application and affidavit for, and the issuance by a magistrate of, a search warrant; **providing that the interception, listening or recording of a wire, electronic or oral communication by a peace officer or certain other persons is not unlawful in certain circumstances; authorizing the issuance of orders requiring a provider of electronic communication service to disclose the contents of a wire or electronic communication or a record or other information pertaining to a subscriber to, or customer of, such service in certain circumstances; providing immunity from liability to a provider of electronic communication service and associated persons for disclosing such information; revising certain existing definitions relating to the interception of wire or oral communications; authorizing the interception of electronic communications in certain circumstances; providing immunity from liability to a provider of electronic communication service, a public utility and associated persons for providing information or assistance concerning court-ordered interceptions of wire, electronic or oral communications; authorizing a judge to accept a facsimile or electronic copy of the signature of certain persons as part of an application for an order authorizing the interception**

of a wire, electronic or oral communication as an original signature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a search warrant may only be issued: (1) pursuant to an affidavit or affidavits sworn to before a magistrate and establishing the grounds for issuing the warrant; or (2) in lieu of an affidavit, pursuant to an oral statement taken by a magistrate, given under oath and filed with the clerk of the court. (NRS 179.045) ~~[(This)]~~ Section 9 of this bill authorizes the use of secure electronic transmission for the submission of an application and affidavit for, and the issuance by a magistrate of, a search warrant.

Existing law authorizes the Attorney General or the district attorney of any county to apply to a Supreme Court justice or to a district judge in the county where the interception is to take place for an order authorizing the interception of wire or oral communications. The judge may grant an order authorizing such interception by certain investigative or law enforcement officers when the interception may provide evidence of the commission of certain crimes. (NRS 179.460) Section 18 of this bill additionally authorizes the Attorney General or the district attorney to apply for an order authorizing the interception of an electronic communication. Section 18 also provides that a provider of electronic communication service, a public utility and associated persons are immune from any liability relating to the interception of a wire, electronic or oral communication made pursuant to such a court order. Sections 11-14, 18-25 and 27 of this bill add a reference to an electronic communication to the provisions of existing law that reference wire or oral communications. Section 26 of this bill adds a reference to an electronic or oral communication to make the section consistent with the references to communications included in the federal statute cited therein.

Existing law also requires that each application for an order authorizing the interception of a wire or oral communication be made in writing upon oath or affirmation to a justice of the Supreme Court or district judge. (NRS 179.470) Section 20 of this bill authorizes the judge to accept a facsimile or electronic copy of the signature of any person required to give an oath or affirmation as part of an application for an order authorizing the interception of a wire, electronic or oral communication as an original signature to the application.

Section 7 of this bill provides that the interception, listening or recording of a wire, electronic or oral communication by a peace officer or certain other persons is not unlawful if the peace officer or person is intercepting the communication of a person who has: (1) barricaded himself or herself, resulting in an imminent risk of harm to the life of another person; (2) created a hostage situation; or (3) threatened the imminent illegal use of an explosive.

Section 8 of this bill authorizes the Nevada Supreme Court and the district courts of this State to issue orders requiring a provider of

electronic communication service to disclose the contents of a wire or electronic communication or a record or other information pertaining to a subscriber to, or customer of, such service upon the application of a district attorney or the Attorney General, or their deputies, supported by an affidavit of a peace officer under the circumstances and upon the conditions prescribed by federal law. Section 8 provides that a provider of electronic communication service and associated persons are immune from any liability relating to a disclosure made pursuant to such a court order. Sections 13, 17, 21 and 27 of this bill replace existing references to a communications common carrier with the term “provider of electronic communication service.”

Sections 2-6 of this bill add new definitions of terms relating to the interception of wire, electronic or oral communications, and sections 13 and 15-17 of this bill revise certain existing definitions relating to the interception of wire or oral communications.

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

Section 1. Chapter 179 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. “Electronic communication” means a transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transferred in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. The term does not include:

1. A wire or oral communication.
2. A communication made through a tone-only paging device.
3. A communication from a tracking device.
4. Electronic funds transfer information stored by a financial institution in a communication system used for the electronic storage and transfer of funds.
5. The incoming or outgoing electronic or other impulses that identify the originating number of an instrument or device from which or to which a wire or electronic communication was transmitted.

Sec. 3. “Electronic communication service” means a service that provides to users of the service the ability to send or receive a wire or electronic communication.

Sec. 4. “Peace officer” means a category I peace officer, as defined in NRS 289.460.

Sec. 5. “Tracking device” means an electronic or mechanical device that permits the tracking of the movement of a person or an object.

Sec. 6. “User” means a person or entity who:

1. Uses an electronic communication service; and
2. Is authorized by the provider of the electronic communication service to engage in such use.

Sec. 7. 1. The interception, listening or recording of a wire, electronic or oral communication by a peace officer specifically designated by the Attorney General or the district attorney of any county, or a person acting under the direction or request of a peace officer, is not unlawful if the peace officer or person is intercepting the communication of a person who has:

(a) Barricaded himself or herself and is not exiting or surrendering at the lawful request of a peace officer, in circumstances in which there is imminent risk of harm to the life of another person as a result of the barricaded person's actions or the actions of law enforcement in resolving the barricade situation;

(b) Created a hostage situation; or

(c) Threatened the imminent illegal use of an explosive.

2. For the purposes of subsection 1:

(a) A barricade occurs when a person:

(1) Refuses to come out from a covered or enclosed position after being provided an order to exit by a peace officer; or

(2) Is contained in an open area and the presence or approach of a peace officer precipitates an imminent risk of harm to the life of another person.

(b) A hostage situation occurs when a person holds another person against the other person's will, regardless of whether the person holding the other person has made a demand.

Sec. 8. 1. The Nevada Supreme Court and the district courts of this State may issue orders requiring a provider of electronic communication service to disclose the contents of a wire or electronic communication or a record or other information pertaining to a subscriber to, or customer of, such service upon the application of a district attorney or the Attorney General, or their deputies, supported by an affidavit of a peace officer under the circumstances and upon the conditions prescribed by 18 U.S.C. § 2703.

2. A provider of electronic communication service, an officer, employee or agent thereof or another person associated with the provider of electronic communication service who, pursuant to an order issued by a district court pursuant to subsection 1, discloses the contents of a wire or electronic communication or a record or other information pertaining to a subscriber to, or customer of, the electronic communication service is immune from any liability relating to any disclosure made pursuant to the order.

~~Section 11~~ Sec. 9. NRS 179.045 is hereby amended to read as follows:

179.045 1. A search warrant may issue only on affidavit or affidavits sworn to before the magistrate and establishing the grounds for issuing the warrant or as provided in subsection ~~12.~~ 3. If the magistrate is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the magistrate shall issue a warrant identifying the property and naming or describing the person or place to be searched.

2. *Secure electronic transmission may be used for the submission of an application and affidavit required by subsection 1, and for the issuance of a search warrant by a magistrate. The Nevada Supreme Court ~~shall~~ may adopt rules not inconsistent with the laws of this State to carry out the provisions of this subsection.*

3. In lieu of the affidavit required by subsection 1, the magistrate may take an oral statement given under oath, which must be recorded in the presence of the magistrate or in the magistrate's immediate vicinity by a certified court reporter or by electronic means, transcribed, certified by the reporter if the reporter recorded it, and certified by the magistrate. The statement must be filed with the clerk of the court.

~~13-1~~ 4. Upon a showing of good cause, the magistrate may order an affidavit or a recording of an oral statement given pursuant to this section to be sealed. Upon a showing of good cause, a court may cause the affidavit or recording to be unsealed.

~~14-1~~ 5. After a magistrate has issued a search warrant, whether it is based on an affidavit or an oral statement given under oath, the magistrate may orally authorize a peace officer to sign the name of the magistrate on a duplicate original warrant. A duplicate original search warrant shall be deemed to be a search warrant. It must be returned to the magistrate who authorized the signing of it. The magistrate shall endorse his or her name and enter the date on the warrant when it is returned. Any failure of the magistrate to make such an endorsement and entry does not in itself invalidate the warrant.

~~15-1~~ 6. The warrant must be directed to a peace officer in the county where the warrant is to be executed. It must:

(a) State the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof; or

(b) Incorporate by reference the affidavit or oral statement upon which it is based.

➤ The warrant must command the officer to search forthwith the person or place named for the property specified.

~~16-1~~ 7. The warrant must direct that it be served between the hours of 7 a.m. and 7 p.m., unless the magistrate, upon a showing of good cause therefor, inserts a direction that it be served at any time.

~~17-1~~ 8. The warrant must designate the magistrate to whom it is to be returned.

9. *As used in this section, "secure electronic transmission" means the sending of information from one computer system to another computer system in such a manner as to ensure that:*

(a) No person other than the intended recipient receives the information;

(b) The identity of the sender of the information can be authenticated; and

(c) The information which is received by the intended recipient is identical to the information that was sent.

Sec. 10. NRS 179.410 is hereby amended to read as follows:

179.410 As used in NRS 179.410 to 179.515, inclusive, and sections 2 to 8, inclusive, of this act, except where the context otherwise requires, the words and terms defined in NRS 179.415 to 179.455, inclusive, and sections 2 to 6, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 11. NRS 179.415 is hereby amended to read as follows:

179.415 “Aggrieved person” means a person who was a party to any intercepted wire, electronic or oral communication or a person against whom the interception was directed.

Sec. 12. NRS 179.420 is hereby amended to read as follows:

179.420 “Contents” when used with respect to any wire, electronic or oral communication includes any information concerning the identity of the parties to such communication or the existence, substance, purport or meaning of that communication.

Sec. 13. NRS 179.425 is hereby amended to read as follows:

179.425 “Electronic, mechanical or other device” means any device or apparatus which can be used to intercept a wire, electronic or oral communication other than:

1. Any telephone instrument, equipment or facility, or any component thereof:

(a) ~~Furnished to the subscriber or user by a telecommunications common carrier~~ provider of electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; ~~for~~

(b) Furnished by the subscriber or user for connection to the facilities of an electronic communication service and being used by the subscriber or user in the ordinary course of its business; or

(c) Being used by a telecommunications common carrier provider of electronic communication service in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his or her duties.

2. A hearing aid or similar device being used to correct subnormal hearing to not better than normal.

Sec. 14. NRS 179.430 is hereby amended to read as follows:

179.430 “Intercept” means the aural acquisition of the contents of any wire, electronic or oral communication through the use of any electronic, mechanical or other device or of any sending or receiving equipment.

Sec. 15. NRS 179.435 is hereby amended to read as follows:

179.435 “Investigative or law enforcement officer” means any officer of the United States or this State or a political subdivision thereof who is empowered by the law of this state to conduct investigations of or to make arrests for felonies, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses.

Sec. 16. NRS 179.440 is hereby amended to read as follows:

179.440 “Oral communication” means any verbal message uttered by a person exhibiting an expectation that such communication is not subject to

interception, under circumstances justifying such expectation. **The term does not include an electronic communication.**

Sec. 17. NRS 179.455 is hereby amended to read as follows:

179.455 “Wire communication” means any ~~communication~~ **aural transfer** made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception, **including the use of such connection in a switching station,** furnished or operated by any person engaged ~~as a common carrier~~ in providing or operating such facilities for the transmission of intrastate, interstate or foreign communications.

Sec. 18. NRS 179.460 is hereby amended to read as follows:

179.460 1. The Attorney General or the district attorney of any county may apply to a Supreme Court justice or to a district judge in the county where the interception is to take place for an order authorizing the interception of wire, **electronic** or oral communications, and the judge may, in accordance with NRS 179.470 to 179.515, inclusive, **and sections 7 and 8 of this act,** grant an order authorizing the interception of wire, **electronic** or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when the interception may provide evidence of the commission of murder, kidnapping, robbery, extortion, bribery, escape of an offender in the custody of the Department of Corrections, destruction of public property by explosives, a sexual offense against a child, sex trafficking, a violation of NRS 200.463, 200.464 or 200.465, trafficking in persons in violation of NRS 200.467 or 200.468 or the commission of any offense which is made a felony by the provisions of chapter 453 or 454 of NRS.

2. A ~~good faith reliance by~~ **provider of electronic communication service or a public utility** ~~on a court order shall constitute a complete defense to any civil or criminal action brought against the public utility on account of~~ **, an officer, employee or agent thereof or another person associated with the provider of electronic communication service or public utility who, pursuant to an order issued pursuant to subsection 1, provides information or otherwise assists an investigative or law enforcement officer in the interception of a wire, electronic or oral communication is immune from any liability relating to** any interception made pursuant to the order.

3. As used in this section, “sexual offense against a child” includes any act upon a child constituting:

- (a) Incest pursuant to NRS 201.180;
- (b) Lewdness with a child pursuant to NRS 201.230;
- (c) Sado-masochistic abuse pursuant to NRS 201.262;
- (d) Sexual assault pursuant to NRS 200.366;
- (e) Statutory sexual seduction pursuant to NRS 200.368;
- (f) Open or gross lewdness pursuant to NRS 201.210; or

(g) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

Sec. 19. NRS 179.465 is hereby amended to read as follows:

179.465 1. Any investigative or law enforcement officer who, by any means authorized by NRS 179.410 to 179.515, inclusive, **and sections 2 to 8, inclusive, of this act** or 704.195 or 18 U.S.C. §§ 2510 to ~~2520,~~ **2522,** inclusive, has obtained knowledge of the contents of any wire, **electronic** or oral communication, or evidence derived therefrom, may disclose the contents to another investigative or law enforcement officer or use the contents to the extent that the disclosure or use is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

2. Any person who has received, by any means authorized by NRS 179.410 to 179.515, inclusive, **and sections 2 to 8, inclusive, of this act** or 704.195 or 18 U.S.C. §§ 2510 to ~~2520,~~ **2522,** inclusive, or by a statute of another state, any information concerning a wire, **electronic** or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of NRS 179.410 to 179.515, inclusive, **and sections 2 to 8, inclusive, of this act** may disclose the contents of that communication or the derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court or before any grand jury in this state, or in any court of the United States or of any state, or in any federal or state grand jury proceeding.

3. An otherwise privileged wire, **electronic** or oral communication intercepted in accordance with, or in violation of, the provisions of NRS 179.410 to 179.515, inclusive, **and sections 2 to 8, inclusive, of this act** or 18 U.S.C. §§ 2510 to ~~2520,~~ **2522,** inclusive, does not lose its privileged character.

4. When an investigative or law enforcement officer engaged in intercepting wire, **electronic** or oral communications as authorized by NRS 179.410 to 179.515, inclusive, **and sections 2 to 8, inclusive, of this act** intercepts wire, **electronic** or oral communications relating to offenses other than those specified in the order provided for in NRS 179.460, the contents of the communications and the evidence derived therefrom may be disclosed or used as provided in subsection 1. The direct evidence derived from the communications is inadmissible in a criminal proceeding, but any other evidence obtained as a result of knowledge obtained from the communications may be disclosed or used as provided in subsection 2 when authorized or approved by a justice of the Supreme Court or district judge who finds upon application made as soon as practicable that the contents of the communications were intercepted in accordance with the provisions of NRS 179.410 to 179.515, inclusive, **and sections 2 to 8, inclusive, of this act** or 18 U.S.C. §§ 2510 to ~~2520,~~ **2522,** inclusive.

Sec. 20. NRS 179.470 is hereby amended to read as follows:

179.470 1. Each application for an order authorizing the interception of a wire, **electronic** or oral communication must be made in writing upon oath

or affirmation to a justice of the Supreme Court or district judge and must state the applicant's authority to make such application. Each application must include the following information:

(a) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application.

(b) A full and complete statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that an order should be issued, including:

(1) Details as to the particular offense that is being, has been or is about to be committed.

(2) A particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, the facilities to be used and the means by which such interception is to be made.

(3) A particular description of the type of communications sought to be intercepted.

(4) The identity of the person, if known, who is committing, has committed or is about to commit an offense and whose communications are to be intercepted.

(c) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous.

(d) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter.

(e) A full and complete statement of the facts concerning all previous applications known to the person authorizing and making the application made to any judge for authorization to intercept wire , *electronic* or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application.

(f) Where the application is for the extension of an order, a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

2. The judge may require the applicant to furnish additional testimony or documentary evidence under oath or affirmation in support of the application. Oral testimony must be reduced to writing.

3. Upon such application the judge may enter an *ex parte* order, as requested or as modified, authorizing interception of wire , *electronic* or oral communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that:

(a) There is probable cause for belief that a person is committing, has committed or is about to commit an offense for which interception is authorized by NRS 179.460.

(b) There is probable cause for belief that particular communications concerning that offense will be obtained through such interception.

(c) Normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or appear to be too dangerous.

(d) There is probable cause for belief that the facilities from which, or the place where, the wire, electronic or oral communications are to be intercepted are being used or are about to be used by such person in connection with the commission of such offense or are leased to, listed in the name of, or commonly used by such person.

4. The judge may accept a facsimile or electronic copy of the signature of any person required to give an oath or affirmation as part of an application submitted pursuant to this section as an original signature to the application.

Sec. 21. NRS 179.475 is hereby amended to read as follows:

179.475 1. Each order authorizing the interception of any wire, electronic or oral communication ~~shall~~ **must** specify:

(a) The identity of the person, if known, whose communications are to be intercepted.

(b) The nature and location of the place where or communication facilities to which authority to intercept is granted, the facilities to be used and the means by which such interceptions ~~shall~~ **will** be made.

(c) A particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates.

(d) The identity of the agency authorized to intercept the communications, and of the person authorizing the application.

(e) The period of time during which such interception is authorized, including a statement as to whether or not the interception ~~shall~~ **will** automatically terminate when the described communication has been first obtained.

2. An order authorizing the interception of a wire, electronic or oral communication shall, upon request of the applicant, direct that a ~~communications common carrier,~~ **provider of electronic communication service,** landlord, custodian or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such ~~carrier,~~ **provider of electronic communication service,** landlord, custodian, or person is according the person whose communications are to be intercepted. Any ~~communications common carrier,~~ **provider of electronic communication service,** landlord, custodian or other person furnishing such facilities or technical assistance ~~shall~~ **must** be compensated therefor by the applicant at the prevailing rates.

3. No order entered under this section may authorize the interception of any wire, , electronic or oral communication for any period longer than is necessary to achieve the objective of the authorization, and in no event longer than 30 days. Extensions of an order may be granted, but only upon application for an extension made in accordance with the procedures provided in NRS 179.470. The period of extension ~~shall~~ must be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than 30 days. Every order and extension thereof ~~shall~~ must contain a provision that the authorization to intercept ~~shall~~ must be executed as soon as practicable, ~~shall~~ must be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this statute, and ~~shall~~ will terminate upon attainment of the authorized objective, or in any event in 30 days.

Sec. 22. NRS 179.485 is hereby amended to read as follows:

179.485 The contents of any wire, , electronic or oral communication intercepted by any means authorized by NRS 179.410 to 179.515, inclusive, ~~shall~~ and sections 2 to 8, inclusive, of this act must, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, , electronic or oral communication under this section ~~shall~~ must be done in such a way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings ~~shall~~ must be made available to the judge issuing such order and sealed under the judge's directions. Custody of the recordings ~~shall~~ must be placed with whomever the judge directs. They ~~shall~~ must not be destroyed except upon an order of the judge issuing such order and in any event ~~shall~~ must be kept for 10 years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsection 1 of NRS 179.465 for investigations. The presence of the seal provided for by this section, or a satisfactory explanation for the absence thereof, is a prerequisite for the use or disclosure of the contents of any wire, , electronic or oral communication or evidence derived therefrom under subsection 2 of NRS 179.465.

Sec. 23. NRS 179.495 is hereby amended to read as follows:

179.495 1. Within a reasonable time but not later than 90 days after the termination of the period of an order or any extension thereof, the judge who issued the order shall cause to be served on the chief of the Investigation Division of the Department of Public Safety, persons named in the order and any other parties to intercepted communications, an inventory which must include notice of:

(a) The fact of the entry and a copy of the order.

(b) The fact that during the period wire, , electronic or oral communications were or were not intercepted.

➡ Except as otherwise provided in NRS 239.0115, the inventory filed pursuant to this section is confidential and must not be released for inspection unless subpoenaed by a court of competent jurisdiction.

2. The judge, upon receipt of a written request from any person who was a party to an intercepted communication or from the person's attorney, shall make available to the person or the person's counsel those portions of the intercepted communications which contain the person's conversation. On an ex parte showing of good cause to a district judge, the serving of the inventory required by this section may be postponed for such time as the judge may provide.

Sec. 24. NRS 179.500 is hereby amended to read as follows:

179.500 The contents of any intercepted wire , electronic or oral communication or evidence derived therefrom ~~shall~~ **must** not be received in evidence or otherwise disclosed in any trial, hearing or other proceeding in any court of this state unless each party, not less than 10 days before the trial, hearing or proceeding, has been furnished with a copy of the court order and accompanying application under which the interception was authorized and a transcript of any communications intercepted. Such 10-day period may be waived by the judge if the judge finds that it was not possible to furnish the party with such information 10 days before the trial, hearing or proceeding and that the party will not be prejudiced by the delay in receiving such information.

Sec. 25. NRS 179.505 is hereby amended to read as follows:

179.505 1. Any aggrieved person in any trial, hearing or proceeding in or before any court, department, officer, agency or other authority of this State, or a political subdivision thereof, may move to suppress the contents of any intercepted wire , electronic or oral communication, or evidence derived therefrom, on the grounds that:

- (a) The communication was unlawfully intercepted.
- (b) The order of authorization under which it was intercepted is insufficient on its face.
- (c) The interception was not made in conformity with the order of authorization.
- (d) The period of the order and any extension had expired.

2. Such a motion ~~shall~~ **must** be made before the trial, hearing or proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire , electronic or oral communication, or evidence derived therefrom, ~~shall~~ **must** be treated as having been obtained in violation of NRS 179.410 to 179.515, inclusive ~~++~~ **, and sections 2 to 8, inclusive, of this act.** The judge, upon the filing of such motion by the aggrieved person, may in the judge's discretion make available to the aggrieved person or the aggrieved person's counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interest of justice.

Sec. 26. NRS 179.515 is hereby amended to read as follows:

179.515 1. In January of each year, the Attorney General and the district attorney of each county shall report to the Administrative Office of the United States Courts the information required to be reported pursuant to 18 U.S.C. §

2519. A copy of the report must be filed with the Investigation Division of the Department of Public Safety. In the case of a joint application by the Attorney General and a district attorney both shall make the report.

2. Every justice of the Supreme Court or district judge who signs an order authorizing or denying an interception shall, within 30 days after the termination of the order or any extension thereof, file with the Investigation Division of the Department of Public Safety on forms approved by the Division a report containing the same information required to be reported pursuant to 18 U.S.C. § 2519. The report must also indicate whether a party to an intercepted wire, ,electronic or oral communication had consented to the interception.

3. The willful failure of any officer to report any information known to the officer which is required to be reported pursuant to subsection 1 or 2 constitutes malfeasance in office and, in such cases, the Secretary of State shall, when the wrong becomes known to the Secretary of State, institute legal proceedings for the removal of that officer.

4. The Investigation Division of the Department of Public Safety shall, on or before April 30 of each year, compile a report consisting of a summary and analysis of all reports submitted to the Division pursuant to this section during the previous calendar year. The report is a public record and may be inspected by any person during the regular office hours of the Division.

Sec. 27. NRS 199.540 is hereby amended to read as follows:

199.540 1. It is unlawful for an officer or employee of a court or law enforcement agency, or any employee of a ~~communications common carrier,~~ provider of electronic communication service, landlord, custodian or other person who is ordered pursuant to subsection 2 of NRS 179.475 to furnish information, facilities and technical assistance necessary to accomplish an authorized interception of a wire, ,electronic or oral communication, having knowledge that an order has been applied for or has been issued authorizing the interception of a wire, ,electronic or oral communication in accordance with NRS 179.410 to 179.515, inclusive, and sections 2 to 8, inclusive, of this act to:

(a) Give notice of the interception; or
 (b) Attempt to give notice of the interception,
 ➔ to any person with the intent to obstruct, impede or prevent the interception of the wire, ,electronic or oral communication.

2. It is unlawful for an officer or employee of a court or law enforcement agency, or any employee of a ~~communications common carrier,~~ provider of electronic communication service, landlord, custodian or other person who is ordered pursuant to subsection 2 of NRS 179.475 to furnish information, facilities and technical assistance necessary to accomplish an authorized interception of a wire, ,electronic or oral communication, having knowledge that an order has been applied for or has been issued authorizing the use of a pen register or trap and trace device to:

(a) Give notice of the use of the pen register or device; or

(b) Attempt to give notice of the use of the pen register or device,
 ➔ to any person with the intent to obstruct, impede or prevent that use.

3. A person who violates any provision of subsection 1 or 2 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~Sec. 21~~ **Sec. 28.** This act becomes effective upon passage and approval.

Assemblyman Hansen moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 52.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 348, consisting of the undersigned members, has met and reports that:

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

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 6, which is attached to and hereby made a part of this report.

IRA HANSEN
 PHILIP "P.K." O'NEILL
 DINA NEAL

Assembly Conference Committee

GREG BROWER
 MICHAEL ROBERSON
 AARON FORD

Senate Conference Committee

Conference Amendment No. CA6.

AN ACT relating to unclaimed property; exempting certain property due or owing from a business association to another business association from provisions governing the disposition of unclaimed property under certain circumstances; exempting certain intersection improvement proceeds from provisions governing the disposition of unclaimed property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the powers, duties and liabilities of the State and other persons concerning certain property which is abandoned and unclaimed by its owner. (Chapter 120A of NRS) Under existing law, property that is unclaimed by the apparent owner of the property for a certain period is presumed to be abandoned. (NRS 120A.500, 120A.510, 120A.520) A holder of property that is presumed to be abandoned must make a report concerning the property to the State Treasurer, acting as the Administrator of Unclaimed Property, and pay or deliver the property to the Administrator. (NRS 120A.560, 120A.570) The Administrator must deposit any money received as abandoned property and the proceeds of any sale of abandoned property in the Abandoned Property Trust Account. (NRS 120A.620) A person who claims property paid or delivered to the Administrator may file a claim for the property, and, if the Administrator approves the claim, the Administrator must deliver the property to the claimant or, if the property is money or the net proceeds of a sale of abandoned property, pay the claim from the Account. (NRS 120A.620, 120A.640) At the end of each fiscal year, the first \$7.6 million of the balance remaining in the Account is transferred to the

Millennium Scholarship Trust Fund, and the remaining balance is transferred to the State General Fund, subject to any valid claims. (NRS 120A.620)

Section 1 of this bill provides that certain amounts due or owing from a holder that is a business association to another business association must not be presumed abandoned if the holder and the other business association have an ongoing business relationship. Because these amounts must not be presumed abandoned, the provisions of existing law governing unclaimed property would not apply to those amounts. Under **section 2** of this bill, the provisions of **section 1** apply to the amounts due or owing from a business association to another business association that ~~that~~ **arise from transactions occurring** on or after July 1, 2015. ~~It are in the possession, custody or control of a business association.~~

Section 1.5 of this bill provides that certain amounts paid to this State or a local government as a deposit or fee to provide security for, or to fund the construction of, certain intersection improvement projects are exempt from the provisions of existing law governing unclaimed property. Under **section 2**, this exemption applies only to such deposits or fees that, on or after July 1, 2015, are in the possession, control or custody of this State or a local government.

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

Section 1. Chapter 120A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this subsection, any credit memoranda, overpayments, credit balances, deposits, unidentified remittances, nonrefunded overcharges, discounts, refunds and rebates due or owing from a holder that is a business association to another business association shall not be presumed abandoned if the holder and such business association have an ongoing business relationship. The provisions of this subsection do not apply to outstanding checks, drafts or other similar instruments.

2. For the purposes of subsection 1, an ongoing business relationship shall be deemed to exist if the holder has engaged in at least one commercial, business or professional transaction involving the sale, lease, license or purchase of goods or services with the business association or a predecessor-in-interest of the business association within each 3-year period that follows the date of the transaction giving rise to the property interest that shall not be presumed abandoned pursuant to subsection 1.

Sec. 1.5. NRS 120A.135 is hereby amended to read as follows:

120A.135 1. The provisions of this chapter do not apply to ~~gaming~~ :

(a) **Gaming** chips or tokens which are not redeemed at an establishment.

(b) **Intersection improvement project proceeds.**

2. As used in this section:

(a) "Establishment" has the meaning ascribed to it in NRS 463.0148.

(b) “Gaming chip or token” means any object which may be redeemed at an establishment for cash or any other representative of value other than a slot machine wagering voucher as defined in NRS 463.369.

(c) *“Intersection improvement project” means construction or improvements relating to intersections, including, without limitation, the construction, installation or upgrade of traffic control devices, turn lanes and appurtenances.*

(d) *“Intersection improvement project proceeds” means amounts held by this State or an agency or political subdivision of this State that were paid to the State or the agency or political subdivision for the purpose of providing security for, or to fund the construction of, an intersection improvement project.*

Sec. 2. 1. The amendatory provisions of section 1 of this act apply to all amounts due or owing from a business association to another business association that ~~that~~ arise from transactions occurring on or after July 1, 2015 ~~that are in the possession, custody or control of a business association.~~

2. The amendatory provisions of section 1.5 of this act apply only to intersection improvement project proceeds that, on or after July 1, 2015, are in the possession, custody or control of this State or an agency or political subdivision of this State.

3. As used in this section:

(a) “Business association” has the meaning ascribed to it in NRS 120A.040.

(b) “Intersection improvement project proceeds” has the meaning ascribed to it in NRS 120A.135, as amended by section 1.5 of this act.

Sec. 3. This act becomes effective on July 1, 2015.

Assemblyman Hansen moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 348.

Motion carried by a constitutional majority.

GENERAL FILE AND THIRD READING

Senate Joint Resolution No. 13.

Resolution read third time.

Remarks by Assemblymen Dickman, Fiore, Armstrong, Hansen, Ellison, and Kirkpatrick.

ASSEMBLYWOMAN DICKMAN:

Senate Joint Resolution 13 proposes to amend the *Nevada Constitution* to limit the total amount of certain property taxes that may be levied on real property to 1.25 percent of the base value of the property. Base value is defined, with certain exceptions, as the taxable value from which the assessed value for Fiscal Year 2017-2018 was calculated. The 1.25 percent limit on the amount of property taxes that may be levied does not apply to property taxes levied to pay the interest and principal of any bonded indebtedness or to pay any obligation under a contract made in connection with such bonded indebtedness.

The resolution provides, with certain exceptions, that the base value becomes the cash value of the property upon the transfer of at least one-half of the ownership interest in the property, an improvement to the property increases the base value by the cash value of the improvement, and the base value cannot increase or decrease from year to year by more than 3 percent.

Pursuant to Article 16, Section 1 of the *Nevada Constitution* and Chapter 218D of the *Nevada Revised Statutes*, the provisions contained within this joint resolution must be approved by the Legislature during the 2015 and 2017 Sessions, followed by voter approval at the 2018 General Election, in order to be ratified.

ASSEMBLYWOMAN FIORE:

I just need some clarification. I am under the impression that this is actually raising the cap to 1.25 when it was already set at 1. Is that correct?

ASSEMBLYMAN ARMSTRONG:

The original bill was 1 percent. In the *Constitution*, it is 5 percent and the statutory is 3.64 percent. This is changing the formula so it is not based on that 3.64 value and you will not have to do the crazy formula that we currently have for property taxes. This tries to simplify that process. The way it is set up, it is trying to be more revenue neutral just to simplify it.

I would like to put on the record that I made a mistake when I answered my colleague's question when we adopted the amendment. I think I may have been enamored thinking about a million-square-foot house. This resolution does apply to all real property, and the trigger does not have a reset until you hit that 15 percent mark.

ASSEMBLYWOMAN FIORE:

I am not clear. So this is actually raising the cap at the moment, correct?

ASSEMBLYMAN ARMSTRONG:

This is a resolution that would have to come back to this body and then go to a vote of the people.

ASSEMBLYWOMAN FIORE:

So let us play pretend world and pretend it came back. Are we raising the cap? Just yes or no.

ASSEMBLYMAN ARMSTRONG:

I do not live in the pretend world.

ASSEMBLYMAN HANSEN:

Mr. Speaker, I can address that. The point that I was going to bring up is that this does raise the cap if it passes a vote of the people. We have to remember that what we are addressing in this is an opportunity of the people to decide whether or not they are willing to raise that cap. If they vote no, it is dead; if they pass it, it would become something we would address here in the Legislature or depending on the verbiage, it would become part of the *Constitution*. It does go to a vote of the people.

ASSEMBLYMAN ELLISON:

I would like to know—there are two types of caps they can consider. One is residential and one is commercial. Is this just an overall, general study they are trying to get out? Usually, the cap goes from 5 percent for commercial to 8 percent and residential 3 percent. Is this going to address that issue?

ASSEMBLYMAN ARMSTRONG:

This does not address that 3 and 8 percent. This 1.25 percent is the valuation for the base. This is more in relation to the 5 percent constitutional rate and the 3.64 statutory cap.

ASSEMBLYWOMAN FIORE:

I rise in opposition to S.J.R. 13 because it is raising the cap. This is the last night, and I am just going to say in response to my colleague's response about "pretend world," this is definitely a pretend world of two houses of Republicans and Nevada's largest tax increase in history. I hate to burst your bubble, but we are in a pretend world.

ASSEMBLYMAN ARMSTRONG:

This does not raise the cap at the current statutory number at 3.64 for \$100 of assessed value, but the 1.25 percent is equivalent to 3.57 per \$100 of assessed value.

ASSEMBLYWOMAN KIRKPATRICK:

I rise in support of S.J.R. 13. What this will do is change how our property tax structure works. For a very long time, we have been talking about how our property tax structure is very unique in our state. We are the only state in the United States that does not allow for depreciation. I know my colleague from the Senate has worked pretty hard on this issue, but because our property tax is defined within the *Nevada Constitution*, you have to go through a constitutional amendment when you want to make such a change. Nothing is going to happen with this bill for at least four years. This has to pass the Legislature twice, and it has to pass a vote of the people once. Unless somebody does a very good job of explaining what it does, it will not pass because people will not understand why we are trying to change it. This talks about the fair market value, which we have always talked about in our state. We have this crazy formula that says x plus y times 2 divided by 35 over 100 gives you 6 which you times by 12. That is our property tax structure. I will give my colleague credit for trying to change it.

There will have to be some statutory fixes because of our ridiculous formula that nobody can ever figure out. This is just sending it to a vote of the people. To get them ready for it, we will have to figure out how to explain it to them. Then the Legislature will have to make some statutory changes if the voters decide they would like to have a property tax structure more like 30 other states instead of just being unique like Nevada. It is just a vote of the people, and that is why I support sending it out. I hope that if it passes, you as future legislators will follow the statutory requirements and clean it up.

Roll call on Senate Joint Resolution No. 13:

YEAS—34.

NAYS—Ellison, Fiore, Jones, Seaman, Shelton—5.

EXCUSED—Dooling, Kimer, Moore—3.

Senate Joint Resolution No. 13 having received a constitutional majority,
Mr. Speaker declared it passed, as amended.

Resolution ordered transmitted to the Senate.

Senate Bill No. 213.

Bill read third time.

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

Amendment No. 1061.

AN ACT relating to state financial administration; requiring the Chief of the Budget Division of the Department of Administration to maintain a database of certain information relating to federal assistance received by agencies of the Executive Department of the State Government; requiring the Department of Administration to prepare an annual report that contains information relating to federal assistance programs; requiring that the report be submitted to the Governor and the Legislature; authorizing the Fiscal Analysis Division of the Legislative Counsel Bureau to prepare an advisory report containing information with respect to federal assistance programs; **making appropriations**; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each agency of the Executive Department of the State Government that requests money, equipment, material or services from the Federal Government to submit its request or budget to the office of the Chief of the Budget Division of the Department of Administration and to resubmit, upon approval by the federal authority, the request or budget to the Chief and

to the Fiscal Analysis Division of the Legislative Counsel Bureau for recording before any allotment or encumbrance of the federal money is made. (NRS 353.245) This bill requires: (1) the Chief to maintain a database of each request or budget submitted or resubmitted by an agency of the Executive Department; (2) the Department of Administration to prepare an annual report that contains certain information relating to federal assistance programs that are used by or available to agencies of the Executive Department; and (3) the Department of Administration to submit the report to the Governor and the Legislature. This bill also authorizes the Fiscal Analysis Division to prepare a report as to the advisability of increasing or decreasing the use of certain available federal assistance programs.

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

Section 1. NRS 353.245 is hereby amended to read as follows:

353.245 *1.* In addition to the requirements of NRS 353.335, every department, institution and agency of the Executive Department of the State Government, when making requests for budgets to be submitted to the Federal Government for ~~money, equipment, material or services,~~ **federal assistance**, shall file the request or budget with the office of the Chief and with the Fiscal Analysis Division of the Legislative Counsel Bureau before submitting it to the proper federal authority. When the federal authority has approved the request or budget, in whole or in part, the department, institution or agency of the State Government shall resubmit it to the Chief and to the Fiscal Analysis Division of the Legislative Counsel Bureau for recording before any allotment or encumbrance of the federal ~~money~~ **assistance, as applicable**, is made.

2. The Chief shall maintain a database of each request and budget filed with or resubmitted to the office of the Chief pursuant to subsection 1.

3. The Department of Administration shall prepare a report for each fiscal year that:

(a) Identifies the total amount of federal assistance received by each department, institution and agency of the Executive Department of the State Government for the fiscal year.

(b) Identifies the total amount of federal assistance which each department, institution and agency of the Executive Department of the State Government applied to receive for the fiscal year.

(c) Identifies the total amount of federal assistance used by each department, institution or agency of the Executive Department of the State Government for the fiscal year.

(d) To the extent practicable, includes recommendations of any actions which are necessary to apply for additional federal assistance programs or to improve the use of existing federal assistance programs used by a department, institution or agency of the Executive Department of the State Government.

(e) *Includes the advisory report prepared by the Fiscal Analysis Division of the Legislative Counsel Bureau pursuant to subsection 4, if any.*

4. *The Fiscal Analysis Division of the Legislative Counsel Bureau may prepare a report as to the advisability of increasing or decreasing the use of any federal assistance program identified pursuant to paragraph (c) of subsection 3.*

5. *The Department of Administration shall, on or before October 1 of each year, submit the report prepared pursuant to subsection 3 for the immediately preceding fiscal year to:*

(a) *The Governor; and*

(b) *The Director of the Legislative Counsel Bureau for transmittal to:*

(1) *The Legislative Commission if the report is prepared in an odd-numbered year; or*

(2) *The next regular session of the Legislature if the report is prepared in an even-numbered year.*

6. *As used in this section, “federal assistance” means money, equipment, material or services that may be available to a department, institution or agency of the Executive Department of the State Government from any agency or authority of the Federal Government pursuant to a federal program.*

Sec. 1.5. 1. There is hereby appropriated from the State General Fund to the Office of Finance in the Office of the Governor:

For the Fiscal Year 2015-2016..... \$87,000

For the Fiscal Year 2016-2017 \$87,000

2. The Office of Finance shall use the money appropriated by subsection 1 for personnel and operating costs associated with carrying out the provisions of section 1 of this act.

3. 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 16, 2016, and September 15, 2017, 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 General Fund on or before September 16, 2016, and September 15, 2017, respectively.

4. If Assembly Bill No. 469 of this session does not become effective, the references in this section to the Office of Finance in the Office of the Governor shall be deemed to refer to the Budget Division of the Department of Administration.

Sec. 1.7. 1. There is hereby appropriated from the State General Fund to the Office of Finance in the Office of the Governor:

For the Fiscal Year 2015-2016 \$10,000

For the Fiscal Year 2016-2017 \$10,000

2. The Office of Finance shall use the money appropriated by subsection 1 for the travel expenses of members of the Nevada Advisory Council on Federal Assistance created by Senate Bill No. 214 of this session related to the business of the Council.

3. 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 16, 2016, and September 15, 2017, 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 General Fund on or before September 16, 2016, and September 15, 2017, respectively.

4. If Assembly Bill No. 469 of this session does not become effective, the references in this section to the Office of Finance in the Office of the Governor shall be deemed to refer to the Budget Division of the Department of Administration.

Sec. 2. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 3. 1. This ~~section and sections 1, 1.5 and 2 of this~~ act ~~becomes~~ *become* effective on July 1, 2015.

2. Section 1.7 of this act becomes effective on July 1, 2015, if and only if Senate Bill No. 214 of this session is enacted by the Legislature and approved by the Governor.

Assemblywoman Bustamante Adams moved the adoption of the amendment.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Senate Bill 213, as amended, makes appropriations from the General Fund of \$97,500 in each year of the biennium to fund the reporting requirements for additional administrative support relating to the federal assistance received by agencies of the Executive Department of state government.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Bustamante Adams moved that Senate Bill No. 213 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 213.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Senate Bill 213 continues the requirement that every department, institution, and agency of the Executive Department, when making requests for budgets to be submitted to the federal government for federal assistance, shall file the grant request or budget with the Chief of the Budget Division and with the Fiscal Analysis Division of the Legislative Counsel Bureau before submitting it to the proper federal authority. When the federal authority has approved the request or budget, in whole or in part, the department, institution, or agency of the Executive Branch shall resubmit it to the Chief and to the Fiscal Analysis Division for recording.

Roll call on Senate Bill No. 213:

YEAS—37.

NAYS—Fiore, Shelton—2.

EXCUSED—Dooling, Kimer, Moore—3.

Senate Bill No. 213 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 512.

Bill read third time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1072.

SUMMARY—~~[Abolishes the Foreclosure Mediation Program.]~~ **Revises provisions concerning real property.** (BDR 9-1287)

AN ACT relating to real property; **authorizing a mortgagor or a grantor or the person who holds title of record with respect to a deed of trust to initiate participation in what is commonly known as the Foreclosure Mediation Program with the mortgagee or beneficiary of the deed of trust under certain circumstances;** abolishing the ~~[Foreclosure Mediation] Program~~ **as of June 30, 2017;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the establishment of a foreclosure mediation program and generally requires that mediation, unless waived, be conducted as a condition of a judicial foreclosure proceeding or the exercise of a power of sale affecting owner-occupied housing. The Nevada Supreme Court is required to adopt rules to implement the ~~[foreclosure mediation]~~ program. (NRS 40.437, 107.086) **Existing law also creates the Account for Foreclosure Mediation, the money in which may be expended only for the purpose of supporting the program.** (NRS 107.080)

Section 1 of this bill authorizes a mortgagor under a mortgage secured by owner-occupied housing or a grantor or the person who holds the title of record with respect to a deed of trust concerning owner-occupied housing to initiate the mediation process if: (1) a local housing counseling

agency approved by the United States Department of Housing and Urban Development certifies that the mortgagor, grantor or person who holds the title of record has a documented financial hardship and is in imminent risk of default; (2) the mortgagor, grantor or other person files a form with the Mediation Administrator indicating an election to enter into mediation; and (3) the mortgagor, grantor or other person pays his or her share of the fee for the mediation. Under this bill, if the parties participate in mediation in good faith, the requirement of existing law to participate in mediation before a nonjudicial foreclosure sale of the owner-occupied housing is satisfied.

Section 10.5 of this bill authorizes the Court Administrator, under certain circumstances, to submit to the Interim Finance Committee a request for an allocation from the Contingency Account created by NRS 353.266 for deposit in the Account for Foreclosure Mediation.

Section 12 of this bill repeals ~~those~~ the existing statutes ~~that~~ providing for the foreclosure mediation program, effective on June 30, 2017, effectively ending the program on that date. ~~Sections~~ Section 1 also expires by limitation on that date. Under sections 1, 2.5 and 8.5 of this bill, ~~make~~ December 31, 2016, is the last date on which a homeowner can enroll in the foreclosure mediation program. ~~and provide that persons~~ Persons initiating foreclosures after December 1, 2016, need not provide notice of the mediation program. Sections ~~11, 1.5, 2, 3-8 and 9-11~~, 9, 10 and 11 of this bill make conforming changes.

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A mortgagor under a mortgage secured by owner-occupied housing or a grantor or the person who holds the title of record with respect to any trust agreement which concerns owner-occupied housing may initiate mediation to negotiate a loan modification under the mediation process set forth in NRS 107.086 if, on or before December 31, 2016:

(a) A local housing counseling agency approved by the United States Department of Housing and Urban Development certifies that the mortgagor, grantor or person who holds the title of record:

- (1) Has a documented financial hardship; and
- (2) Is in imminent risk of default; and

(b) The mortgagor, grantor or person who holds the title of record:

- (1) Submits a form prescribed by the Mediation Administrator indicating an election to enter into mediation pursuant to this section; and
- (2) Pays to the Mediation Administrator his or her share of the fee established pursuant to subsection 11 of NRS 107.086.

2. Upon satisfaction of the requirements of subsection 1, the Mediation Administrator shall notify the mortgage servicer, by certified mail, return

receipt requested, of the enrollment of the mortgagor, grantor or person who holds the title of record to participate in mediation pursuant to this section and shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. The mortgage servicer shall notify the mortgagee or the beneficiary of the deed of trust, as applicable, and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the enrollment of the mortgagor, grantor or person who holds the title of record to participate in mediation.

3. Each mediation required by this section must be conducted in conformity with the requirements of subsections 5 and 6 of NRS 107.086.

4. 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 mortgage servicer a certificate which provides that the mediation required by this section has been completed in the matter. If the Mediation Administrator provides such a certificate, the requirement for mediation pursuant to NRS 107.086 is satisfied.

5. The certificate provided pursuant to subsection 4 must be in the same form as the certificate provided pursuant to subsection 8 of NRS 107.086, and may be recorded in the office of the county recorder in which the trust property, or some part thereof, is situated. The recording of the certificate in the office of the county recorder in which the trust property, or some part thereof, is situated shall be deemed to be the recording of the certificate required pursuant to subparagraph (2) of paragraph (d) of subsection 2 of NRS 107.086.

6. A noncommercial lender is not excluded from the application of this section.

7. 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.

8. As used in this section:

(a) "Financial hardship" means a documented event that would prevent the long-term payment of any debt relating to a mortgage or deed of trust secured by owner-occupied housing, including, without limitation:

(1) The death of the borrower or co-borrower;

(2) Serious illness;

(3) Divorce or separation; or

(4) Job loss or a reduction in pay.

(b) "Imminent risk of default" means the inability of a grantor or the person who holds the title of record to make his or her mortgage payment within the next 90 days.

(c) "Mediation Administrator" has the meaning ascribed to it in NRS 107.086.

(d) "Noncommercial lender" has the meaning ascribed to it in NRS 107.086.

(e) "Owner-occupied housing" has the meaning ascribed to it in NRS 107.086.

Sec. 1.5. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 106.210 ~~++ and 107.085, and 107.086,~~ if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment.

(b) In the case of any trust agreement which concerns owner-occupied housing, ~~as defined in NRS 107.086,~~ the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment.

(c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation which, except as otherwise provided in this paragraph, includes a notarized affidavit of authority to exercise the power of sale. Except as otherwise provided in subparagraph (5), the affidavit required by this paragraph must state under the penalty of perjury the following information, which must be based on the direct, personal knowledge of the affiant or the personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135:

(1) The full name and business address of the current trustee or the current trustee's personal representative or assignee, the current holder of the note secured by the deed of trust, the current beneficiary of record and the current servicer of the obligation or debt secured by the deed of trust.

(2) That the beneficiary under the deed of trust, the successor in interest of the beneficiary or the trustee is in actual or constructive possession of the note secured by the deed of trust or that the beneficiary or its successor in interest or the trustee is entitled to enforce the obligation or debt secured by the deed of trust. For the purposes of this subparagraph, if the obligation or debt is an instrument, as defined in subsection 2 of NRS 104.3103, a beneficiary or its successor in interest or the trustee is entitled to enforce the instrument if the beneficiary or its successor in interest or the trustee is:

(I) The holder of the instrument;

(II) A nonholder in possession of the instrument who has the rights of a holder; or

(III) A person not in possession of the instrument who is entitled to enforce the instrument pursuant to a court order issued under NRS 104.3309.

(3) That the beneficiary or its successor in interest, the servicer of the obligation or debt secured by the deed of trust or the trustee, or an attorney representing any of those persons, has sent to the obligor or borrower of the obligation or debt secured by the deed of trust a written statement of:

(I) The amount of payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of the statement;

(II) The amount in default;

(III) The principal amount of the obligation or debt secured by the deed of trust;

(IV) The amount of accrued interest and late charges;

(V) A good faith estimate of all fees imposed in connection with the exercise of the power of sale; and

(VI) Contact information for obtaining the most current amounts due and the local or toll-free telephone number described in subparagraph (4).

(4) A local or toll-free telephone number that the obligor or borrower of the obligation or debt may call to receive the most current amounts due and a recitation of the information contained in the affidavit.

(5) The date and the recordation number or other unique designation of, and the name of each assignee under, each recorded assignment of the deed of trust. The information required to be stated in the affidavit pursuant to this subparagraph may be based on:

(I) The direct, personal knowledge of the affiant;

(II) The personal knowledge which the affiant acquired by a review of the business records of the beneficiary, the successor in interest of the beneficiary or the servicer of the obligation or debt secured by the deed of trust, which business records must meet the standards set forth in NRS 51.135;

(III) Information contained in the records of the recorder of the county in which the property is located; or

(IV) The title guaranty or title insurance issued by a title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS.

↪ The affidavit described in this paragraph is not required for the exercise of the trustee's power of sale with respect to any trust agreement which concerns a time share within a time-share plan created pursuant to chapter 119A of NRS if the power of sale is being exercised for the initial beneficiary under the deed of trust or an affiliate of the initial beneficiary.

(d) The beneficiary or its successor in interest or the servicer of the obligation or debt secured by the deed of trust has instructed the trustee to exercise the power of sale with respect to the property.

(e) Not less than 3 months have elapsed after the recording of the notice or, if the notice includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, not less than 60 days have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:

(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2;

(b) If the property is subject to the requirements of NRS 107.400 to 107.560, inclusive, contain the declaration required by subsection 6 of NRS 107.510;

(c) If, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property, include the affidavit and certification required by subsection 6 of NRS 107.130; and

(d) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the applicable period specified in paragraph (d) of subsection 2 following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in a public place in the county where the property is situated;

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement in a newspaper in the manner required by subsection 3 of NRS 119A.560; and

(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section must be declared void by any court of competent jurisdiction in the county where the sale took place if:

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS ~~1107.086 and~~ 107.087;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 45 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 15 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 60 days after the date on which the person received actual notice of the sale.

7. If, in an action brought by the grantor or the person who holds title of record in the district court in and for the county in which the real property is located, the court finds that the beneficiary, the successor in interest of the beneficiary or the trustee did not comply with any requirement of subsection

2, 3 or 4, the court must award to the grantor or the person who holds title of record:

(a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) Reasonable attorney's fees and costs,
 ➔ unless the court finds good cause for a different award. The remedy provided in this subsection is in addition to the remedy provided in subsection 5.

8. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

9. After a sale of property is conducted pursuant to this section, the trustee shall:

(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or

(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.

10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 9, the successful bidder:

(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and

(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 9 and for reasonable attorney's fees and the costs of bringing the action.

11. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:

(a) A fee of \$150 for deposit in the State General Fund.

(b) ~~{A fee of \$45 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.~~

~~—(c)~~ A fee of \$5 to be paid over to the county treasurer on or before the fifth day of each month for the preceding calendar month. The county recorder may direct that 1.5 percent of the fees collected by the county recorder pursuant to this paragraph be transferred into a special account for use by the office of the county recorder. The county treasurer shall remit quarterly to the organization

operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for the operation of programs for the indigent all the money received from the county recorder pursuant to this paragraph.

12. The fees collected pursuant to ~~paragraphs~~ **paragraph (a) and (b)** of subsection 11 must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund . ~~for the Account for Foreclosure Mediation as prescribed pursuant to subsection 11.~~ The county recorder may direct that 1.5 percent of the fees collected by the county recorder be transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund . ~~for the Account as prescribed in subsection 11.~~

13. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 11.

14. As used in this section:

(a) ***“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.***

(b) ***“Residential foreclosure” means the sale of a single family residence under a power of sale granted by this section. As used in this paragraph, “single family residence”:***

(1) Means a structure that is comprised of not more than four units.

(2) Does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

~~(b)~~ (c) ***“Trustee” means the trustee of record.***

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~~ **107.080.**

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~~ **107.080**:

(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!

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:

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. 2.5. NRS 107.086 is hereby amended to read as follows:

107.086 1. Except as otherwise provided in this subsection ~~and~~ **and subsection 4 of section 1 of this act**, 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 ***and for which a notice of default and election to sell is mailed on or before December 1, 2016, to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080*** is subject to the provisions of this section. The provisions of this section do not apply to the exercise of the power of sale if the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

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 will be enrolled to participate in mediation pursuant to this section if he or she pays to the Mediation Administrator his or her share of the fee established pursuant to subsection 11; and

(4) A form upon which the grantor or the person who holds the title of record may indicate an election 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

(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 4 or 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 8 which provides that mediation has been completed in the matter.

3. 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 ~~††~~ **or December 31, 2016, whichever is earlier**, 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 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 ~~††~~ **or December 31, 2016, whichever is earlier**, pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11. Upon receipt of the share of the fee established pursuant to subsection 11 owed by the grantor or the person who holds title of record, the Mediation Administrator shall notify the trustee, by certified mail, return receipt requested, of the enrollment of the grantor or person who holds the title of record to participate in mediation pursuant to this section and shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. 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 pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11, as required by 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.

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 11. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or his or her representative, or the person who holds the title of record or his or her representative, shall attend the 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.

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 5 or does not have the authority or access to a person with the authority required by subsection 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.

7. If the grantor or the person who holds the title of record 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.

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.

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-owners' association organized under NRS 116.3101 of the existence of the certificate.

10. During the pendency of any mediation pursuant to this section, a unit's owner must continue to pay any obligation, other than any past due obligation.

11. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

12. Except as otherwise provided in subsection 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.

13. A noncommercial lender is not excluded from the application of this section.

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.

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 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.

(d) "Obligation" has the meaning ascribed to it in NRS 116.310313.

(e) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(f) "Unit's owner" has the meaning ascribed to it in NRS 116.095.

Sec. 3. NRS 107.095 is hereby amended to read as follows:

107.095 1. The notice of default required by NRS 107.080 must also be sent by registered or certified mail, return receipt requested and with postage prepaid, to each guarantor or surety of the debt. If the address of the guarantor

or surety is unknown, the notice must be sent to the address of the trust property. Failure to give the notice, except as otherwise provided in subsection 3, releases the guarantor or surety from his or her obligation to the beneficiary, but does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any guarantor or surety to whom the notice was properly given.

2. Failure to give the notice of default required by NRS 107.090, except as otherwise provided in subsection 3, releases the obligation to the beneficiary of any person who has complied with NRS 107.090 and who is or may otherwise be held liable for the debt or other obligation secured by the deed of trust, but such a failure does not affect the validity of a sale conducted pursuant to NRS 107.080 or the obligation of any person to whom the notice was properly given pursuant to this section or to NRS 107.080 or 107.090.

3. A guarantor, surety or other obligor is not released pursuant to this section if:

(a) The required notice is given at least 15 days before the later of:

(1) The expiration of the 15- or 35-day period described in paragraph (a) of subsection 2 of NRS 107.080;

(2) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS ~~107.086~~, **107.080**, the expiration of the period described in paragraph (b) of subsection 2 of NRS 107.080; or

(3) Any extension of the applicable period by the beneficiary; or

(b) The notice is rescinded before the sale is advertised.

Sec. 4. NRS 107.450 is hereby amended to read as follows:

107.450 “Residential mortgage loan” means a loan which is primarily for personal, family or household use and which is secured by a mortgage or deed of trust on owner-occupied housing as defined in NRS ~~107.086~~ **107.080**.

Sec. 5. NRS 107.460 is hereby amended to read as follows:

107.460 The provisions of NRS 107.400 to 107.560, inclusive, do not apply to a financial institution, as defined in NRS 660.045, that, during its immediately preceding annual reporting period, as established with its primary regulator, has foreclosed on 100 or fewer real properties located in this State which constitute owner-occupied housing, as defined in NRS ~~107.086~~ **107.080**.

Sec. 6. NRS 107.480 is hereby amended to read as follows:

107.480 1. In addition to the requirements of NRS 107.085, ~~and~~ ~~107.086~~, the exercise of a trustee’s power of sale pursuant to NRS 107.080 with respect to a deed of trust securing a residential mortgage loan is subject to the provisions of NRS 107.400 to 107.560, inclusive.

2. In addition to the requirements of NRS 40.430 to 40.4639, inclusive, a civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan is subject to the requirements of NRS 107.400 to 107.560, inclusive.

Sec. 7. NRS 107.550 is hereby amended to read as follows:

107.550 1. A civil action for a foreclosure sale pursuant to NRS 40.430 involving a failure to make a payment required by a residential mortgage loan must be dismissed without prejudice, any notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 must be rescinded, and any pending foreclosure sale must be cancelled, if:

- (a) The borrower accepts a permanent foreclosure prevention alternative;
- (b) A notice of sale is not recorded within 9 months after the notice of default and election to sell is recorded pursuant to subsection 2 of NRS 107.080; or
- (c) A foreclosure sale is not conducted within 90 calendar days after a notice of sale is recorded pursuant to subsection 4 of NRS 107.080.

2. The periods specified in paragraphs (b) and (c) of subsection 1 are tolled:

(a) If a borrower has filed a case under 11 U.S.C. Chapter 7, 11, 12 or 13, until the bankruptcy court enters an order closing or dismissing the bankruptcy case or granting relief from a stay of foreclosure or trustee's sale;

~~(b) If mediation pursuant to NRS 107.086 is required, until the date on which the Mediation Administrator, as defined in NRS 107.086, issues the certificate that mediation has been completed in the matter;~~

~~—(c) If mediation pursuant to NRS 40.437 is required or if a court orders participation in a settlement program, until the date on which the mediation or participation in a settlement program is terminated; or~~

~~—(d) (c) If a borrower has submitted an application for a foreclosure prevention alternative, until the date on which:~~

~~(1) A written offer for a foreclosure prevention alternative is submitted to the borrower;~~

~~(2) A written statement of the denial of the application has been submitted to the borrower pursuant to subsection 4 of NRS 107.530, and any appeal period pursuant to subsection 5 of NRS 107.530 has expired; or~~

~~(3) If the borrower has appealed the denial of an application for a foreclosure prevention alternative, a written offer for a foreclosure prevention alternative or a written denial of the appeal is submitted to the borrower.~~

3. If, pursuant to subsection 1, a civil action is dismissed, a notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 or any notice of sale recorded pursuant to subsection 4 of NRS 107.080 is rescinded, or any pending foreclosure sale is cancelled, the mortgagee or beneficiary of the deed of trust is thereupon restored to its former position and has the same rights as though an action for a judicial foreclosure had not been commenced or a notice of default and election to sell had not been recorded.

Sec. 8. NRS 2.125 is hereby amended to read as follows:

2.125 The Supreme Court may adopt rules providing for voluntary mediation with respect to ~~1:~~

~~1. A homeowner who is not in default but is at risk of default.~~

~~—2.—A)~~ a small business whose commercial property is in default. If the Supreme Court adopts such rules, the Supreme Court shall consider:

~~{(a)}~~ 1. The goals and purposes of the mediation process;

~~{(b)}~~ 2. The necessity, efficiency and desirability of allowing mediation for the various types of commercial property; and

~~{(c)}~~ 3. Any other factor that is relevant in determining whether allowing mediation under the circumstances is in the best interests of the residents, businesses and governmental entities in this State.

Sec. 8.5. NRS 40.437 is hereby amended to read as follows:

40.437 1. ~~{(f-a)}~~ A civil action for a foreclosure sale pursuant to NRS 40.430 affecting owner-occupied housing *that* is commenced in a court of competent jurisdiction ~~{(f)}~~ ***on or before December 1, 2016, is subject to the provisions of this section.***

2. In a civil action described in subsection 1:

(a) The copy of the complaint served on the mortgagor must include a separate document containing:

(1) Contact information which the mortgagor may use to reach a person with authority to negotiate a loan modification on behalf of the plaintiff;

(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 mortgagor has the right to seek mediation pursuant to this section; and

(4) A form upon which the mortgagor may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the plaintiff and one envelope addressed to the Mediation Administrator, which the mortgagor may use to comply with the provisions of subsection ~~{2-}~~ 3; and

(b) The plaintiff must submit a copy of the complaint to the Mediation Administrator.

~~{2-}~~ 3. The mortgagor shall, not later than the date on which an answer to the complaint is due ~~{(f)}~~ ***or December 31, 2016, whichever is earlier***, complete the form required by subparagraph (4) of paragraph (a) of subsection ~~{(f)}~~ 2 and file the form with the court and return a copy of the form to the plaintiff by certified mail, return receipt requested. If the mortgagor indicates on the form an election to enter into mediation, the plaintiff shall notify any person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the mortgagor to enter into mediation 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. The judicial foreclosure action must be stayed until the completion of the mediation. If the mortgagor indicates on the form an election to waive mediation or fails to file the form with the court and return a copy of the form to the plaintiff as required by this subsection, no mediation is required in the action.

~~13-1~~ 4. 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 11 of NRS 107.086. The plaintiff or a representative, and the mortgagor or his or her representative, shall attend the mediation. If the plaintiff is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the plaintiff or have access at all times during the mediation to a person with such authority.

~~14-1~~ 5. If the plaintiff or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not have the authority or access to a person with the authority required by subsection ~~13-1~~ 4, the mediator shall prepare and submit to the Mediation Administrator and the court a petition and recommendation concerning the imposition of sanctions against the plaintiff or the representative. The court may issue an order imposing such sanctions against the plaintiff or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

~~15-1~~ 6. If the mortgagor elected to enter into mediation and fails to attend the mediation, no mediation is required and the judicial foreclosure action must proceed as if the mortgagor had not elected to enter into mediation.

~~16-1~~ 7. 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 court and the Mediation Administrator a recommendation that the mediation be terminated. The court may terminate the mediation and proceed with the judicial foreclosure action.

~~17-1~~ 8. The rules adopted by the Supreme Court pursuant to subsection 11 of NRS 107.086 apply to a mediation conducted pursuant to this section, and the Supreme Court may adopt any additional rules necessary to carry out the provisions of this section.

~~18-1~~ 9. Except as otherwise provided in subsection ~~110-1~~ 11, the provisions of this section do not apply if:

(a) The mortgagor 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 defendant under 11 U.S.C. Chapter 7, 11, 12 or 13 and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

~~19-1~~ 10. A noncommercial lender is not excluded from the application of this section.

~~110-1~~ 11. 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.

~~111-1~~ 12. As used in this section:

(a) “Mediation Administrator” has the meaning ascribed to it in NRS 107.086.

(b) “Noncommercial lender” has the meaning ascribed to it in NRS 107.086.

(c) “Owner-occupied housing” has the meaning ascribed to it in NRS 107.086.

Sec. 9. Section 2 of Senate Bill 306 of this session is hereby amended to read as follows:

Sec. 2. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 5 ~~1-6~~ or ~~17-1~~ 6, in a condominium, in a planned community, in a cooperative where the owner’s interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner’s interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit’s owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) State the total amount of the deficiency in payment, with a separate statement of:

(I) The amount of the association’s lien that is prior to the first security interest on the unit pursuant to subsection 3 of NRS 116.3116 as of the date of the notice;

(II) The amount of the lien described in sub-subparagraph (I) that is attributable to assessments based on the periodic budget adopted by the association pursuant to NRS 116.3115 as of the date of the notice;

(III) The amount of the lien described in sub-subparagraph (I) that is attributable to amounts described in NRS 116.310312 as of the date of the notice; and

(IV) The amount of the lien described in sub-subparagraph (I) that is attributable to the costs of enforcing the association’s lien as of the date of the notice.

(3) State that:

(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and

(II) If, not later than 5 days before the date of the sale, the holder of the first security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not later than 2 days before the date of the sale, a record of such satisfaction is recorded in the office of the recorder of the county in which the unit is located, the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.

(4) State the name and address of the person authorized by the association to enforce the lien by sale.

(5) Contain, in 14-point bold type, the following warning:

**WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED
IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF
THE AMOUNT IS IN DISPUTE!**

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

(d) The unit's owner or his or her successor in interest, or the holder of a recorded security interest on the unit, has, for a period which commences in the manner and subject to the requirements described in subsection 3 and which expires 5 days before the date of sale, failed to pay the assessments and other sums that are due to the association in accordance with subsection 1 of NRS 116.3116.

(e) 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, an affidavit which states, based on the direct, personal knowledge of the affiant, the personal knowledge which the affiant acquired by a review of a trustee sale guarantee or a similar product or the personal knowledge which the affiant acquired by a review of the business records of the association or other person conducting the sale, which business records must meet the standards set forth in NRS 51.135, the following:

(1) The name of each holder of a security interest on the unit to which the notice of default and election to sell and the notice of sale was mailed, as required by subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635; and

(2) The address at which the notices were mailed to each such holder of a security interest.

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 described in paragraph (c) of subsection 1 begins on the first day following:

(a) The date on which the notice of default and election to sell is recorded; or

(b) The date on which a copy of the notice of default and election to sell is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,

➡ whichever date occurs later.

4. An association may not mail to a unit's owner or his or her successor in interest a letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless:

(a) Not earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner:

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

(2) A proposed repayment plan; and

(3) 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; and

(b) Within 30 days after the date on which the information described in paragraph (a) is mailed, the past due obligation has not been paid in full or the unit's owner or his or her successor in interest has not entered into a repayment plan or requested a hearing before the executive board. If the unit's owner or his or her successor in interest requests a hearing or enters into a repayment plan within 30 days after the date on which the information described in paragraph (a) is mailed and is unsuccessful at the hearing or fails to make a payment under the repayment plan within 10 days after the due date, the association may take any lawful action pursuant to subsection 1 to enforce its lien.

5. The association may not foreclose a lien by sale if the association has not mailed a copy of the notice of default and election to sell and a copy of the notice of sale to each holder of a security interest on the unit in the manner and subject to the requirements set forth in subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of 116.311635.

6. 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.

~~7. The association may not foreclose a lien by sale if the association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:~~

~~—(a) The trustee of record has recorded the certificate provided to the trustee pursuant to subparagraph (1) or (2) of paragraph (c) of subsection 2 of NRS 107.086; or~~

~~—(b) The unit's owner has failed to pay to the association any amounts enforceable as assessments pursuant to subsection 1 of NRS 116.3116 that become due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection 10 of NRS 107.086.~~

Sec. 10. Section 8.5 of Senate Bill 306 of this session is hereby amended to read as follows:

Sec. 8.5. Chapter 657 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A bank, credit union, savings bank, savings and loan association, thrift company or other financial institution which is licensed, registered or otherwise authorized to do business in this State and which is the mortgagee or beneficiary of a deed of trust under a residential mortgage loan shall provide to the Division of Financial Institutions the name, street address and any other contact information of a person to whom ~~it~~:

~~—(a) A borrower or a representative of a borrower must send any document, record or notification necessary to facilitate a mediation conducted pursuant to NRS 40.437 or 107.086.~~

~~—(b) A~~ **a** unit-owners' association must send any notice required to be given pursuant to NRS 116.3116 to 116.31168, inclusive.

2. The Division of Financial Institutions shall maintain on its Internet website the information provided to the Division pursuant to subsection 1 and provide a prominent display of, or a link to, the information described in subsection 1, on the home page of its Internet website.

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

~~(a) "Borrower" means a person who is a mortgagor or grantor of a deed of trust under a residential mortgage loan.~~

~~—(b) "Residential",~~ **"residential** mortgage loan" means a loan which is primarily for personal, family or household use and which is secured by a mortgage or deed of trust on owner-occupied housing as defined in NRS ~~107.086~~ **107.080**.

Sec. 10.5. If the Court Administrator determines that money in the Account for Foreclosure Mediation created by NRS 107.080 is not sufficient to support the mediation process set forth in NRS 107.086, as

amended by section 2.5 of this act, and the mediation process set forth in section 1 of this act, the Court Administrator may submit to the Interim Finance Committee a request for an allocation from the Contingency Account created by NRS 353.266 for deposit in the Account for Foreclosure Mediation for such purpose.

Sec. 11. Any balance remaining in the Account for Foreclosure Mediation created by NRS 107.080 that has not been committed for expenditure before June 30, 2017, must be reverted to the State General Fund.

Sec. 12. NRS 40.437 and 107.086 are hereby repealed.

Sec. 13. 1. This section and sections 2.5, ~~and~~ 8.5, **10.5 and 11** of this act become effective ~~on~~ **upon** passage and approval.

2. **Section 1 of this act becomes effective upon passage and approval and expires by limitation on June 30, 2017.**

~~3.~~ Sections ~~1.5, 2, and~~ 3 to 8, inclusive, ~~and~~ 9 ~~to~~, **10 and 12** of this act become effective on June 30, 2017.

4. Section 10.5 of this act expires by limitation on June 30, 2017.

TEXT OF REPEALED SECTIONS

40.437 Additional requirements for action affecting owner-occupied housing; Notice; form; election of mediation; rules concerning mediation; applicability.

1. A civil action for a foreclosure sale pursuant to NRS 40.430 affecting owner-occupied housing that is commenced in a court of competent jurisdiction on or before December 1, 2016, is subject to the provisions of this section.

2. In a civil action described in subsection 1:

(a) The copy of the complaint served on the mortgagor must include a separate document containing:

(1) Contact information which the mortgagor may use to reach a person with authority to negotiate a loan modification on behalf of the plaintiff;

(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 mortgagor has the right to seek mediation pursuant to this section; and

(4) A form upon which the mortgagor may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the plaintiff and one envelope addressed to the Mediation Administrator, which the mortgagor may use to comply with the provisions of subsection 3; and

(b) The plaintiff must submit a copy of the complaint to the Mediation Administrator.

3. The mortgagor shall, not later than the date on which an answer to the complaint is due or December 31, 2016, whichever is earlier, complete the form required by subparagraph (4) of paragraph (a) of subsection 2 and file the

form with the court and return a copy of the form to the plaintiff by certified mail, return receipt requested. If the mortgagor indicates on the form an election to enter into mediation, the plaintiff shall notify any person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the mortgagor to enter into mediation 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. The judicial foreclosure action must be stayed until the completion of the mediation. If the mortgagor indicates on the form an election to waive mediation or fails to file the form with the court and return a copy of the form to the plaintiff as required by this subsection, no mediation is required in the action.

4. 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 11 of NRS 107.086. The plaintiff or a representative, and the mortgagor or his or her representative, shall attend the mediation. If the plaintiff is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the plaintiff or have access at all times during the mediation to a person with such authority.

5. If the plaintiff or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator and the court a petition and recommendation concerning the imposition of sanctions against the plaintiff or the representative. The court may issue an order imposing such sanctions against the plaintiff or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If the mortgagor elected to enter into mediation and fails to attend the mediation, no mediation is required and the judicial foreclosure action must proceed as if the mortgagor had not elected to enter into mediation.

7. 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 court and the Mediation Administrator a recommendation that the mediation be terminated. The court may terminate the mediation and proceed with the judicial foreclosure action.

8. The rules adopted by the Supreme Court pursuant to subsection 11 of NRS 107.086 apply to a mediation conducted pursuant to this section, and the Supreme Court may adopt any additional rules necessary to carry out the provisions of this section.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The mortgagor 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 defendant under 11 U.S.C. Chapter 7, 11, 12 or 13 and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. 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. As used in this section:

(a) “Mediation Administrator” has the meaning ascribed to it in NRS 107.086.

(b) “Noncommercial lender” has the meaning ascribed to it in NRS 107.086.

(c) “Owner-occupied housing” has the meaning ascribed to it in NRS 107.086.

107.086 Additional requirements for sale of owner-occupied housing: Notice; form; enrollment in mediation; election to waive mediation; adoption of rules concerning mediation; applicability.

1. Except as otherwise provided in this subsection, 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 and for which a notice of default and election to sell is mailed on or before December 1, 2016, to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080 is subject to the provisions of this section. The provisions of this section do not apply to the exercise of the power of sale if the notice of default and election to sell recorded pursuant to subsection 2 of NRS 107.080 includes an affidavit and a certification indicating that, pursuant to NRS 107.130, an election has been made to use the expedited procedure for the exercise of the power of sale with respect to abandoned residential property.

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 will be enrolled to participate in mediation pursuant to this section if he or she pays to the Mediation Administrator his or her share of the fee established pursuant to subsection 11; and

(4) A form upon which the grantor or the person who holds the title of record may indicate an election 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

(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 4 or 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 8 which provides that mediation has been completed in the matter.

3. 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 or December 31, 2016, whichever is earlier, 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 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 or December 31, 2016, whichever is earlier, pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11. Upon receipt of the share of the fee established pursuant to subsection 11 owed by the grantor or the person who holds title of record, the Mediation Administrator shall notify the trustee, by certified mail, return receipt requested, of the enrollment of the grantor or person who holds the title of record to participate in mediation pursuant to this section and shall assign the matter to a senior justice, judge, hearing master or other designee and schedule the matter for mediation. 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 pay to the Mediation Administrator his or her share of the fee established pursuant to subsection 11, as required by 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.

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 11. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or his or her representative, or the person who holds the title of record or his or her representative, shall attend the 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.

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 5 or does not have the authority or access to a person with the authority required by subsection 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.

7. If the grantor or the person who holds the title of record 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.

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.

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-owners' association organized under NRS 116.3101 of the existence of the certificate.

10. During the pendency of any mediation pursuant to this section, a unit's owner must continue to pay any obligation, other than any past due obligation.

11. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

12. Except as otherwise provided in subsection 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.

13. A noncommercial lender is not excluded from the application of this section.

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.

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 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.

(d) “Obligation” has the meaning ascribed to it in NRS 116.310313.

(e) “Owner-occupied housing” means housing that is occupied by an owner as the owner’s primary residence. The term does not include vacant land or any time share or other property regulated under chapter 119A of NRS.

(f) “Unit’s owner” has the meaning ascribed to it in NRS 116.095.

Assemblyman Hansen moved the adoption of the amendment.

Remarks by Assemblyman Hansen.

ASSEMBLYMAN HANSEN:

This amends the language from Senate Bill 321 into Senate Bill 512, which authorizes a homeowner to initiate foreclosure mediation. In order to carry out the provisions of the bill, the court administrator is allowed to appear before the Interim Finance Committee to request allocations under certain circumstances.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 133.

Bill read third time.

Remarks by Assemblywoman Swank.

ASSEMBLYWOMAN SWANK:

Senate Bill 133, as amended, appropriates \$2.5 million dollars in each fiscal year of the 2015-2017 biennium to the newly created Teachers’ School Supplies Reimbursement Account in the State General Fund for the purpose of reimbursing teachers for out-of-pocket expenses incurred in connection with purchasing necessary school supplies for the pupils they instruct. On or before September 1 of each year, the Department shall determine the amount of money that is available for distribution among all of the school districts and charter schools in this state for that fiscal year. To the extent that money is available, the Department shall establish the amount of reimbursement for each teacher, which must not exceed \$250 per fiscal year.

Roll call on Senate Bill No. 133:

YEAS—36.

NAYS—Dickman, Shelton, Titus—3.

EXCUSED—Dooling, Kirner, Moore—3.

Senate Bill No. 133 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Hansen moved that Senate Bill No. 512 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 512.

Bill read third time.

Remarks by Assemblymen Hansen, Elliot Anderson, Thompson, and Ohrenschall.

ASSEMBLYMAN HANSEN:

Senate Bill 512 authorizes a homeowner with a mortgage secured by owner-occupied housing, a grantor, or the holder of title with respect to owner-occupied housing to initiate a foreclosure mediation if a counseling agency approved by the U.S. Department of Housing and Urban Development certifies that the homeowner has a financial hardship and is in imminent danger of default. The homeowner must file a form with the mediation administrator electing to enter into mediation and must pay his or her share of the mediation fee. Good faith mediation engaged in by a lender and a homeowner under the provisions of this bill satisfy pertinent mediation requirements under Nevada law.

ASSEMBLYMAN ELLIOT ANDERSON:

I rise in reluctant support of Senate Bill 512. I know that this bill is necessary because of the funding levels for the budget, so we do need to approve it. I do not believe that we are out of the woods for foreclosure. We are still number two, as we heard yesterday from the Chair of Judiciary. I am worried that a lot of our communities will still need this program. We will be able to take another look at it as we go. We will see. I do hope that this body does not think that this program is not valuable. It is very important; I have seen it work.

ASSEMBLYMAN THOMPSON:

I am also reluctant, but I will vote for this. I feel like I am in a Catch-22 situation because if we vote against it, it might have a shorter time frame in which it survives in communities. If we vote for it, it will have a little bit longer time and I am hopeful that whoever is on the interim committees works hard to keep this alive. We had testimony today from the bill's sponsor saying there is an upswing in people requesting these mediations. Mediation works. I know this for a fact, especially foreclosure mediations. My area is one of the hardest-hit areas for foreclosures. This is what is going to make the difference in making communities remain whole. This is where homeowners get to speak face-to-face with the lenders when they have tried numerous times to call them on the phone, to send an email, and have not gotten the responses they need. We are going to have to vote for it, but I hope that in the interim we are able to make this survive. I hate the word that is on this that is saying to abolish it. When you abolish something, it is over and I hope that it is not.

ASSEMBLYMAN OHRENSCHALL:

I, too, rise in reluctant support of Senate Bill 512. It was just a few years ago when many of us talked to constituents, constituents who would call their bank or their lending institution and they would get one department that would tell them, We are working on it. We are trying to modify your loan. We are going to help, we are going to help. Then a couple of months later, they would find out they are being foreclosed on. One arm of the bank was not talking to the other arm of the bank.

Certainly, we are not in the same foreclosure crisis that we were in then, but we have seen an uptick. The ten-year ARMs [adjustable-rate mortgages] will be maturing in about 2016 and, unfortunately, we may see these rise again. This FMAC [Family Mediation and Assessment Center] program has brought the banks and the homeowners together. I think there has been a lot of success. I have heard about it from my colleagues who practice in this area. I have heard about it from my constituents. I do reluctantly support it, and I do hope we will find the resources to continue this program.

Roll call on Senate Bill No. 512:

YEAS—40.

NAYS—None.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 512 having received a two-thirds majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 332.

Bill read third time.

Remarks by Assemblywoman Bustamante Adams.

ASSEMBLYWOMAN BUSTAMANTE ADAMS:

Senate Bill 332 appropriates \$1 million in each year of the biennium from the State General Fund to the Clark County School District to carry out a program of teacher peer assistance and review. This bill is effective on July 1, 2015.

Roll call on Senate Bill No. 332:

YEAS—31.

NAYS—Dickman, Ellison, Fiore, Hansen, Jones, Shelton, Titus, Trowbridge, Wheeler—9.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 332 having received a constitutional majority, Mr. Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 296.

Bill read third time.

Remarks by Assemblymen Gardner, Elliot Anderson, Ohrenschall, Diaz, and Nelson.

ASSEMBLYMAN GARDNER:

This is the bill that we called for reconsideration. This is the bill that changes how we are doing punitive damages in our state. It puts products under the 3-to-1 cap. Right now, the U.S. Supreme Court has put a 4-to-1 cap on punitive damages for the constitutionality under the due process clause in the Fourteenth Amendment. I think it is a good bill. The first section allows you to put your complaint forward, then you do discovery, and then you start talking about punitives after you have actually done the discovery. I think it is a good bill, and I think we should pass it.

ASSEMBLYMAN ELLIOT ANDERSON:

I rise in opposition to Senate Bill 296. Truth be told, without the amendment I think I could have gotten there. If you recall, the Assembly amended a requirement that basically puts government regulators in the place of the jury and determines whether the defendant acted intentionally. That is what I have a problem with. I do not think we should get in the way of the jury making these decisions. I think it is unprecedented to allow government regulators to decide this rather than the jury. I am in opposition.

ASSEMBLYMAN OHRENSCHALL:

I rise in opposition to Senate Bill 296, and I echo many of the comments from my colleague from Assembly District 15. Section 3 does concern me a lot. A lot of times, the governmental agency that will have responsibility will be one of our governmental agencies back in Washington, D.C. Whether you go back to thalidomide, the Dalkon Shield, the Pinto, we know that those agencies tend to act slowly. My concern is that the victims of these products will have to wait until that agency acts. I do not think that is something we really want to do to our constituents.

ASSEMBLYWOMAN DIAZ:

I rise in opposition to Senate Bill 296. I request that my previous comments be reentered into the record.

[I rise in opposition to Senate Bill 296. This bill, as amended, would have harmful effects on those injured by defective products. There are numerous instances across the country where individuals have been harmed by a consumer product, many of which have been approved and vetted by the appropriate governmental agencies. For instance, there was the superbug outbreak at a college campus in California late this year involving defective scopes. In the superbug outbreak, Olympus, the maker of the scopes, knew of outbreaks in Florida dating back to 2008 and an outbreak in Seattle dating back to 2012. Those earlier outbreaks involved the same scopes; however, the company failed to tell the FDA [Food and Drug Administration]. Should this bill pass, punitive damages will now be capped at 3 to 1 because the FDA has taken no action on the company's failure to report prior incidents.

Likewise in another example, GM [General Motors] has now recalled 24.6 million cars in the U.S. because of a faulty ignition switch that forces a car to turn off and prevents the airbags from deploying. GM engineers knew about the problem for a decade yet did not report it to the National Highway Traffic Safety Administration [NHTSA]. Despite all of the injuries, deaths, and recalls attributed to the issue, there has been no action to date by the NHTSA.

We, as elected officials, have a responsibility to our constituents and the residents of Nevada to ensure safety from harmful products that slip through the cracks of governmental regulation. Passing this legislation breaks that promise and denies our constituents the opportunity to feel assured that they will be made whole in a situation when they are harmed, injured, or even killed because a large corporation was negligent and the federal governmental entity failed to act.]

I want to state, echoing the comments of my colleagues that spoke before me in opposition, it just smacks a little contrary to what a lot of my colleagues in this body believe in. They think that we should not wait on federal entities, that we as a state should take action on behalf of our citizenry. I do not understand why we think this amendment is awesome when we know of cases where the companies have been extremely negligent and the federal agencies have done nothing to shed light on the fact that they were. Who is going to be detrimentally impacted? It is not the GMs of the world. It is not going to be the Olympuses of the world. It is going to be your constituents. So if you want to take away the right for your constituents to access justice, this is the way to go. Vote for this bill. But if you believe that you should err on the side of your constituents and not on the side of waiting for a federal agency to say ten years later when the harm is already done, This product is defective. That person cannot regain their health, and sometimes they cannot regain their life. I think this vote is not worth taking that access to justice from anyone.

ASSEMBLYMAN NELSON:

I rise in support of Senate Bill 296, as amended. I would like to point out to my colleagues that there is still the three times compensatory cap. A lot of our constituents are business owners also, it is not just individuals. This bill is designed to help business owners. As you recall, in past decades we have had an exodus from our state. It started first with medical providers—doctors particularly. This sort of cap has helped to keep a number of them in the state. They can still get three times compensatory damages. If they want to go above that, and that would only be in the super, super big cases, if they can get a governmental agency to make an opinion, they can still go for punitive damages as high as they want. As my colleague from the south pointed out, the U.S. Supreme Court has said that anything that is in the range of four times compensatory damages is suspect anyway.

Roll call on Senate Bill No. 296:

YEAS—22.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Joiner, Kirkpatrick, Neal, Ohrenschall, Shelton, Spiegel, Sprinkle, Swank, Thompson, Trowbridge—18.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 296 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2015

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Senate Bill No. 444.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 95, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 814 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.

DEREK ARMSTRONG
PAT HICKEY
IRENE BUSTAMANTE ADAMS
Assembly Conference Committee

GREG BROWER
MICHAEL ROBERSON
DAVID PARKS
Senate Conference Committee

Amendment No. CA7.

AN ACT relating to property tax; revising provisions governing the publication of property tax rolls; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a county assessor is required to prepare and publish in a newspaper of general circulation in the county a list of all the taxpayers on the secured roll in the county and the total value of the property on which they pay taxes or print and deliver or mail such a list and valuations to each taxpayer in the county. (NRS 361.300) This bill requires a board of county commissioners to direct the county assessor to publish this list and valuations on an Internet website maintained by the county assessor or the county. This bill also requires a board of county commissioners to direct the county assessor in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties) to make not fewer than 10 copies of this list and valuations available to the public free of charge.

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

Section 1. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured

tax roll is completed and open for inspection by interested persons of the county. A notice issued pursuant to this subsection must include a statement that the secured tax roll is available for inspection as specified in paragraph (b) of subsection 3. The statement published in the newspaper must be displayed in the format used for advertisements and printed in at least 10-point bold type or font.

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow the county assessor a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. Except as otherwise provided in subsection 4, each board of county commissioners shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor:

(a) To cause , *on or before January 1 of the fiscal year in which assessment is made*, such list and valuations to be:

(1) Printed and delivered by the county assessor or mailed by him or her ~~on or before January 1 of the fiscal year in which assessment is made~~ to each taxpayer in the county; ~~or~~

(2) Published once ~~on or before January 1 of the fiscal year in which assessment is made~~ in a newspaper of general circulation in the county; *or*

(3) *Published on an Internet website that is maintained by the county assessor or, if the county assessor does not maintain an Internet website, on an Internet website that is maintained by the county; and*

(b) To cause , *on or before January 1 of the fiscal year in which assessment is made*, such list and valuations to be:

(1) Posted in a public area of the public libraries and branch libraries located in the county;

(2) Posted at the office of the county assessor; and

(3) ~~Published~~ *If the list and valuations are printed and delivered or mailed pursuant to subparagraph (1) of paragraph (a) or published in a newspaper of general circulation pursuant to subparagraph (2) of paragraph (a), published* on an Internet website that is maintained by the county assessor or, if the county assessor does not maintain an Internet website, on an Internet website that is maintained by the county ~~+~~;

(c) *In a county whose population is less than 100,000, to make not fewer than 10 copies of such list and valuations available to the public free of charge during normal business hours at the main administrative office of the county for at least 60 days after the date on which the list and valuations are made available to the public pursuant to paragraph (b); and*

(d) *If the county assessor publishes the list and valuations on an Internet website that is maintained by the county assessor or the county pursuant to*

subparagraph (3) of paragraph (a), to provide notice in a newspaper of general circulation in the county four times each year which:

(1) Indicates that the list and valuations have been made available to the public on the Internet website maintained by the county assessor or the county;

(2) Provides the address of the Internet website on which the list and valuations may be accessed or retrieved;

(3) Is displayed in the format used for advertisements and printed in at least 10-point bold type or font;

(4) Provides an explanation of how property tax rates are determined;

(5) Provides an explanation of how property tax abatements are applied and how tax relief may be obtained;

(6) Provides information on how often assessed values change;

(7) Provides information on how to file an appeal to the county board of equalization and the State Board of Equalization;

(8) Provides the due dates for payments;

(9) Provides an explanation of exemptions and how to apply for an exemption; and

(10) Includes a statement of certification by the assessor that the roll is complete and accurate.

4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in subparagraph (1) of paragraph (a) of subsection 3, to taxpayers whose property is assessed at \$1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his or her assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever:

(a) Any property on the secured tax roll is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal. A notice issued pursuant to this paragraph must include a statement that the secured tax roll ~~list~~ **will be** available for inspection **on or before January 1** as specified in paragraph (b) of subsection 3 ~~and~~ **and subparagraph (3) of paragraph (a) of subsection 3, if applicable, and must specify the locations at which the secured tax roll will be available for inspection, including the address of the Internet website on which the secured tax role may be accessed or retrieved.** If such a statement is published in a newspaper, the statement must be displayed in the format used for advertisements and printed in at least 10-point bold type or font.

(b) Any personal property billed on the unsecured tax roll is appraised or reappraised pursuant to NRS 361.260, the delivery or mailing to the owner of such property of an individual tax bill or individual tax notice for the property shall be deemed to constitute adequate notice to the owner of the assessed valuation of the property as determined from the appraisal or reappraisal.

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

- (a) The information set forth in subsection 6 for the new assessed valuation.
- (b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site, if any, that is operated or administered by or on behalf of the county or the county assessor.

Sec. 1.5. Section 1 of this act is hereby amended to read as follows:

Section 1. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured tax roll is completed and open for inspection by interested persons of the county. A notice issued pursuant to this subsection must include a statement that the secured tax roll is available for inspection as specified in paragraph (b) of subsection 3. The statement published in the newspaper must be displayed in the format used for advertisements and printed in at least 10-point bold type or font.

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow the county assessor a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. Except as otherwise provided in subsection 4, each board of county commissioners shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor:

(a) To cause, on or before January 1 of the fiscal year in which assessment is made, such list and valuations to be:

(1) Printed and delivered by the county assessor or mailed by him or her to each taxpayer in the county;

(2) Published once in a newspaper of general circulation in the county; or

(3) Published on an Internet website that is maintained by the county assessor or, if the county assessor does not maintain an Internet website, on an Internet website that is maintained by the county; and

(b) To cause, on or before January 1 of the fiscal year in which assessment is made, such list and valuations to be:

(1) Posted in a public area of the public libraries and branch libraries located in the county;

(2) Posted at the office of the county assessor; and

(3) If the list and valuations are printed and delivered or mailed pursuant to subparagraph (1) of paragraph (a) or published in a newspaper of general circulation pursuant to subparagraph (2) of paragraph (a), published on an Internet website that is maintained by the county assessor or, if the county assessor does not maintain an Internet website, on an Internet website that is maintained by the county;

(c) In a county whose population is less than 100,000, to make not fewer than 10 copies of such list and valuations available to the public free of charge during normal business hours at the main administrative office of the county for at least 60 days after the date on which the list and valuations are made available to the public pursuant to paragraph (b); and

(d) If the county assessor publishes the list and valuations on an Internet website that is maintained by the county assessor or the county pursuant to subparagraph (3) of paragraph (a), to provide notice in a newspaper of general circulation in the county ~~four times each year~~, ***on or before January 1 of the fiscal year in which assessment is made***, which:

(1) Indicates that the list and valuations have been made available to the public on the Internet website maintained by the county assessor or the county;

(2) Provides the address of the Internet website on which the list and valuations may be accessed or retrieved; ***and***

(3) Is displayed in the format used for advertisements and printed in at least 10-point bold type or font . f;

~~(4) Provides an explanation of how property tax rates are determined;~~

~~(5) Provides an explanation of how property tax abatements are applied and how tax relief may be obtained;~~

~~(6) Provides information on how often assessed values change;~~

~~(7) Provides information on how to file an appeal to the county board of equalization and the State Board of Equalization;~~

~~(8) Provides the due dates for payments;~~

~~(9) Provides an explanation of exemptions and how to apply for an exemption; and~~

~~—(10) Includes a statement of certification by the assessor that the roll is complete and accurate.]~~

4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in subparagraph (1) of paragraph (a) of subsection 3, to taxpayers whose property is assessed at \$1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his or her assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever:

(a) Any property on the secured tax roll is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal. A notice issued pursuant to this paragraph must include a statement that the secured tax roll will be available for inspection on or before January 1 as specified in paragraph (b) of subsection 3 and subparagraph (3) of paragraph (a) of subsection 3, if applicable, and must specify the locations at which the secured tax roll will be available for inspection, including the address of the Internet website on which the secured tax role may be accessed or retrieved. If such a statement is published in a newspaper, the statement must be displayed in the format used for advertisements and printed in at least 10-point bold type or font.

(b) Any personal property billed on the unsecured tax roll is appraised or reappraised pursuant to NRS 361.260, the delivery or mailing to the owner of such property of an individual tax bill or individual tax notice for the property shall be deemed to constitute adequate notice to the owner of the assessed valuation of the property as determined from the appraisal or reappraisal.

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site, if any, that is operated or administered by or on behalf of the county or the county assessor.

Sec. 2. 1. This section and section 1 of this act become effective on July 1, 2015.

2. Section 1.5 of this act becomes effective on July 1, ~~2017~~ **2016**.

Assemblyman Armstrong moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 95.

Motion carried by a constitutional majority.

Mr. Speaker:

The Conference Committee concerning Senate Bill No. 444, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 861 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 11, which is attached to and hereby made a part of this report.

IRA HANSEN
DAVID GARDNER
ELLIOT ANDERSON

Assembly Conference Committee

GREG BROWER
BECKY HARRIS
RUBEN KIHUEN

Senate Conference Committee

Conference Amendment No. CA11.

AN ACT relating to civil actions; revising provisions relating to special motions to dismiss certain claims based upon the right to petition and the right to free speech under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain provisions to deter frivolous or vexatious lawsuits (Strategic Lawsuits Against Public Participation, commonly known as "SLAPP lawsuits"). (Chapter 387, Statutes of Nevada 1997, p. 1363; NRS 41.635-41.670) A SLAPP lawsuit is characterized as a meritless suit filed primarily to discourage the named defendant's exercise of First Amendment rights. "The hallmark of a SLAPP lawsuit is that it is filed to obtain a financial advantage over one's adversary by increasing litigation costs until the adversary's case is weakened or abandoned." (*Metabolic Research, Inc. v. Ferrel*, 693 F.3d 795, 796 n.1 (9th Cir. 2012))

Existing law provides that a person who engages in good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is immune from civil liability for claims based upon that communication. (NRS 41.650) Existing law also provides that if an action is brought against a person based upon such good faith communication, the person may file a special motion to dismiss the claim. If a special motion to dismiss is filed, the court must first determine whether the moving party has established, by a preponderance of the evidence,

that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. If the court determines that the moving party has met this burden, the court must then determine whether the person who brought the claim has established by clear and convincing evidence a probability of prevailing on the claim. While the court's ruling on the special motion to dismiss is pending and while the disposition of any appeal from that ruling is pending, the court must stay discovery. (NRS 41.660)

Section 13 of this bill revises provisions governing a special motion to dismiss a claim that is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern. **Section 13** increases from 7 days to 20 judicial days the time within which a court must rule on a special motion to dismiss. **Section 13 replaces the determination of whether a person who brought the claim has established by clear and convincing evidence a probability of prevailing on the claim and instead requires a court to determine whether the person has demonstrated with prima facie evidence a probability of prevailing on the claim.** **Section 13** also authorizes limited discovery for the purposes of allowing a party to obtain certain information necessary to meet or oppose the burden of the party who brought the claim to ~~establish by clear and convincing~~ **demonstrate with prima facie** evidence a probability of prevailing on the claim. Finally, **section 13** ~~authorizes~~ **requires** the court to modify certain deadlines upon a finding that such a modification would serve the interests of justice.

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. 3.5. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.5. (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. 9.5. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 12.5. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

The Legislature finds and declares that:

1. NRS 41.660 provides certain protections to a person against whom an action is brought, if the action is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern.

2. When a plaintiff must demonstrate a probability of success of prevailing on a claim pursuant to NRS 41.660, the Legislature intends that in determining whether the plaintiff “has demonstrated with prima facie evidence a probability of prevailing on the claim” the plaintiff must meet the same burden of proof that a plaintiff has been required to meet pursuant to California’s anti-Strategic Lawsuits Against Public Participation law as of the effective date of this act.

Sec. 13. NRS 41.660 is hereby amended to read as follows:

41.660 1. If an action is brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern:

(a) The person against whom the action is brought may file a special motion to dismiss; and

(b) The Attorney General or the chief legal officer or attorney of a political subdivision of this State may defend or otherwise support the person against whom the action is brought. If the Attorney General or the chief legal officer or attorney of a political subdivision has a conflict of interest in, or is otherwise disqualified from, defending or otherwise supporting the person, the Attorney General or the chief legal officer or attorney of a political subdivision may employ special counsel to defend or otherwise support the person.

2. A special motion to dismiss must be filed within 60 days after service of the complaint, which period may be extended by the court for good cause shown.

3. If a special motion to dismiss is filed pursuant to subsection 2, the court shall:

(a) Determine whether the moving party has established, by a preponderance of the evidence, that the claim is based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern;

(b) If the court determines that the moving party has met the burden pursuant to paragraph (a), determine whether the plaintiff has ~~established by clear and convincing~~ **demonstrated with prima facie** evidence a probability of prevailing on the claim;

(c) If the court determines that the plaintiff has established a probability of prevailing on the claim pursuant to paragraph (b), ensure that such determination will not:

(1) Be admitted into evidence at any later stage of the underlying action or subsequent proceeding; or

(2) Affect the burden of proof that is applied in the underlying action or subsequent proceeding;

(d) Consider such evidence, written or oral, by witnesses or affidavits, as may be material in making a determination pursuant to paragraphs (a) and (b);

(e) ~~{Stay}~~ ***Except as otherwise provided in subsection 4, stay*** discovery pending:

(1) A ruling by the court on the motion; and

(2) The disposition of any appeal from the ruling on the motion; and

(f) Rule on the motion within ~~{7}~~ 20 judicial days after the motion is served upon the plaintiff.

4. ***Upon a showing by a party that information necessary to meet or oppose the burden pursuant to paragraph (b) of subsection 3 is in the possession of another party or a third party and is not reasonably available without discovery, the court shall allow limited discovery for the purpose of ascertaining such information.***

5. If the court dismisses the action pursuant to a special motion to dismiss filed pursuant to subsection 2, the dismissal operates as an adjudication upon the merits.

6. ***The court ~~may~~ shall modify any ~~briefing or hearing~~ deadlines pursuant to this section or any other deadlines relating to a complaint filed pursuant to this section ~~upon a finding that~~ if such modification would serve the interests of justice.***

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

(a) ***“Complaint” means any action brought against a person based upon a good faith communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern, including, without limitation, a counterclaim or cross-claim.***

(b) ***“Plaintiff” means any person asserting a claim, including, without limitation, a counterclaim or cross-claim.***

Sec. 14. The amendatory provisions of this act apply to an action commenced on or after ~~{October 1, 2015}~~ **the effective date of this act.**

Sec. 15. (Deleted by amendment.)

Sec. 16. This act becomes effective upon passage and approval.

Assemblyman Hansen moved that the Assembly adopt the report of the Conference Committee concerning Senate Bill No. 444.

Motion carried by a constitutional majority.

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

Assembly in recess at 11:07 p.m.

ASSEMBLY IN SESSION

At 11:18 p.m.

Mr. Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Munford moved that the Assembly reconsider the action whereby Senate Bill No. 296 was passed.

Motion carried.

Assemblymen Hansen, Nelson, and Ellison requested a roll call vote on the motion for reconsideration.

Roll call vote on the motion to reconsider the action whereby Senate Bill No. 296 was passed.

YEAS—20.

NAYS—Paul Anderson, Armstrong, Dickman, Edwards, Ellison, Fiore, Gardner, Hambrick, Hansen, Hickey, Jones, Kirner, Nelson, O'Neill, Oscarson, Silberkraus, Stewart, Titus, Wheeler, Woodbury—20.

EXCUSED—Dooling, Moore—2.

The motion having failed to receive a majority, Mr. Speaker declared it lost.

UNFINISHED BUSINESS

REPORTS OF CONFERENCE COMMITTEES

Mr. Speaker:

The Conference Committee concerning Assembly Bill No. 258, consisting of the undersigned members, has met and reports that:

It has agreed to recommend that Amendment No. 1034 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.

IRA HANSEN

BRENT JONES

IRENE BUSTAMANTE ADAMS

Assembly Conference Committee

GREG BROWER

AARON FORD

BECKY HARRIS

Senate Conference Committee

Conference Amendment No. CA13.

ASSEMBLYWOMAN ~~[BUSTAMANTE ADAMS]~~ FIORE

AN ACT relating to unlawful acts; prohibiting a person from obstructing certain property or roadways; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill: (1) prohibits a person from intentionally obstructing certain property or roadways; and (2) prescribes certain civil remedies for persons aggrieved by such conduct.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not intentionally obstruct:

(a) The ingress or egress to any public or private property from any other public or private place in such a manner as not to leave a free passageway

for persons and vehicles lawfully seeking to enter or leave the property via the public or private place; or

(b) Any public or private roadway, including, without limitation, intersections, so as to prevent the safe passage of vehicles thereon or therethrough.

2. In addition to any other remedy, a person aggrieved by a violation of subsection 1 may bring a civil action in a court of competent jurisdiction against any person who commits the violation to seek any or all of the following relief:

(a) Declaratory and injunctive relief, including, without limitation, injunctive relief to enjoin any ongoing activity that violates any provision of subsection 1. For the purposes of injunctive relief, a person who brings an action pursuant to this subsection is entitled to a rebuttable presumption of irreparable harm.

(b) Actual damages.

(c) Reasonable attorney's fees and costs.

(d) Any other legal or equitable relief that the court deems appropriate.

3. A person who violates the provisions of this section is not subject to criminal liability.

Sec. 2. This act becomes effective upon passage and approval.

Assemblyman Hansen moved that the Assembly adopt the report of the Conference Committee concerning Assembly Bill No. 258.

Motion lost.

Assemblymen Hansen, Ellison, and Nelson requested a roll call vote on the motion.

Roll call on the motion to adopt the report of the Conference Committee concerning Assembly Bill No. 258.

YEAS—22.

NAYS—Elliot Anderson, Araujo, Benitez-Thompson, Bustamante Adams, Carlton, Carrillo, Diaz, Flores, Hambrick, Joiner, Kirkpatrick, Munford, Neal, Ohrenschall, Spiegel, Sprinkle, Swank, Thompson—18.

EXCUSED—Dooling, Moore—2.

The motion having received a constitutional majority, Mr. Speaker declared it carried.

REPORTS OF COMMITTEES

Mr. Speaker:

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

RANDY KIRNER, *Chair*

Mr. Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 359, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PAUL ANDERSON, *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2015

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 332, Amendment No. 1063, and respectfully requests your honorable body to concur in said amendment.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Senate Bill No. 440; Assembly Bill No. 359 be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 440.

Bill read third time.

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

Amendment No. 1067.

SUMMARY—Revises provisions relating to ~~insurance. (BDR 57-983))~~
transportation. (BDR 58-983)

AN ACT relating to ~~insurance; revising provisions relating to casualty insurance for certain uses of motor vehicles;~~ **transportation; requiring a transportation network company to enter into an agreement with certain establishments before allowing a driver to pick up passengers at such an establishment; revising provisions relating to the provision of transportation services to persons with disabilities;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law requires every owner or operator of a motor vehicle which is registered in this State to continuously provide insurance for the payment of tort liabilities arising from the maintenance or use of the motor vehicle subject to certain requirements for coverage. (NRS 485.185, 485.186) This bill provides different requirements for coverage for a motor vehicle which is used by a driver in connection with a transportation network company. Section 4 of this bill defines a "transportation network company" as an entity that uses a digital network or software application service to connect passengers to drivers who can provide transportation services. Section 6 of this bill defines "transportation services" as the transportation by motor vehicle of one or more passengers between points chosen by the passenger or passengers and prearranged with a driver through the use of the digital network or software application service of a transportation network company.~~

~~Section 7 of this bill requires a transportation network company to make certain disclosures to a person before allowing that person to provide~~

~~transportation services as a driver. Section 8 of this bill requires a transportation network company or a driver to continuously provide insurance subject to certain requirements for coverage. Section 8 specifies that the transportation network company insurance may be provided by the transportation network company, the driver or both. Section 8 requires the transportation network company to provide certain insurance which provides coverage as primary insurance if the insurance provided by the driver is insufficient for certain reasons. Section 8 allows a policy of transportation network company insurance to include certain additional coverages. Section 8 prohibits an insurer who provides a policy of transportation network company insurance from requiring a driver's personal policy of automobile insurance to deny a claim before providing coverage.~~

~~Section 9 of this bill provides that a personal policy of automobile insurance is not required to include transportation network company insurance. Section 9 authorizes an insurer to include transportation network company insurance in such a policy and allows the insurer to charge an additional premium for doing so.~~

~~Section 10 of this bill requires a transportation network company, a driver and an insurer who provides transportation network company insurance to cooperate in the investigation of an accident. Section 11 of this bill requires a driver: (1) to carry proof of transportation network company insurance at all times when the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services; and (2) to provide proof of coverage and disclose certain information to a law enforcement officer and to any other party with whom the driver is involved in an accident.~~

Existing law provides for the permitting and regulation of transportation network companies. (Assembly Bill No. 176 of the 2015 Session) Section 1 of this bill prohibits a transportation network company from allowing a driver affiliated with the company to pick up a passenger at an establishment which is a hotel with 1,000 or more rooms or a convention center with 400,000 or more square feet of exhibit space unless: (1) the company has entered into an agreement with the establishment, hotel or convention center; (2) the Nevada Transportation Authority has been provided notice of the agreement; and (3) the driver complies with the terms of the agreement. Section 2 of this bill requires a transportation network company which cannot provide a passenger with transportation services in a motor vehicle that is wheelchair accessible to refer the passenger to any available, alternative provider or means of transportation that is wheelchair accessible. Section 2 also requires a transportation network company to annually review the availability of transportation services to diverse communities.

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

Delete existing sections 1 through 11 of this bill and replace with the following new sections 1, 2 and 3:

Section 1. Section 29 of Assembly Bill No. 176 of this session is hereby amended to read as follows:

Sec. 29. 1. A transportation network company may enter into an agreement with one or more drivers to receive connections to potential passengers from the company in exchange for the payment of a fee by the driver to the company.

2. Before a transportation network company allows a person to be connected to potential passengers using the digital network or software application service of the company pursuant to an agreement with the company, the company must:

(a) Require the person to submit an application to the company, which must include, without limitation:

- (1) The name, age and address of the applicant.
- (2) A copy of the driver's license of the applicant.
- (3) A record of the driving history of the applicant.
- (4) A description of the motor vehicle of the applicant and a copy of the motor vehicle registration.

(5) Proof that the applicant has complied with the requirements of NRS 485.185.

(b) At the time of application and not less than once every 3 years thereafter, conduct or contract with a third party to conduct an investigation of the criminal history of the applicant, which must include, without limitation:

(1) A review of a commercially available database containing criminal records from each state which are validated using a search of the primary source of each record.

(2) A search of a database containing the information available in the sex offender registry maintained by each state.

(c) At the time of application and not less than once every year thereafter, obtain and review a complete record of the driving history of the applicant.

3. A transportation network company may enter into an agreement with a driver if:

(a) The applicant is at least 19 years of age.

(b) The applicant possesses a valid driver's license issued by the Department of Motor Vehicles unless the applicant is exempt from the requirement to obtain a Nevada driver's license pursuant to NRS 483.240.

(c) The applicant provides proof that the motor vehicle operated by him or her is registered with the Department of Motor Vehicles unless the applicant is exempt from the requirement to register the motor vehicle in this State pursuant to NRS 482.385.

(d) The applicant provides proof that the motor vehicle operated by him or her is operated and maintained in compliance with all applicable federal, state and local laws.

(e) The applicant provides proof that he or she currently is in compliance with the provisions of NRS 485.185.

(f) In the 3 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of three or more violations of the motor vehicle laws of this State or any traffic ordinance of any city or town, the penalty prescribed for which is a misdemeanor.

(g) In the 3 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of any violation of the motor vehicle laws of this State or any traffic ordinance of any city or town, the penalty prescribed for which is a gross misdemeanor or felony.

(h) In the 7 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of any violation of federal, state or local law prohibiting driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance.

(i) In the 7 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of any crime involving an act of terrorism, an act of violence, a sexual offense, fraud, theft, damage to property of another or the use of a motor vehicle in the commission of a felony.

(j) The name of the applicant does not appear in the database searched pursuant to subparagraph (2) of paragraph (b) of subsection 2.

4. *A transportation network company shall, before allowing any driver affiliated with the company to pick up a passenger at an establishment which is a hotel with 1,000 or more rooms or a convention center with 400,000 or more square feet of exhibit space, enter into an agreement with the establishment, hotel or convention center and provide notice of that agreement to the Authority. The agreement required by this subsection must include, without limitation, provisions governing the provision of transportation services on the property of the establishment, hotel or convention center.*

5. A transportation network company shall terminate an agreement with any driver who:

(a) Fails to submit to the transportation network company a change in his or her address, driver's license or motor vehicle registration within 30 days after the date of the change.

(b) Fails to immediately report to the transportation network company any change in his or her driving history or criminal history.

(c) Refuses to authorize the transportation network company to obtain and review an updated complete record of his or her driving history not

less than once each year and an investigation of his or her criminal history not less than once every 3 years.

(d) Is determined by the transportation network company to be ineligible for an agreement pursuant to subsection 3 on the basis of any updated information received by the transportation network company.

(e) Fails to comply with the terms of an agreement entered into by the transportation network company pursuant to subsection 4.

Sec. 2. Section 32 of Assembly Bill No. 176 of this session is hereby amended to read as follows:

Sec. 32. 1. A transportation network company shall adopt a policy which prohibits discrimination against a passenger or potential passenger on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression.

2. A driver shall not discriminate against a passenger or potential passenger on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression.

3. A transportation network company shall provide to each passenger an opportunity to indicate whether the passenger requires transportation in a motor vehicle that is wheelchair accessible. If the company cannot provide the passenger with transportation services in a motor vehicle that is wheelchair accessible, the company must ~~direct~~ **refer** the passenger to ~~any available~~ **any available**, alternative provider or means of transportation that is wheelchair accessible. ~~if available.~~

4. At least annually, a transportation network company shall solicit public comment and review the availability of transportation services to diverse communities, including, without limitation, persons with disabilities and persons who live outside of urban areas.

Sec. 3. This act becomes effective upon passage and approval.

Assemblyman Kirner moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 359.

Bill read third time.

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

Amendment No. 1065.

AN ACT relating to common-interest communities; revising provisions governing a unit-owners' association's lien for certain amounts due to the association; **revising provisions governing the foreclosure of an association's lien; revising provisions requiring certain financial institutions and mortgage holders to provide a contact address to the Division of Financial Institutions of the Department of Business and Industry;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a unit-owners' association has a lien on a unit for certain amounts due to the association, and an association may foreclose its lien through a nonjudicial foreclosure process. (NRS 116.3116-116.31168) ~~Under existing law, generally,~~ **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) In *SFR Investments Pool 1, LLC v. U.S. Bank*, 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014), the Nevada Supreme Court held that the foreclosure of the super-priority lien by the association extinguishes the first security interest on the unit.

This bill ~~provides~~ **amends Senate Bill No. 306 of this legislative session to provide** that the foreclosure of the super-priority lien by the association does not extinguish a first ~~security interest on the unit~~ or ~~a~~ second mortgage or deed of trust on the unit. ~~[Thus, under this bill, if the holder of a security interest, lien or encumbrance on a unit, other than the association, forecloses on the unit, the association would be entitled to a distribution of the proceeds of the sale in accordance with the priority accorded to the association's lien under existing law. However, if the association forecloses its lien on a unit by sale, the association's foreclosure does not extinguish the first security interest on the unit or a second mortgage or deed of trust on the unit but does extinguish any other security interest, liens or encumbrances subordinate to the association's lien under existing law.]~~ **This bill further amends Senate Bill No. 306 of this legislative session to: (1) authorize a copy of certain notices recorded by an association to be served upon the holder of a security interest on the unit; (2) specify the address to which a copy of such notices must be sent if the address of the holder of a security interest is not available on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; (3) revise provisions governing the right of a unit's owner or holder of a security interest to redeem a unit after a foreclosure sale by a unit-owners' association; (4) authorize the Commissioner of Financial Institutions to take certain actions to implement the requirement that certain financial institutions and mortgage holders provide a contact address that must be included on the Internet website of the Division.**

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. ~~NRS 116.3116 is hereby amended to read as follows:~~

~~116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.~~

~~2. A lien under this section is prior to all other liens and encumbrances on a unit except:~~

~~(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;~~

~~(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and~~

~~(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.~~

~~3. The lien is also prior to all security interests described in paragraph (b) to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of 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. If 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, the period during which the lien is prior to all security interests described in paragraph (b) 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 not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.~~

~~3. Except as otherwise provided in this subsection, any priority accorded to the association's lien under this section is a priority in right and not~~

~~merely a priority in payment from the proceeds of the sale of the unit by a competing lienholder or encumbrancer. The foreclosure by sale of the association's lien does not extinguish the rights of the holder of:~~

~~— (a) A first security interest described in paragraph (b) of subsection 2; or~~
~~— (b) A second mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent.~~

~~4. The holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.~~

~~[4.] 5. 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.~~

~~[5.] 6. 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.~~

~~[6.] 7. 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.~~

~~[7.] 8. 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.~~

~~[8.] 9. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.~~

~~[9.] 10. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.~~

~~[10.] 11. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:~~

~~— (a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.~~

~~— (b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:~~

~~(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or~~

~~(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.~~

~~[11.] 12. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.] (Deleted by amendment.)~~

Sec. 7.5. ~~NRS 116.31166 is hereby amended to read as follows:~~

~~116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:~~

~~(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;~~

~~(b) The elapsing of the 90 days; and~~

~~(c) The giving of notice of sale;~~

~~are conclusive proof of the matters recited.~~

~~2. Such a deed containing those recitals is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.~~

~~3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption [.] subject to any security interest described in paragraph (a) or (b) of subsection 3 of NRS 116.3116.] (Deleted by amendment.)~~

Sec. 7.55. Section 1 of Senate Bill No. 306 is hereby amended to read as follows:

Section 1. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 ~~and any costs of collecting a past due obligation charged pursuant to NRS 116.310313~~ are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent ~~to~~, ***except that a lien under this section is prior to a security interest described in this paragraph to the extent set forth in subsection 3; and***

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative ~~to~~

~~to~~ The lien is also ~~to~~; and

(d) ***Liens for any fee or charge levied pursuant to subsection 1 of NRS 444.520.***

3. ***A lien under this section is*** prior to all security interests described in paragraph (b) ***of subsection 2*** 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 the~~; ***and***

(b) ~~The unpaid amount of assessments, not to exceed an amount equal to~~ 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,~~ ***the date on which the notice of default and election to sell is recorded pursuant to paragraph (b) of subsection 1 of NRS 116.31162; and***

~~(c) The costs incurred by the association to enforce the lien in an amount not to exceed the amounts set forth in subsection 5;~~ ***payment of the assessments is tendered to the association,***

~~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. If 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, the period during which the lien is prior to all security interests described in paragraph (b) of subsection 2 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 the recording of a notice of default and election to sell pursuant to paragraph (b) of subsection 1 of NRS 116.31162 or the institution of a judicial action to enforce the lien.~~

4. This ~~subsection~~ **section** does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

~~{3-} 5. *[The amount of the costs of enforcing the association's lien that are prior to the security interest described in paragraph (b) of subsection 2 must not exceed the actual costs incurred by the association, must not include more than one trustee's sale guaranty and must not exceed:*~~

~~*(a) For a demand or intent to lien letter, \$150.*~~

~~*(b) For a notice of delinquent assessment, \$325.*~~

~~*(c) For an intent to record a notice of default letter, \$90.*~~

~~*(d) For a notice of default, \$400.*~~

~~*(e) For a trustee's sale guaranty, \$400.*~~

~~*No costs of enforcing the association's lien, other than the costs described in this subsection, and no amount of attorney's fees may be included in the amount of the association's lien that is prior to the security interest described in paragraph (b) of subsection 2.] Except as otherwise provided in this subsection, any priority accorded to the association's lien under this section is a priority in right and not merely a priority in payment from the proceeds of the sale of the unit by a competing lienholder or encumbrancer. The foreclosure by sale of the association's lien does not extinguish the rights of the holder of:*~~

~~*(a) A first security interest described in paragraph (b) of subsection 2; or*~~

~~*(b) A second mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent.*~~

6. Notwithstanding any other provision of law, an association, or member of the executive board, officer, employee or unit's owner of the association, acting under the authority of this chapter or the governing documents of the association, or the community manager of the association, or any employee, agent or affiliate of the community manager, while engaged in the management of the common-interest community governed by the association, is not required to be licensed as a collection agency pursuant to chapter 649 of NRS or hire or contract with a collection agency licensed pursuant to chapter 649 to collect amounts due to the association in accordance with subsection 1 before the recording of a notice of default and election to sell pursuant to paragraph (b) of subsection 1 of NRS 116.31162.

7. The holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of that security interest

consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.

~~4.4~~ **8.** Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~4.5~~ **9.** 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.

~~4.6~~ **10.** A lien for unpaid assessments is extinguished unless *a notice of default and election to sell is recorded as required by paragraph (b) of subsection 1 of NRS 116.31162, or judicial* proceedings to enforce the lien are instituted, within 3 years after the full amount of the assessments becomes due.

~~4.7~~ **11.** 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.

~~4.8~~ **12.** A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~4.9~~ **13.** The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

~~4.10~~ **14.** In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~4.11~~ **15.** In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the

action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

16. Notwithstanding any other provision of law, any payment of an amount due to an association in accordance with subsection 1 by the holder of any lien or encumbrance on a unit that is subordinate to the association's lien under this section becomes a debt due from the unit's owner to the holder of the lien or encumbrance.

Sec. 7.6. Section 2 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 2. NRS 116.31162 is hereby amended to read as follows:

116.31162 1. Except as otherwise provided in subsection 5 ~~for 6,~~, ***6 or 7***, in a condominium, in a planned community, in a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, or in a cooperative where the owner's interest in a unit is personal property under NRS 116.1105 and the declaration provides that a lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the association may foreclose its lien by sale after all of the following occur:

(a) The association has mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest, at his or her address, if known, and at the address of the unit, a notice of delinquent assessment which states the amount of the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116, a description of the unit against which the lien is imposed and the name of the record owner of the unit.

(b) Not less than 30 days after mailing the notice of delinquent assessment pursuant to paragraph (a), the association or other person conducting the sale has executed and caused to be recorded, with the county recorder of the county in which the common-interest community or any part of it is situated, a notice of default and election to sell the unit to satisfy the lien which must contain the same information as the notice of delinquent assessment and which must also comply with the following:

(1) Describe the deficiency in payment.

(2) ***State the total amount of the deficiency in payment, with a separate statement of:***

(I) The amount of the association's lien that is prior to the first security interest on the unit pursuant to subsection 3 of NRS 116.3116 as of the date of the notice;

(II) The amount of the lien described in sub-subparagraph (I) that is attributable to assessments based on the periodic budget adopted by the association pursuant to NRS 116.3115 as of the date of the notice;

(III) The amount of the lien described in sub-subparagraph (I) that is attributable to amounts described in NRS 116.310312 as of the date of the notice; and

(IV) The amount of the lien described in sub-subparagraph (I) that is attributable to the costs of enforcing the association's lien as of the date of the notice.

~~(3) [State that:]~~

~~(I) If the holder of the first security interest on the unit does not satisfy the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116, the association may foreclose its lien by sale and that the sale may extinguish the first security interest as to the unit; and~~

~~(II) If, not later than 5 days before the date of the sale, the holder of the first security interest on the unit satisfies the amount of the association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116 and, not later than 2 days before the date of the sale, a record of such satisfaction is recorded in the office of the recorder of the county in which the unit is located, the association may foreclose its lien by sale but the sale may not extinguish the first security interest as to the unit.~~

~~(4)~~ State the name and address of the person authorized by the association to enforce the lien by sale.

~~(3)-(5)~~ **(4)** Contain, in 14-point bold type, the following warning:

WARNING! IF YOU FAIL TO PAY THE AMOUNT SPECIFIED IN THIS NOTICE, YOU COULD LOSE YOUR HOME, EVEN IF THE AMOUNT IS IN DISPUTE!

(c) The unit's owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement, for 90 days following the recording of the notice of default and election to sell.

(d) The unit's owner or his or her successor in interest, or the holder of a recorded security interest on the unit, has, for a period which commences in the manner and subject to the requirements described in subsection 3 and which expires 5 days before the date of sale, failed to pay the assessments and other sums that are due to the association in accordance with subsection 1 of NRS 116.3116.

(e) 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, an affidavit which states, based on the direct, personal knowledge of the affiant, the personal knowledge which the affiant acquired by a review of a trustee sale guarantee or a similar product or the personal knowledge which the affiant acquired by a review of the business records of the association or other person conducting the sale, which

business records must meet the standards set forth in NRS 51.135, the following:

(1) The name of each holder of a security interest on the unit to which the notice of default and election to sell and the notice of sale was mailed, as required by subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of NRS 116.311635; and

(2) The address at which the notices were mailed to each such holder of a security interest.

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 *described in paragraph (c) of subsection 1* begins on the first day following:

(a) The date on which the notice of default *and election to sell* is recorded; or

(b) The date on which a copy of the notice of default *and election to sell* is mailed by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and at the address of the unit,
 ➤ whichever date occurs later.

4. An association may not mail to a unit's owner or his or her successor in interest a letter of its intent to mail a notice of delinquent assessment pursuant to paragraph (a) of subsection 1, mail the notice of delinquent assessment or take any other action to collect a past due obligation from a unit's owner or his or her successor in interest unless ~~it~~ ~~not~~ :

(a) *Not* earlier than 60 days after the obligation becomes past due, the association mails to the address on file for the unit's owner:

~~((a))~~ (1) A schedule of the fees that may be charged if the unit's owner fails to pay the past due obligation;

~~((b))~~ (2) A proposed repayment plan; and

~~((c))~~ (3) 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 ~~it~~ ; and

(b) *Within 30 days after the date on which the information described in paragraph (a) is mailed, the past due obligation has not been paid in full or the unit's owner or his or her successor in interest has not entered into a repayment plan or requested a hearing before the executive board. If the unit's owner or his or her successor in interest requests a hearing or enters into a repayment plan within 30 days after the date on which the information described in paragraph (a) is mailed and is unsuccessful at the hearing or fails to make a payment under the repayment plan within 10 days after the due date, the association may take any lawful action pursuant to subsection 1 to enforce its lien.*

5. *The association may not foreclose a lien by sale if the association has not mailed a copy of the notice of default and election to sell and a copy of the notice of sale to each holder of a security interest on the unit in the manner and subject to the requirements set forth in subsection 2 of NRS 116.31163 and paragraph (d) of subsection 1 of 116.311635.*

6. 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.

~~6.7.~~ 7. 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 association has received notice pursuant to NRS 107.086 that the unit is subject to foreclosure mediation pursuant to that section, unless:~~

~~(a) 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; or~~

~~(b) The unit's owner has failed to pay to the association any amounts enforceable as assessments pursuant to subsection 1 of NRS 116.3116 that become due during the pendency of foreclosure mediation pursuant to NRS 107.086, other than past due obligations as described in subsection 10 of NRS 107.086.~~

Sec. 7.65. Section 3 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 3. NRS 116.31163 is hereby amended to read as follows:

116.31163 The association or other person conducting the sale shall also, ~~mail,~~ within 10 days after the notice of default and election to sell is recorded, mail a copy of the notice by ~~first-class~~ certified mail to ~~it,~~ or serve a copy of the notice on:

1. Each person who has requested notice pursuant to NRS ~~107.090~~ ~~or~~ 116.31168; and

2. ~~Any~~ Each holder of a recorded security interest encumbering the unit's owner's interest ~~who has notified the association, 30 days~~ which was recorded before the recordation of the notice of default, ~~for the existence of the security interest; and~~

~~3. A purchaser of the unit, if the unit's owner has notified the association, 30 days before the recordation of the notice, that the unit is the subject of a contract of sale and the association has been requested to furnish the certificate required by NRS 116.4109,] at that;~~

(a) The address of the holder that is provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry;†;
or

(b) If the address of the holder is not provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry, the registered agent of the holder or, if the holder does not have a registered agent in this State, the address of the holder.

Sec. 7.7. Section 4 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 4. 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~~ ***90-day period described in paragraph (c) of subsection 1 of NRS 116.31162*** and before selling the unit †:

~~—(a) Give†, 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† by recording the notice of sale and by:~~

(a) Posting a similar notice particularly describing the unit, for 20 days consecutively, in a public place in the county where the unit is situated;

(b) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the unit is situated;

(c) Notifying the unit's owner or his or her successor in interest as follows:

(1) A copy of the notice of sale must be mailed, on or before the date of first publication or posting, by certified or registered mail, return receipt requested, to the unit's owner or his or her successor in interest at his or her address, if known, and to the address of the unit; and

(2) A copy of the notice of sale must be served, on or before the date of first publication or posting, in the manner set forth in subsection 2; and

~~†(b) Mail,†~~

(d) Mailing, on or before the date of first publication or posting, a copy of the notice by certified ~~for 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 ***subsection 1 of*** NRS 116.31163;

(2) The holder of a ~~[recorded]~~ security interest ~~[for the purchaser of the unit, if either of them has notified the association,]~~ *recorded* before the mailing of the notice of sale ~~[, of the existence of the security interest, lease or contract of sale, as applicable,]~~ , ~~at the~~ :

(I) The address of the holder that is provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; or

(II) If the address of the holder is not provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry, the registered agent of the holder or, if the holder does not have a registered agent in this State, the address of the holder; 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. 7.75. Section 5 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 5. NRS 116.31164 is hereby amended to read as follows:

116.31164 1. *The sale must be conducted in accordance with the provisions of this section.*

2. ~~If the holder of the security interest described in paragraph (b) of subsection 2 of NRS 116.3116 satisfies the amount of the association's lien that is prior to its security interest not later than 5 days before the date of sale, the sale may not occur unless a record of such satisfaction is recorded in the office of the county recorder of the county in which the unit is located not later than 2 days before the date of sale.~~

~~3.~~ The sale must be ~~conducted~~ *made between the hours of 9 a.m. and 5 p.m. and:*

(a) *If the unit is located in a county whose population is less than 100,000, at the courthouse in the county in which the ~~common interest community~~ unit ~~for part of it~~ is ~~situated, and~~ located.*

(b) *If the unit is located in a county whose population is 100,000 or more, at the public location in the county designated by the governing body of the county to conduct a sale of real property pursuant to NRS 107.080.*

~~4.~~ 3. *The sale 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.~~*

~~5.~~ 4. *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 ~~except that:~~*

~~2.~~ , *except that:*

(a) *If the sale is postponed by oral proclamation, the sale must be postponed to a later date at the same time and location; and*

(b) *If such a date has been postponed by oral proclamation three times, any new sale information must be provided by notice as provided in NRS 116.311635.*

~~6.~~ 5. *On the day of sale, ~~originally advertised or to which the sale is postponed,~~ at the time and place specified in the notice, ~~for postponement,~~ the person conducting the sale may ~~is~~*

~~(a) Shall state to the persons assembled for the sale whether or not the holder of the security interest described in paragraph (b) of subsection 2 of NRS 116.3116 has satisfied the amount of the~~

~~association's lien that is prior to that first security interest pursuant to subsection 3 of NRS 116.3116.~~

~~(b) May~~ sell the unit at public auction to the highest cash bidder. *Except as otherwise provided in this subsection, the person conducting the sale or any entity in which that person holds an interest may not become a purchaser at the sale.* 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.

~~3.7. 6.~~ After the sale, the person conducting the sale shall ~~;~~

~~(a) Make, execute and, after payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the grantee all title of the unit's owner to the unit;~~

~~(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his or her successor or assign.;~~

(a) Comply with the provisions of subsection 2 of NRS 116.3116; and

~~(c)~~ *(b)* Apply the proceeds of the sale for the following purposes in the following order:

(1) The reasonable expenses of sale;

(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;

(3) Satisfaction of the association's lien;

(4) Satisfaction in the order of priority of any subordinate claim of record; and

(5) Remittance of any excess to the unit's owner.

Sec. 7.8. Section 6 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 6. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. *Every sale of a unit pursuant to NRS 116.31162 to 116.31168, inclusive, vests in the purchaser the title of the unit's owner subject to the right of redemption provided by this section. ~~If the holder of the security interest described in paragraph (b) of subsection 2 of NRS 116.3116 satisfies the amount of the association's lien that is prior to its security interest not later than 5 days before the date of sale, the sale of the unit does not extinguish that security interest to any extent, and subject to any security interest described in paragraph (a) or (b) of subsection 5 of NRS 116.3116.~~*

2. *After the sale conducted pursuant to NRS 116.31164, the person conducting the sale shall:*

(a) Give to the purchaser a certificate of the sale containing:

- (1) A particular description of the unit sold;
- (2) The price bid for the unit;
- (3) The whole price paid; and
- (4) A statement that the unit is subject to redemption; ~~and~~

(b) Mail a copy of the certificate of sale described in paragraph (a) by certified mail to, or serve a copy of the certificate of sale on:

(1) The unit's owner at the last known address of the unit's owner;
and

(2) Any holder of a recorded security interest that is subordinate to the association's lien at:

(I) The address of the holder that is provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry; or

(II) If the address of the holder is not provided pursuant to section 8.5 of this act on the Internet website maintained by the Division of Financial Institutions of the Department of Business and Industry, the registered agent of the holder or, if the holder does not have a registered agent in this State, the address of the holder; and

(c) Record a copy of the certificate in the office of the county recorder of the county in which the unit or part of it is located.

3. A unit sold pursuant to NRS 116.31162 to 116.31168, inclusive, may be redeemed by the unit's owner whose interest in the unit was extinguished by the sale, or his or her successor in interest, or any holder of a recorded security interest that is subordinate to the lien on which the unit was sold, or that holder's successor in interest. The unit's owner whose interest in the unit was extinguished, the holder of the recorded security interest on the unit or a successor in interest of those persons may redeem the property at any time within 60 days after the sale by paying:

(a) The purchaser the amount of his or her purchase price, with interest ~~at the rate of 1 percent per month~~ thereon in addition ~~to~~ at a daily periodic rate of 0.0329 percent, to the time of redemption, plus:

(1) The amount of any assessment paid to the association by the purchaser before the redemption;

(2) The amount of any assessment, taxes or payments toward liens which were created before the purchase and which the purchaser may have paid thereon after the purchase, and interest on such amount;

~~[(2)]~~ (3) If the purchaser is also a creditor having a prior lien to that of the redemptioner, other than the association's lien under which the purchase was made, the amount of such lien, and interest on such amount; and

~~[(3)]~~ (4) Any reasonable amount expended by the purchaser which is reasonably necessary to maintain and repair the unit in accordance with the standards set forth in the governing documents,

including, without limitation, any provisions governing maintenance, standing water or snow removal; ~~and~~

(b) The association the amount of any assessments not paid to the association after the purchase and before the redemption; and

(c) If the redemptioner is the holder of a recorded security interest on the unit or the holder's successor in interest, the amount of any lien before his or her own lien, with interest, but the association's lien under which the unit was sold is not required to be so paid as a lien.

4. Notice of redemption must be served by the person redeeming the unit on the person who conducted the sale and on the person from whom the unit is redeemed, together with:

(a) If the person redeeming the unit is the unit's owner whose interest in the unit was extinguished by the sale or his or her successor in interest, a certified copy of the deed to the unit and, if the person redeeming the unit is the successor of that unit's owner, a copy of any document necessary to establish that the person is the successor of the unit's owner.

(b) If the person redeeming the unit is the holder of a recorded security interest on the unit or the holder's successor in interest:

(1) An original or certified copy of the deed of trust securing the unit or a certified copy of any other recorded security interest of the holder.

(2) A copy of any assignment necessary to establish the claim of the person redeeming the unit, verified by the affidavit of that person, or that person's agent, or of a subscribing witness thereto.

(3) An affidavit by the person redeeming the unit, or that person's agent, showing the amount then actually due on the lien.

5. If the unit's owner whose interest in the unit was extinguished by the sale redeems the property as provided in this section:

(a) The effect of the sale is terminated, and the unit's owner is restored to his or her interest in the unit, subject to any security interest on the unit that existed at the time of sale ~~for~~ and that has not been satisfied; and

(b) The person to whom the redemption amount was paid must execute and deliver to the unit's owner a certificate of redemption, acknowledged or approved before a person authorized to take acknowledgements of conveyances of real property, and the certificate must be recorded in the office of the recorder of the county in which the unit or part of the unit is situated.

6. If the holder of a recorded security interest redeems the unit as provided in this section and the period for a redemption set forth in subsection 3 has expired, the person conducting the sale shall:

(a) Make, execute and, if the amount required to redeem the unit is paid to the person from whom the unit is redeemed, deliver to the person who redeemed the unit or his or her successor or assign, a deed without

warranty which conveys to the person who redeemed the unit all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the person who redeemed the unit, or his or her successor or assign.

7. If no redemption is made within 60 days after the date of sale, the person conducting the sale shall:

(a) Make, execute and, if payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the purchaser all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his or her successor or assign.

8. The recitals in a deed made pursuant to ~~{NRS 116.31164}~~ subsection 6 or 7 of:

(a) Default, the mailing of the notice of delinquent assessment, and the mailing and recording of the notice of default and election to sell;

(b) The elapsing of the ~~{90 days; and}~~ 90-day period set forth in paragraph (c) of subsection 1 of NRS 116.31162;

(c) The ~~{giving}~~ recording, mailing, publishing and posting of the notice of sale ~~{;}~~;

(d) The failure to pay the assessments and other sums which are due in accordance with subsection 1 of NRS 116.3116 before the expiration of the period described in paragraph (d) of subsection 1 of NRS 116.31162; and

(e) The recording of the affidavit required to be recorded pursuant to paragraph (e) of subsection 1 of NRS 116.31162,

↪ are conclusive proof of the matters recited.

~~{2. Such a}~~

9. A deed containing ~~{those}~~ the recitals set forth in subsection 8 is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

~~{3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption.}~~

10. Upon the expiration of the redemption period set forth in subsection 3, any failure to comply with the provisions of NRS 116.3116 to 116.31168, inclusive, does not affect the rights of a bona fide purchaser or bona fide encumbrancer for value.

Sec. 7.83. Section 7 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 7. NRS 116.31168 is hereby amended to read as follows:

116.31168 1. ~~{The provisions of NRS 107.090 apply to the foreclosure of an association's lien as if a deed of trust were being~~

foreclosed. The request must identify the lien by stating the names of the unit's owner and the common interest community.

~~2. An association may, after recording a notice of default and election to sell, waive the default and withdraw the notice or any proceeding to foreclose. The association is thereupon restored to its former position and has the same rights as though the notice had not been recorded.~~ *A person with an interest or any other person who is or may be held liable for any amounts which are the subject of the association's lien pursuant to NRS 116.3116 or the servicer of a loan secured by a deed of trust or mortgage on real property which is subject to such lien desiring a copy of a notice of default and election to sell or notice of sale under the association's lien may record in the office of the county recorder of the county in which any part of the real property is situated an acknowledged request for a copy of the notice of default and election to sell or the notice of sale. The request must:*

(a) State the name and address of the person requesting copies of the notices;

(b) State a legal description of the unit in which the person has an interest or the assessor's parcel number of that unit; and

(c) The names of the unit's owner and the common-interest community.

2. The association or other person authorized to record the notice of default and election to sell shall, within 10 days after the notice is recorded and mailed or served, as applicable, pursuant to NRS 116.31162, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice, addressed to each person who has recorded a request for a copy of the notice.

3. The association or other person authorized to make the sale shall, at least 20 days before the date of sale, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice of time and place of sale, addressed to each person described in subsection 2.

4. As used in this section, "person with an interest" means any person who has or claims any right, title or interest in, or lien or charge upon, a unit being foreclosed pursuant to NRS 116.31162 to 116.31168, inclusive.

Sec. 7.85. Section 8.5 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 8.5. Chapter 657 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A bank, credit union, savings bank, savings and loan association, thrift company or other financial institution, or any other mortgage holder, which is licensed, registered or otherwise authorized to do

business in this State and which is the mortgagee or beneficiary of a deed of trust under a residential mortgage loan shall provide to the Division of Financial Institutions the name, street address and any other contact information of a person to whom:

(a) A borrower or a representative of a borrower must send any document, record or notification necessary to facilitate a mediation conducted pursuant to NRS 40.437 or 107.086.

(b) A unit-owners' association must send any notice required to be given pursuant to NRS 116.3116 to 116.3118, inclusive.

2. The information required to be provided to the Division of Financial Institutions pursuant to subsection 1 must be submitted to the Division in the manner and on a form prescribed by the Commissioner.

3. The Division of Financial Institutions shall maintain on its Internet website the information provided to the Division pursuant to subsection 1 and provide a prominent display of, or a link to, the information described in subsection 1, on the home page of its Internet website.

~~3.4~~ **4. The Commissioner may adopt regulations to carry out the provisions of this section.**

5. As used in this section:

(a) "Borrower" means a person who is a mortgagor or grantor of a deed of trust under a residential mortgage loan.

(b) "Residential mortgage loan" means a loan which is primarily for personal, family or household use and which is secured by a mortgage or deed of trust on owner-occupied housing as defined in NRS 107.086.

Sec. 7.9. Section 9 of Senate Bill No. 306 is hereby amended to read as follows:

Sec. 9. 1. Subsection 5 of NRS 116.3116, and NRS 116.31166, as amended by sections 1 and 6, respectively, of this act, apply only to a sale of a unit pursuant to NRS 116.31162 to 116.31168, inclusive, as amended by sections 2 to 7, inclusive, of this act under a notice of default and election to sell that is recorded pursuant to paragraph (b) of subsection 1 of NRS 116.31162, as amended by section 2 of this act, on or after July 1, 2015.

2. Subsections 1 to 6, inclusive, of NRS 116.31162 and NRS 116.31163, as amended by sections 2 and 3 of this act, respectively, apply only to a notice of default and election to sell that is recorded pursuant to paragraph (b) of subsection 1 of NRS 116.31162, as amended by section 2 of this act, on or after ~~October~~ July 1, 2015.

~~2.3~~ **3. Subsection 7 of NRS 116.31162 and NRS 107.086, as amended by sections 2 and 8 of this act, respectively, apply if a notice of default and election to sell is recorded pursuant to NRS 107.080, on or after ~~October~~ July 1, 2015.**

~~3.4~~ **4. NRS 116.311635, ~~and 116.31164,~~ as amended by ~~sections 4 and 5~~ of this act, ~~respectively, apply~~ applies only**

if a notice of sale is recorded pursuant to ~~NRS 116.311635,~~ **paragraph (b) of subsection 1 of NRS 116.31162,** as amended by section ~~44~~ **2** of this act, on or after ~~October~~ **July 1, 2015.**

~~4. NRS 116.31166, as amended by section 6 of this act, applies only to a sale of a unit pursuant to NRS 116.31162 to 116.31168, inclusive, as amended by sections 2 to 7, inclusive, of this act, respectively, which occurs on or after October 1, 2015.~~

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. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. Senate Bill No. 306 is hereby amended by adding thereto a new section to be designated as section 10, immediately following section 9, to read as follows:

Sec. 23. This act becomes effective upon passage and approval.

Assemblyman Gardner moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywoman Spiegel.

Amendment No. 1066.

AN ACT relating to common-interest communities; revising provisions governing a unit-owners' association's lien for certain amounts due to the association; **requiring the Division of Financial Institutions of the Department of Business and Industry to establish a pilot program for the mandatory establishment of impound accounts for advance contributions for certain assessments;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a unit-owners' association has a lien on a unit for certain amounts due to the association, and an association may foreclose its lien through a nonjudicial foreclosure process. (NRS 116.3116-116.31168) Under existing law, 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) In *SFR Investments Pool I, LLC v. U.S. Bank*, 130 Nev. Adv. Op. 75, 334 P.3d 408 (2014), the Nevada Supreme Court held that the foreclosure of the super-priority lien by the association extinguishes the first security interest on the unit.

This bill provides that the foreclosure of the super-priority lien by the association does not extinguish a first security interest on the unit or a second mortgage or deed of trust on the unit. Thus, under this bill, if the holder of a security interest, lien or encumbrance on a unit, other than the association, forecloses on the unit, the association would be entitled to a distribution of the proceeds of the sale in accordance with the priority accorded to the association's lien under existing law. However, if the association forecloses its lien on a unit by sale, the association's foreclosure does not extinguish the first security interest on the unit or a second mortgage or deed of trust on the unit but does extinguish any other security interest, liens or encumbrances subordinate to the association's lien under existing law.

Section 21.3 of this bill requires the Division of Financial Institutions of the Department of Business and Industry to establish a pilot program for the mandatory establishment of impound accounts for advance contributions for the payment of certain assessments owed to unit-owners' associations. Under the pilot program, a unit-owners' association is required to register and provide certain information to the Division. Payments from the impound account for such assessments must be made quarterly to the Division, and the Division is required to transfer the payment to the association to which the assessments are owed. The pilot program is required to begin on January 1, 2016, and end on December 31, 2020.

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. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive,

of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➡ The lien is also prior to all security interests described in paragraph (b) to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of 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. If 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, the period during which the lien is prior to all security interests described in paragraph (b) 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 not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. ***Except as otherwise provided in this subsection, any priority accorded to the association's lien under this section is a priority in right and not merely a priority in payment from the proceeds of the sale of the unit by a competing lienholder or encumbrancer. The foreclosure by sale of the association's lien does not extinguish the rights of the holder of:***

(a) A first security interest described in paragraph (b) of subsection 2; or

(b) A second mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent.

4. The holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent may establish an escrow account, loan trust account or other impound account for advance contributions for the payment of assessments for common expenses based on the periodic budget

adopted by the association pursuant to NRS 116.3115 if the unit's owner and the holder of that security interest consent to the establishment of such an account. If such an account is established, payments from the account for assessments for common expenses must be made in accordance with the same due dates as apply to payments of such assessments by a unit's owner.

~~{4-}~~ 5. 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.

~~{5-}~~ 6. 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.

~~{6-}~~ 7. 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.

~~{7-}~~ 8. 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.

~~{8-}~~ 9. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~{9-}~~ 10. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

~~{10-}~~ 11. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~{11-}~~ 12. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense

assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

Sec. 7.5. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. The recitals in a deed made pursuant to NRS 116.31164 of:

(a) Default, the mailing of the notice of delinquent assessment, and the recording of the notice of default and election to sell;

(b) The elapsing of the 90 days; and

(c) The giving of notice of sale,

↪ are conclusive proof of the matters recited.

2. Such a deed containing those recitals is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

3. The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption ~~+~~ ***subject to any security interest described in paragraph (a) or (b) of subsection 3 of NRS 116.3116.***

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. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 21.3. 1. The Division shall establish a pilot program for the establishment of escrow accounts, loan trust accounts or impound accounts for advance contributions for the payment of certain assessments levied against a unit.

2. The pilot program must:

(a) Require a unit-owners' association to register with the Division on a form prescribed by the Division and update the information required by that form annually and whenever the information changes.

(b) Require a holder of a security interest on a unit whose security interest secures a loan for the purchase of a unit on or after the effective date of this act to establish an escrow account, loan account or other impound account for the advance contributions for the payment of:

(1) Assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115;

(2) Special assessments to establish adequate reserves for the association pursuant to paragraph (b) of subsection 2 of NRS 116.3115; and

(3) Assessments for capital expenditures based on the periodic budget adopted by the association pursuant to NRS 116.3115.

(c) Authorize a holder of a security interest, other than a holder described in paragraph (b), to establish an escrow account, loan account or other impound account for the purposes set forth in paragraph (b).

3. Payments from an escrow account, loan trust account or impound account for the assessments described in paragraph (b) of subsection 2 must be transferred to the Division in quarterly installments, on or before the first day of each calendar quarter.

4. The Division shall, not later than the fifth day of each calendar quarter, disburse payments received pursuant to subsection 3 to the association to whom the payments are due.

5. If the Division is unable to disburse payments to a unit-owner's association because the association has not provided the Division with the information required by paragraph (a) of subsection 3, the association may not initiate collection activity against the unit's owner, commence an action for judicial foreclosure against the unit's owner or take any action for a nonjudicial foreclosure on the unit.

6. The Division may adopt any other requirements for the pilot program relating to escrow accounts, loan trust accounts or other impound accounts that the Division deems necessary, including, without limitation, requirements relating to the servicing of such accounts and the period for which funds in such accounts are impounded, as the Division deems necessary to implement the pilot program.

7. On or before December 31 of each odd-numbered year, the Division shall submit a written report of the results of the pilot program established pursuant to this section to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission.

8. As used in this section:

(a) "Division" means the Division of Financial Institutions of the Department of Business and Industry.

(b) "Unit" has the meaning ascribed to it in NRS 116.093.

(c) "Unit-owners' association" has the meaning ascribed to it in NRS 116.011.

Sec. 21.7. The pilot program described in section 21.3 of this act must begin operating on January 1, 2016.

Sec. 23. 1. This section and sections 21.3 and 21.7 of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks

necessary to carry out the provisions of section 21.7 of this act, and on January 1, 2016, for all other purposes.

2. Sections 21.3 and 21.7 of this act expire by limitation on December 31, 2020.

Assemblywoman Spiegel moved the adoption of the amendment.

Remarks by Assemblymen Spiegel, Seaman, and Gardner.

ASSEMBLYWOMAN SPIEGEL:

Assembly Bill 359 has to do with common-interest communities and the way assessments are collected for people's homes. A number of my constituents have issues with Assembly Bill 359 the way it stands because of what happens with the super-priority liens. For those of you who are not familiar with this, the super-priority lien currently allows the HOAs [homeowners' associations] to collect up to nine months of the assessments that are in arrears at the time of foreclosure. It is a really big issue in my district, and it is a really big issue in a number of our districts.

We have over 500,000 households in HOAs here in Nevada. Especially during the downturn, there was a very big problem with this. One of my constituents came to see me earlier this session and, bless her heart, she was kind of nervous so she actually wrote out her comments to me and read her comments to me. What she said, among other things, is that her association has \$53,000 in delinquent assessments. They are never going to be able to collect that money. There are only 150 units. The other people have to pay for everything.

What this amendment does is make it possible through a pilot program for homeowners to put their assessments into the same kind of escrow account where they have their mortgage, their insurance, their property taxes, and everything else. This way, the HOA will get paid and people will not get foreclosed on for having assessments in arrears. It will make things smoother for everyone. It is a four-year pilot program. I would appreciate your adopting this amendment, and I would appreciate your support.

ASSEMBLYWOMAN SEAMAN:

I rise in opposition to this amendment. There are over 3,000 HOAs in southern California, and what this amendment proposes to do is become a collection agency for the HOAs. I urge all of my colleagues in this body to vote no on this amendment.

ASSEMBLYMAN GARDNER:

I have much respect for my colleague from Henderson, but I have to say that this is an unfriendly amendment and I urge a no vote on it.

Assemblywoman Kirkpatrick, Paul Anderson, and Nelson moved the previous question.

The question being the motion to adopt Amendment No. 1066 to Assembly Bill No. 359.

Amendment lost.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 332.

The following Senate amendment was read:

Amendment No. 1063.

AN ACT relating to public works; prohibiting a public body from entering into certain contracts for public works which allow for purchase by the public

body of the construction materials or goods to be used in the public work; providing that the Attorney General shall enforce the prohibition against such a contract for a public work; directing the Department of Taxation to withhold certain money payable to a public body which violates such a prohibition in a contract for a public work; revising provisions relating to certain construction projects of the Nevada System of Higher Education; **revising the minimum qualifications for the Administrator of the State Public Works Division of the Department of Administration;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the sale of any tangible personal property to a governmental entity including the State, its unincorporated agencies and instrumentalities or a county, city, district or other political subdivision of this State, is exempted from the imposition of sales and use taxes. (NRS 372.325, 372.345) A contractor who buys tangible personal property or stores, uses or otherwise consumes tangible personal property for such a governmental entity must pay such taxes unless the contractor is a constituent part of that entity. (NRS 372.340) **Section 1** of this bill prohibits any public body including the State, its local governments, school districts, and any public agency thereof which sponsors or finances a public work from entering into an express or implied contract for a public work which provides that any construction materials or goods to be used on the public work be purchased or otherwise supplied by: (1) the public body; (2) a contractor who is a constituent part of the public body; or (3) a contractor who is not a constituent part of the public body acting on behalf of the public body. A public body may, however, enter into such a contract for a public work provided that the contract requires the payment of any state or local taxes that would otherwise have been due for the purchase and use of such construction materials or goods if they had been purchased and used by an entity not exempted from the payment of such taxes. **Section 1** also provides that: (1) an express or implied contract entered into in violation of this prohibition is void; (2) a person who enters into such a contract is guilty of a gross misdemeanor; and (3) the right to enforce the provisions of this prohibition vests exclusively in the Attorney General. **Section 1** further provides that, if a contract is entered into in violation of this prohibition, the Attorney General must forward to the Department of Taxation a list of the construction materials or goods purchased under the contract. The Department is then required to calculate the amount of applicable state and local taxes that should have been collected on the construction materials or goods, and deduct from the money otherwise payable from the proceeds of any tax distribution due to the public body ~~either twice the amount of the applicable taxes, or the sum of \$250,000, whichever is greater.~~ In addition, **section 1** exempts from the new prohibition express or implied contracts for public works that use certain construction materials or goods that are: (1) purchased pursuant to governmental procurement rules, needed on a recurring basis and used to

protect the health, safety or welfare of the public; or (2) specialized, project-specific components.

Under existing law, the laws of this State pertaining to public works apply to any project which is financed in whole or in part from public money for the new construction, repair or reconstruction of publicly owned works and properties, except that such laws only apply to a building for the Nevada System of Higher Education if 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. (NRS 338.010) **Section 2** of this bill removes that exemption from the application of public works laws for a building of the System if less than 25 percent of the costs of the building are paid from money appropriated by this State or federal money, but **section 2.5** of this bill exempts such a building from certain provisions requiring that a public body use the services of the State Public Works Division of the Department of Administration for certain services relating to planning, maintenance and construction of state buildings. (NRS 341.141-341.148) **Section 2.5** also specifically requires the System to use the services of the Division as building official for the construction of any building for the System. **Section 4** of this bill repeals certain sections for conformity with the amendments made in **section 2**.

Under existing law, the Administrator and Deputy Administrator of the State Public Works Division are required to be licensed professional engineers or registered architects. (NRS 341.100) Section 2.6 of this bill revises those qualifications to require that the Administrator have: (1) a master's degree or doctoral degree in civil or environmental engineering, architecture, public administration or a related field; and (2) have experience in management, public administration or public policy. Section 2.6 provides that if the Administrator is not a licensed professional engineer or a registered architect, the Deputy Administrator is required to be a licensed professional engineer or a registered architect.

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:

1. *Except as otherwise provided in this section, a public body shall not enter into an express or implied contract for a public work which provides that any construction materials or goods to be used on the public work will be purchased or otherwise supplied by:*

(a) *The public body or a contractor who is a constituent part of the public body; or*

(b) *A contractor who is not a constituent part of the public body but is acting on behalf of the public body.*

2. *A public body may enter into an express or implied contract for a public work which provides that any construction materials or goods to be used in the public work will be purchased or supplied by the public body, a*

contractor who is a constituent part of the public body or a contractor who is not a constituent part of the public body but is acting on behalf of the public body if:

(a) The contract requires the payment of any state or local taxes that would otherwise have been due for the purchase and use of the construction materials or goods if the construction materials or goods had been purchased and used by a contractor who was not a constituent part of the public body and who was not otherwise exempt from the taxes pursuant to state or local law; and

(b) The public body sends an itemized list of the construction materials or goods to be purchased or otherwise provided by the public body or a contractor who is a constituent part of the public body, to the Department of Taxation. The itemized list must include the amount paid for each item.

3. An express or implied contract entered into in violation of subsection 1 is void.

4. A person who enters into an express or implied contract that violates the provisions of subsection 1 is guilty of a gross misdemeanor.

5. The right to enforce the provisions of this section vests exclusively in the Attorney General, who shall institute and prosecute the appropriate proceedings to enforce the provisions of this section.

6. If an express or implied contract for a public work is entered into in violation of subsection 1, the Attorney General shall forward to the Department of Taxation a list of construction materials or goods purchased in violation of this section by the public body or the contractor who is a constituent part of the public body. The Department shall calculate the applicable state and local taxes on the purchase and use of the construction materials or goods which would have been due but for the tax exemption of the public body or the contractor who is a constituent part of the public body, and shall deduct ~~that amount~~ from the money otherwise payable from the proceeds of any tax distribution to the public body ~~+~~

~~—(a) Twice~~ twice the amount of the applicable taxes. ~~+~~

~~—(b) The sum of \$250,000,~~

~~→ whichever is greater.~~

7. The provisions of this section do not apply to an express or implied contract for a public work for which the construction materials or goods purchased by the public body are:

(a) Devices, equipment or hardware purchased in compliance with chapter 332 or 333 of NRS which are needed on a recurring basis and used to protect the health, safety or welfare of the public, including, without limitation, official traffic control devices; or

(b) Specialized components purchased in compliance with chapter 332 or 333 of NRS which are specific to a particular project and are not commonly used in public works projects.

↪ If a public body enters into such a contract, the public body must provide annually to the Department of Taxation an itemized list of the construction

materials or goods purchased pursuant to the contract and the amount paid for each item.

8. If a public body is going to perform the public work itself in accordance with NRS 338.13864, the public body is not required to:

(a) Pay any state or local taxes for the purchase and use of construction materials or goods.

(b) Send to the Department of Taxation an itemized list of construction materials or goods to be purchased by the public body for the public work.

9. As used in this section, "construction materials or goods" means all materials, equipment or supplies which are intended to be used in a public work ~~and includes, without limitation, the following, as well as related components or other materials intended for similar use:~~

~~(a) Structural or reinforcing steel.~~

~~(b) Aggregates, including, without limitation, base, barrow, concrete, asphalt, treated base, fill, topsoil and decorative aggregate.~~

~~(c) Interior finishing materials, including, without limitation, drywall, metal studs, acoustical ceiling material, paint, sealants, compounds and wall coverings.~~

~~(d) Flooring, including, without limitation, carpet, tile, wood, vinyl and laminates.~~

~~(e) Wood and wood products, including, without limitation, plywood, lumber, form systems, sheeting and decking.~~

~~(f) Utility materials, including, without limitation, piping, conduit, fiber optics, cables and cabling, power generators and pumps.~~

~~(g) Electrical materials, including, without limitation, conduit, wire, cables and cabling, electrical panels, lighting fixtures, outlets and switches.~~

~~(h) Plumbing materials, including, without limitation, pipes and piping, fixtures, drains, pumps, toilets, sinks, tubs and water heaters.~~

~~(i) Heating, ventilation and air conditioning materials, including, without limitation, ducts, vents, sheet metal, air conditioning units, furnaces and fans.~~

~~(j) Equipment and devices, whether purchased or rented, including, without limitation, heavy construction equipment, forklifts, scissor lifts, boom lifts, cranes and traffic control devices.~~

~~(k) Miscellaneous materials, including, without limitation, materials used for fencing, irrigation, masonry, cabinetry, doors, windows, traffic signals and signs, landscaping, roofing and elevators.~~

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.

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 5 or 6 of NRS 338.070.

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.

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.

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

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

~~[(1)]~~ (a) Public buildings;

~~[(2)]~~ (b) Jails and prisons;

~~[(3)]~~ (c) Public roads;

~~[(4)]~~ (d) Public highways;

~~[(5)]~~ (e) Public streets and alleys;

~~[(6)]~~ (f) Public utilities;

~~[(7)]~~ (g) Publicly owned water mains and sewers;

~~[(8)]~~ (h) Public parks and playgrounds;

~~[(9)]~~ (i) Public convention facilities which are financed at least in part with public money; and

~~[(10)]~~ (j) All other publicly owned works and property.

~~[(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.]~~

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

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.

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.

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.

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.

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.

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. 2.5. Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the provisions of NRS 341.141 to 341.148, inclusive, apply to a contract for the construction of a building for the Nevada System of Higher Education only if 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.

2. The provisions of subsection 2 of NRS 341.145 apply to the construction of any building for the Nevada System of Higher Education.

Sec. 2.6. NRS 341.100 is hereby amended to read as follows:

341.100 1. The Administrator and the Deputy Administrator of the Public Works - Compliance and Code Enforcement Section serve at the pleasure of the Director of the Department.

2. The Administrator shall appoint:

(a) A Deputy Administrator of the Public Works - Professional Services Section; and

(b) A Deputy Administrator of the Buildings and Grounds Section.

↪ Each deputy administrator appointed pursuant to this subsection serves at the pleasure of the Administrator.

3. The Administrator shall recommend and the Director shall appoint a Deputy Administrator of the Public Works - Compliance and Code Enforcement Section. The Deputy Administrator appointed pursuant to this subsection has the final authority in the interpretation and enforcement of any applicable building codes.

4. The Administrator may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

5. The Administrator and each deputy administrator are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, the Administrator and each deputy administrator shall devote his or her entire time and attention to the business of the office and shall not pursue any other business or occupation or hold any other office of profit.

6. The Administrator ~~and~~ must have a master's degree or doctoral degree in civil or environmental engineering, architecture, public administration or a related field and must have experience in management, public administration or public policy. If the Administrator is not a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS, the Deputy Administrator of the Public Works - Professional Services Section must ~~each~~ be a licensed professional engineer pursuant to the provisions of chapter 625 of NRS or an architect registered pursuant to the provisions of chapter 623 of NRS.

7. The Deputy Administrator of the Public Works - Compliance and Code Enforcement Section must have a comprehensive knowledge of building codes and a working knowledge of the principles of engineering or architecture as determined by the Administrator.

8. The Administrator shall:

- (a) Serve as the Secretary of the Board.
- (b) Manage the daily affairs of the Division.
- (c) Represent the Board and the Division before the Legislature.
- (d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project.
- (e) Select architects, engineers and contractors.
- (f) Accept completed projects.
- (g) Submit in writing to the Director of the Department, the Governor and the Interim Finance Committee a monthly report regarding all public works projects which are a part of the approved capital improvement program. For each such project, the monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:

(1) Changes in the scope of the design or construction of the project or any substantial component of the project which increase or decrease the total square footage or cost of the project by 10 percent or more;

(2) Increased or unexpected costs in the design or construction of the project or any substantial component of the project which materially affect the project;

(3) Delays in the completion of the design or construction of the project or any substantial component of the project; or

(4) Any other problems which may adversely affect the design or construction of the project or any substantial component of the project.

(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

9. The Deputy Administrator of the Public Works - Compliance and Code Enforcement Section shall:

- (a) Serve as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government; and

(b) Consult with an agency or official that is considering adoption of a regulation described in NRS 446.942, 449.345, 455C.115, 461.173, 472.105 or 477.0325 and provide recommendations regarding how the regulation, as it applies to buildings and structures on property of this State or held in trust for any division of the State Government, may be made consistent with other regulations which apply to such buildings or structures.

Sec. 2.7. NRS 341.141 is hereby amended to read as follows:

341.141 1. The Division shall furnish engineering and architectural services to the Nevada System of Higher Education and all other state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

(a) Buildings used in maintaining highways;
 (b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:

(1) In state parks by the State Department of Conservation and Natural Resources; or

(2) By the Department of Wildlife; ~~and~~

(c) ***Buildings of the Nevada System of Higher Education:***

(1) That are exempted pursuant to subsection 1 of section 2.5 of this act; or

(2) To which subsection 1 of section 2.5 of this act applies if the Administrator has delegated his or her authority in accordance with NRS 341.119; and

(d) Buildings on property controlled by other state agencies if the Administrator has delegated his or her authority in accordance with NRS 341.119.

↪ The Board of Regents of the University of Nevada and all other state departments, boards or commissions shall use those services.

2. The services must consist of:

(a) Preliminary planning;
 (b) Designing;
 (c) Estimating of costs; and
 (d) Preparation of detailed plans and specifications.

Sec. 3. NRS 338.018 and 338.075 are hereby repealed.

Sec. 4. This act becomes effective on July 1, 2015.

TEXT OF REPEALED SECTIONS

338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate Amendment No. 1063 to Assembly Bill No. 332.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Paul Anderson moved that Senate Bill No. 440 and Assembly Bill No. 359 be taken from their positions on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 440.

Bill read third time.

Remarks by Assemblyman Kirner.

ASSEMBLYMAN KIRNER:

This closes a couple of loops in terms of the Uber-type companies. I urge the body to support it. It has been a compromise or a worked-out bill.

Roll call on Senate Bill No. 440:

YEAS—32.

NAYS—Armstrong, Dickman, Edwards, Jones, Seaman, Shelton, Titus, Wheeler—8.

EXCUSED—Dooling, Moore—2.

Senate Bill No. 440 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 359.

Bill read third time.

Remarks by Assemblyman Gardner.

ASSEMBLYMAN GARDNER:

Assembly Bill 359 reverses the SFR decision [*SFR Invs. Pool 1, LLC v. U.S. Bank, N.A.*, 334 P.3d 408, 130 Nev. Adv. Op. 75 (2014)], which allows HOAs [homeowners' associations] to extinguish first and second mortgages. I ask for your support.

Roll call on Assembly Bill No. 359:

YEAS—29.

NAYS—Carrillo, Dickman, Ellison, Jones, Kirner, Nelson, O'Neill, Oscarson, Spiegel, Titus, Trowbridge—11.

EXCUSED—Dooling, Moore—2.

Assembly Bill No. 359 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

RECEDE FROM ASSEMBLY AMENDMENTS

Assemblyman Oscarson moved that the Assembly recede from its action on Senate Bill No. 7.

Remarks by Assemblymen Titus, Jones, Seaman, and Dickman.

ASSEMBLYWOMAN TITUS:

It is very late at night and we have about 15 minutes left of this session, and I knew I would get to use the word of the day. So here it is. The word of the day is “jiggery-pokery.” It is chiefly British. What that stands for is trickery, hocus-pocus, fraud, humbug, and underhanded action.

I will tell you that receding from what we worked so hard on with S.B. 7 is really wrong. Assemblyman Moore cannot be here this evening because he is ill. He put a lot of effort into making this bill as tolerable as possible, recognizing that there were problems, especially in southern Nevada, where our emergency rooms were backed up with folks waiting to have this Legal 2000 completed so they could be released or identified as needing extra care. The fact that we would recede from all that hard work and allow a huge increase in those who can commit somebody is flatly wrong. When our state health officer and I worked this out, she agreed to leave in here that the list of folks who could do a Legal 2000 would only be allowed to expand if that patient had already been identified as at risk in the emergency room. Receding from this amendment takes that out of the bill, and it is wrong. It is a bad bill. We should not recede from our amendment. I would encourage my fellow members of this Assembly to honor what we did when we passed this amendment and not recede.

ASSEMBLYMAN JONES:

I rise to also say we should not recede on this motion. This was a lot of work. I agree with my colleague from the north that my colleague from Assembly District 8 worked very hard on this and this is a very important issue for him. What we are talking about is allowing a person identified as an agent of a department to take your freedom away and have you thrown into a Legal 2000, which is a 72-hour involuntary hold. Who is an agent from a department? I do not know. Maybe the doorman? But the problem with that is that these are people’s legal rights to their own freedom. If we now allow this complete litany of people to take away our rights—I just hope that it is not your rights someday, that you are not thrown into a Legal 2000 and then wonder why you cannot get out of a psych ward for over 72 hours. So I encourage everyone not to allow this recede to happen because we should not allow an agent from the department to take people’s legal rights away. We should allow qualified people such as psychiatrists, qualified people such as medical doctors, who are actually trained in this, to take away people’s personal freedom.

ASSEMBLYWOMAN SEAMAN:

I would like to ditto my colleagues and ask that you please do not recede from this. As they explained, our other colleague who worked very hard on this is not here, and it feels like whatever that word was—jiggery-pokery.

ASSEMBLYWOMAN DICKMAN:

I just want to say, there were deals made and they have been reneged upon, so I would encourage you not to recede.

Assemblymen Kirkpatrick, Paul Anderson, and Bustamante Adams moved the previous question.

The question being the motion for the Assembly to recede from its action on Senate Bill No. 7.

Motion carried.

Assemblymen Titus, Fiore, and Jones requested a roll call vote on the motion.

Roll call vote on the motion for the Assembly to recede from its action on Senate Bill No. 7.

YEAS—26.

NAYS—Dickman, Ellison, Fiore, Gardner, Hansen, Jones, Nelson, O'Neill, Seaman, Shelton, Titus, Trowbridge, Wheeler—13.

EXCUSED—Dooling, Moore, Ohrenschall—3.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2015

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 445, Amendment No. 1069; Assembly Bill No. 495, Amendment No. 1074, and respectfully requests your honorable body to concur in said amendments.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 495.

The following Senate amendment was read:

Amendment No. 1074.

AN ACT relating to the Legislature; **requiring certain legislative measures requested by Legislators to be prefiled;** revising provisions governing the submission of a request for the drafting of a legislative measure to the Legislative Counsel; revising the deadline for prefiling legislative measures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Legislative Counsel is prohibited from assigning a number to a bill draft request to establish the priority of the request until sufficient detail has been received to allow complete drafting of the requested measure. (NRS 218D.100) **Sections 3-10** of this bill clarify that this prohibition applies to bill draft requests from Legislators and authorized nonlegislative requesters.

Existing law establishes deadlines by which Legislators and legislative committees are required to submit bill draft requests and subsequent deadlines by which they are required to submit sufficient detail to allow complete drafting of those requests. (NRS 218D.150, 218D.155, 218D.160) **Sections 1-5** of this bill eliminate the subsequent deadlines relating to the submission of details for the drafting of a legislative measure, thereby requiring the submission of details for the drafting of a legislative measure with the bill draft request for that measure.

Under existing law, certain measures requested on behalf of nonlegislative requesters are required to be prefiled on or before December 20 preceding a regular session or are deemed withdrawn. (NRS 218D.175-218D.220, 218D.575-218D.585) **Sections 6-10** of this bill move that prefilings deadline for those measures to the third Wednesday in November preceding a regular session. **Section 2 of this bill requires certain measures requested by Legislators to be prefiled on or before the first day of a regular legislative session.**

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

Section 1. NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to 218D.220, inclusive, apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to 218D.220, inclusive, for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to 218D.220, inclusive, but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) ~~Except as otherwise provided in NRS 218D.150, 218D.155 and 218D.160, assign~~ **Assign** a number to a request for the drafting of a legislative measure to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

(b) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(c) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

Sec. 2. NRS 218D.150 is hereby amended to read as follows:

218D.150 1. Except as otherwise provided in this section, each:

(a) Incumbent member of the Assembly may request the drafting of:

(1) Not more than 4 legislative measures submitted to the Legislative Counsel on or before August 1 preceding a regular session;

(2) Not more than 5 legislative measures submitted to the Legislative Counsel after August 1 but on or before December 10 preceding a regular session; and

(3) Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.

(b) Incumbent member of the Senate may request the drafting of:

(1) Not more than 8 legislative measures submitted to the Legislative Counsel on or before August 1 preceding a regular session;

(2) Not more than 10 legislative measures submitted to the Legislative Counsel after August 1 but on or before December 10 preceding a regular session; and

(3) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.

(c) Newly elected member of the Assembly may request the drafting of:

(1) Not more than 5 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session; and

(2) Not more than 1 legislative measure submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.

(d) Newly elected member of the Senate may request the drafting of:

(1) Not more than 10 legislative measures submitted to the Legislative Counsel on or before December 10 preceding a regular session; and

(2) Not more than 2 legislative measures submitted to the Legislative Counsel after a regular session has convened but on or before the eighth day of the regular session at 5 p.m.

2. Except as otherwise provided in this subsection, on or before the first day of a regular session, each:

(a) Incumbent member of the Assembly must:

(1) Prefile at least 4 of the legislative measures that he or she requested pursuant to subparagraphs (1) and (2) of paragraph (a) of subsection 1; or

(2) Inform the Legislative Counsel of which 4 legislative measures that he or she requested pursuant to subparagraphs (1) and (2) of paragraph (a) of subsection 1 that he or she withdraws.

↪ If an incumbent member of the Assembly does not request the maximum number of legislative measures authorized by subparagraphs (1) and (2) of paragraph (a) of subsection 1, the number of legislative measures that he or she must prefile or withdraw pursuant to this paragraph is reduced by that number of unused requests.

(b) Incumbent member of the Senate must:

(1) Prefile at least 8 of the legislative measures that he or she requested pursuant to subparagraphs (1) and (2) of paragraph (b) of subsection 1; or

(2) Inform the Legislative Counsel of which 8 legislative measures that he or she requested pursuant to subparagraphs (1) and (2) of paragraph (b) of subsection 1 that he or she withdraws.

↪ If an incumbent member of the Senate does not request the maximum number of legislative measures authorized by subparagraphs (1) and (2) of paragraph (b) of subsection 1, the number of legislative measures that he or she must prefile or withdraw pursuant to this paragraph is reduced by that number of unused requests.

(c) Newly elected member of the Assembly must:

(1) Prefile at least 2 of the legislative measures that he or she requested pursuant to subparagraphs (1) and (2) of paragraph (c) of subsection 1; or

(2) Inform the Legislative Counsel of which 2 legislative measures that he or she requested pursuant to subparagraphs (1) and (2) of paragraph (c) of subsection 1 that he or she withdraws.

↪ If a newly elected member of the Assembly does not request the maximum number of legislative measures authorized by subparagraphs (1) and (2) of paragraph (c) of subsection 1, the number of legislative measures that he or she must prefile or withdraw pursuant to this paragraph is reduced by that number of unused requests.

(d) Newly elected member of the Senate:

(1) Prefile at least 4 of the legislative measures that he or she requested pursuant to subparagraphs (1) and (2) of paragraph (d) of subsection 1; or

(2) Inform the Legislative Counsel of which 4 legislative measures that he or she requested pursuant to subparagraphs (1) and (2) of paragraph (d) of subsection 1 that he or she withdraws.

↪ If a newly elected member of the Senate does not request the maximum number of legislative measures authorized by subparagraphs (1) and (2) of paragraph (d) of subsection 1, the number of legislative measures that he or she must prefile or withdraw pursuant to this paragraph is reduced by that number of unused requests.

3. A Legislator may not request the drafting of a legislative measure pursuant to subsection 1 on or after the date on which the Legislator becomes a nonreturning Legislator. For the purposes of this subsection, “nonreturning Legislator” means a Legislator who, in the year that the Legislator’s term of office expires:

(a) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a member of the Senate or the Assembly;

(b) Has failed to win nomination as a candidate for the Senate or the Assembly at the primary election; or

(c) Has withdrawn as a candidate for the Senate or the Assembly.

~~3.4~~ 4. A Legislator may not request the drafting of a legislative measure pursuant to paragraph (a) or (b) of subsection 1 on or after the date on which the Legislator files a declaration or an acceptance of candidacy for election to the House in which he or she is not currently a member. If the Legislator is elected to the other House, any request that he or she submitted pursuant to paragraph (a) or (b) of subsection 1 before filing his or her declaration or acceptance of candidacy for election counts against the applicable limitation set forth in paragraph (c) or (d) of subsection 1 for the House in which the Legislator is a newly elected member.

~~4.~~ If a request made pursuant to subsection 1 is submitted:

~~— (a) On or before August 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before November 1 preceding the regular session.~~

~~— (b) After August 1 but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January 1 preceding the regular session.~~

~~—(e) After a regular session has convened but on or before the 8th day of the regular session at 5 p.m., sufficient detail to allow complete drafting of the legislative measure must be submitted on or before the 15th day of the regular session.~~

5. In addition to the number of requests authorized pursuant to subsection 1:

(a) The chair of each standing committee of the immediately preceding regular session, or a person designated in the place of the chair by the Speaker of the Assembly or the Majority Leader of the Senate, may request before the date of the general election preceding a regular session the drafting of not more than 1 legislative measure for introduction by the committee in a subject within the jurisdiction of the committee for every 18 legislative measures that were referred to the respective standing committee during the immediately preceding regular session.

(b) A person designated after the general election as a chair of a standing committee for the next regular session, or a person designated in the place of a chair by the person designated as the Speaker of the Assembly or the Majority Leader of the Senate for the next regular session, may request on or before December 10 preceding that regular session the drafting of the remaining number of the legislative measures allowed for the respective standing committee that were not requested by the previous chair or designee.

6. ~~If a request made pursuant to subsection 5 is submitted:~~

~~—(a) Before the date of the general election preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the regular session.~~

~~—(b) After the date of the general election but on or before December 10 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before January 1 preceding the regular session.~~

~~7. 5.~~ Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

~~6. 7.~~ ***The Legislative Counsel shall not assign a number to a request for the drafting of a legislative measure submitted pursuant to this section to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.***

Sec. 3. NRS 218D.155 is hereby amended to read as follows:

218D.155 1. In addition to the number of requests authorized pursuant to NRS 218D.150:

(a) The Speaker of the Assembly and the Majority Leader of the Senate may each request before the date of the general election preceding a regular session, without limitation, the drafting of not more than 15 legislative measures for that regular session.

(b) The Minority Leader of the Assembly and the Minority Leader of the Senate may each request before the date of the general election preceding a

regular session, without limitation, the drafting of not more than 10 legislative measures for that regular session.

(c) A person designated after the general election as the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly or the Minority Leader of the Senate for the next regular session may request before the first day of that regular session the drafting of the remaining number of the legislative measures allowed for the respective officer that were not requested by the previous officer.

2. ~~If a request made pursuant to subsection 1 is submitted:~~

~~—(a) Before the date of the general election preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before December 10 preceding the regular session.~~

~~—(b) After the date of the general election but before the first day of a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before March 1 of the regular session.~~

~~—3.†~~ The Legislative Counsel, the Secretary of the Senate and the Chief Clerk of the Assembly may request before or during a regular session, without limitation, the drafting of as many legislative measures as are necessary or convenient for the proper exercise of their duties.

3. *The Legislative Counsel shall not assign a number to a request for the drafting of a legislative measure submitted pursuant to this section to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.*

Sec. 4. NRS 218D.160 is hereby amended to read as follows:

218D.160 1. The Chair of the Legislative Commission may request the drafting of not more than 10 legislative measures before the first day of a regular session, with the approval of the Legislative Commission, which relate to the affairs of the Legislature or its employees, including legislative measures requested by the legislative staff.

2. The Chair of the Interim Finance Committee may request the drafting of not more than 10 legislative measures before the first day of a regular session, with the approval of the Committee, which relate to matters within the scope of the Committee.

3. ~~If a request made pursuant to subsection 1 or 2 is submitted before the first day of a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before March 1 of the regular session.~~

~~—4.†~~ Except as otherwise provided by a specific statute, joint rule or concurrent resolution:

(a) Any legislative committee created by a statute, other than an interim legislative committee, may request the drafting of not more than 10 legislative measures which relate to matters within the scope of the committee.

(b) Any committee or subcommittee established by an order of the Legislative Commission pursuant to NRS 218E.200 may request the drafting of not more than 5 legislative measures which relate to matters within the scope

of the study or investigation, except that such a committee or subcommittee may request the drafting of additional legislative measures if the Legislative Commission approves each additional request by a majority vote.

(c) Any other committee established by the Legislature which conducts an interim legislative study or investigation may request the drafting of not more than 5 legislative measures which relate to matters within the scope of the study or investigation.

➔ The requests authorized pursuant to this subsection must be submitted to the Legislative Counsel on or before September 1 preceding a regular session unless the Legislative Commission authorizes submitting a request after that date.

~~15. If a request made pursuant to subsection 4 is submitted on or before September 1 preceding a regular session, sufficient detail to allow complete drafting of the legislative measure must be submitted on or before November 1 preceding the regular session.~~

~~6.1~~ 4. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel.

5. *The Legislative Counsel shall not assign a number to a request for the drafting of a legislative measure submitted pursuant to this section to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.*

Sec. 5. NRS 218D.175 is hereby amended to read as follows:

218D.175 1. For a regular session, the Governor or the Governor's designated representative may request the drafting of not more than 110 legislative measures which have been approved by the Governor or the Governor's designated representative on behalf of the officers, agencies, boards, commissions, departments and other units of the Executive Department. The requests must be submitted to the Legislative Counsel on or before August 1 preceding the regular session.

2. The Department of Administration may request on or before the 19th day of a regular session, without limitation, the drafting of as many legislative measures as are necessary to implement the budget proposed by the Governor and to provide for the fiscal management of the State. In addition to the requests otherwise authorized pursuant to this section, the Governor may request the drafting of not more than 5 legislative measures on or before the 19th day of a regular session to propose the Governor's legislative agenda.

3. For a regular session, the following constitutional officers may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than the following numbers of legislative measures, which must be submitted to the Legislative Counsel on or before September 1 preceding the regular session:

Lieutenant Governor	3
Secretary of State	6
State Treasurer.....	5

State Controller	5
Attorney General	20

4. In addition to the requests authorized by subsection 3, the Secretary of State may request, without the approval of the Governor or the Governor's designated representative, the drafting of not more than 2 legislative measures, which must be submitted to the Legislative Counsel on or before December ~~31~~ preceding the regular session. ~~Sufficient detail to allow complete drafting of the legislative measures requested pursuant to this subsection must be submitted on or before December 31 preceding the regular session.~~

5. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to subsections 1 and 3 must be prefiled on or before ~~December 20~~ **the third Wednesday in November** preceding the regular session. A legislative measure that is not prefiled on or before that ~~date~~ **day** shall be deemed withdrawn.

6. The Legislative Counsel shall not assign a number to a request for the drafting of a legislative measure submitted pursuant to this section to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

Sec. 6. NRS 218D.190 is hereby amended to read as follows:

218D.190 1. For a regular session, the Supreme Court may request the drafting of not more than 10 legislative measures which have been approved by the Supreme Court on behalf of the Judicial Department. The requests must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before ~~December 20~~ **the third Wednesday in November** preceding the regular session. A legislative measure that is not prefiled on or before that ~~date~~ **day** shall be deemed withdrawn.

3. The Legislative Counsel shall not assign a number to a request for the drafting of a legislative measure submitted pursuant to this section to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.

Sec. 7. NRS 218D.205 is hereby amended to read as follows:

218D.205 1. For a regular session, each board of county commissioners, board of trustees of a school district and city council may request the drafting of not more than the numbers of legislative measures set forth in this section if the requests are:

(a) Approved by the governing body of the county, school district or city at a public hearing before their submission to the Legislative Counsel; and

(b) Submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. The Legislative Counsel shall notify the requesting county, school district or city if its request substantially duplicates a request previously submitted by another county, school district or city.

3. The board of county commissioners of a county whose population:

(a) Is 700,000 or more may request the drafting of not more than 4 legislative measures for a regular session.

(b) Is 100,000 or more but less than 700,000 may request the drafting of not more than 2 legislative measures for a regular session.

(c) Is less than 100,000 may request the drafting of not more than 1 legislative measure for a regular session.

4. The board of trustees of a school district in a county whose population:

(a) Is 700,000 or more may request the drafting of not more than 2 legislative measures for a regular session.

(b) Is less than 700,000 may request the drafting of not more than 1 legislative measure for a regular session.

5. The city council of a city whose population:

(a) Is 500,000 or more may request the drafting of not more than 3 legislative measures for a regular session.

(b) Is 150,000 or more but less than 500,000 may request the drafting of not more than 2 legislative measures for a regular session.

(c) Is less than 150,000 may request the drafting of not more than 1 legislative measure for a regular session.

6. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before ~~December 20~~ **the third Wednesday in November** preceding the regular session. A legislative measure that is not prefiled on or before that ~~date~~ **day** shall be deemed withdrawn.

7. ***The Legislative Counsel shall not assign a number to a request for the drafting of a legislative measure submitted pursuant to this section to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.***

8. 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. 8. NRS 218D.210 is hereby amended to read as follows:

218D.210 1. For a regular session, an association of counties or cities may request the drafting of not more than 5 legislative measures. The requests must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The legislative measures requested pursuant to this section must be prefiled on or before ~~December 20~~ **the third Wednesday in November** preceding the regular session. A legislative measure that is not prefiled on or before that ~~date~~ **day** shall be deemed withdrawn.

3. *The Legislative Counsel shall not assign a number to a request for the drafting of a legislative measure submitted pursuant to this section to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.*

Sec. 9. NRS 218D.220 is hereby amended to read as follows:

218D.220 1. For a regular session, the Nevada Silver Haired Legislative Forum created by NRS 427A.320 may request the drafting of not more than 1 legislative measure which relates to matters within the scope of the Forum. The request must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. A request made pursuant to this section must be on a form prescribed by the Legislative Counsel. A legislative measure requested pursuant to this section must be prefiled on or before ~~December 20~~ **the third Wednesday in November** preceding the regular session. A legislative measure that is not prefiled on or before that ~~date~~ **day** shall be deemed withdrawn.

3. *The Legislative Counsel shall not assign a number to a request for the drafting of a legislative measure submitted pursuant to this section to establish the priority of the request until sufficient detail has been received to allow complete drafting of the legislative measure.*

Sec. 10. This act becomes effective on July 1, 2015.

Assemblyman Stewart moved that the Assembly concur in the Senate Amendment No. 1074 to Assembly Bill No. 495.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 445.

The following Senate amendment was read:

Amendment No. 1069.

AN ACT relating to redevelopment; requiring a portion of the revenues from taxes imposed on property in certain redevelopment areas to be set aside and used for public educational facilities; revising provisions relating to the extension of certain redevelopment plans; revising provisions relating to the recalculation of the total assessed value of taxable property in certain redevelopment areas; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a redevelopment plan, and any amendments to the plan, adopted by the redevelopment agency of a city or county on or after January 1, 1991, terminates not later than 30 years after the date on which the original redevelopment plan was adopted. (NRS 279.439) ~~Section 1~~ **Except for a redevelopment area that includes real property conveyed by the Federal Government which contains certain abandoned mine or milling facilities, section 3** of this bill extends to a maximum of 45 years the date of termination of such a redevelopment plan, and any amendments to the plan, adopted by a city whose population is 220,000 or more but less than 500,000 located in a county whose population is 700,000 or more (currently the City of Henderson)

if the city council adopts the extension of the plan by ordinance. If such an ordinance is adopted, **section 1** of this bill requires that 18 percent of the revenues received from taxes on the taxable property located in the redevelopment area affected by the ordinance on or after the effective date of the ordinance be set aside to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. **Section 1** also provides that the obligation to set aside such revenues is subordinate to any existing obligations of the agency.

Under existing law, the date of termination of a redevelopment plan and any amendments to the plan adopted before January 1, 1991, by a redevelopment agency of a city whose population is 500,000 or more (currently the City of Las Vegas) is authorized to be extended by ordinance adopted by the city council of that city from a maximum of 45 years to 60 years if the following conditions exist on the date on which the extension is adopted: (1) the assessed value of each redevelopment project in the redevelopment area is not less than the assessed value of the redevelopment project in the year in which the redevelopment plan was adopted; (2) the assessed value of the redevelopment area is not less than 75 percent of the assessed value of the redevelopment area in the year in which the redevelopment plan was adopted; and (3) the agency has \$100 million or more in total outstanding indebtedness represented by bonds and other securities. (NRS 279.438) **Section 2** of this bill changes the assessed value requirement in the first condition from the basis of each individual redevelopment project to the aggregate of redevelopment projects in the redevelopment area and eliminates the third condition.

Under existing law, a redevelopment agency in a city located in a county whose population is 700,000 or more (currently Clark County) is authorized to adopt, in certain circumstances, an ordinance which provides for the recalculation of the total assessed value of the taxable property in a redevelopment area for certain purposes. If such a redevelopment agency adopts such an ordinance and receives certain revenue from taxes, existing law requires that 18 percent of the revenue received on or after the effective date of the ordinance be set aside to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. (NRS 279.676) **Section 3.5** of this bill revises the application of the recalculated assessed value in the tax distribution formula for the redevelopment area and specifies that the revenue received by the agency is from taxes on the taxable property located in the redevelopment area affected by the ordinance that is adopted.

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

Section 1. Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in this section, an agency of a city whose population is 220,000 or more but less than 500,000 located in a county whose population is 700,000 or more that adopts an ordinance pursuant to subsection 3 of NRS 279.439 and which receives revenue pursuant to paragraph (b) of subsection 1 of NRS 279.676 from taxes on the taxable property located in the redevelopment area affected by the ordinance shall set aside not less than 18 percent of such revenue received on or after the effective date of the ordinance to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. The provisions of this subsection do not apply if such an agency is required pursuant to subsection 6 of NRS 279.676 to set aside not less than 18 percent of revenue received pursuant to paragraph (b) of subsection 1 of NRS 279.676 from taxes on the taxable property located in the redevelopment area affected by the ordinance adopted by the agency pursuant to subsection 5 of NRS 279.676 on or after the effective date of that ordinance to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. For each fiscal year, the agency shall prepare a written report concerning the amount of money expended for the purposes set forth in this subsection and shall, on or before November 30 of each year, submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission, if the report is received during an odd-numbered year, or to the next session of the Legislature, if the report is received during an even-numbered year.*

2. *The obligation of an agency pursuant to subsection 1 to set aside not less than 18 percent of the revenue allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 from taxes on the taxable property located in the redevelopment area affected by the ordinance adopted by the agency pursuant to subsection 3 of NRS 279.439 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before the effective date of the ordinance adopted by the agency pursuant to subsection 3 of NRS 279.439, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency on or after the effective date of the ordinance adopted by the agency pursuant to subsection 3 of NRS 279.439 shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.*

Sec. 2. NRS 279.438 is hereby amended to read as follows:

279.438 1. A redevelopment plan adopted before January 1, 1991, and any amendments to the plan must terminate at the end of the fiscal year in

which the principal and interest of the last maturing of the securities issued before that date concerning the redevelopment area are fully paid or:

(a) With respect to a redevelopment plan adopted by the agency of a city whose population is 500,000 or more, if the requirements set forth in subsection 2 are met, 60 years after the date on which the original redevelopment plan was adopted, whichever is later.

(b) With respect to any other redevelopment plan, including a redevelopment plan adopted by an agency of a city whose population is 500,000 or more, if the requirements set forth in subsection 2 are not met, 45 years after the date on which the original redevelopment plan was adopted, whichever is later.

2. A redevelopment plan adopted by an agency of a city whose population is 500,000 or more may terminate on the date prescribed by paragraph (a) of subsection 1 only if the legislative body adopts an extension of the redevelopment plan by ordinance and, on the date on which the extension is adopted:

(a) The assessed value of ~~each~~ **the aggregate number of** redevelopment ~~project~~ **projects** in the redevelopment area is not less than the assessed value of the **aggregate number of** redevelopment ~~project~~ **projects** in the year in which the redevelopment plan was adopted; **and**

(b) The assessed value of the redevelopment area is not less than 75 percent of the assessed value of the redevelopment area in the year in which the redevelopment plan was adopted. ~~†; and~~

~~—(c) The agency has \$100 million or more in total outstanding indebtedness represented by bonds and other securities.†~~

Sec. 3. NRS 279.439 is hereby amended to read as follows:

279.439 ~~†A†~~

1. *Except as otherwise provided in subsections 2 and 3, a redevelopment plan adopted on or after January 1, 1991, and any amendments to the plan must terminate not later than 30 years after the date on which the original redevelopment plan is adopted.*

2. ~~†A†~~ *Except for a redevelopment area described in subsection 2 of section 1 of Senate Bill No. 297 of this session, a redevelopment plan, and any amendments to the plan, adopted on or after January 1, 1991, by an agency of a city whose population is 220,000 or more but less than 500,000 located in a county whose population is 700,000 or more that meets the requirement of subsection 3 must terminate not later than 45 years after the date on which the original redevelopment plan is adopted.*

3. *A redevelopment plan, and any amendments to the plan, may terminate on the date prescribed by subsection 2 only if the legislative body adopts an extension of the redevelopment plan by ordinance.*

Sec. 3.5. NRS 279.676 is hereby amended to read as follows:

279.676 1. Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in the redevelopment area each year by or for the benefit of the State, any city, county, district or other public corporation,

after the effective date of the ordinance approving the redevelopment plan, must be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment area as shown upon the assessment roll used in connection with the taxation of the property by the taxing agency, last equalized before the effective date of the ordinance, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for such taxing agencies on all other property are paid. To allocate taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment area on the effective date of the ordinance but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the county last equalized on the effective date of the ordinance must be used in determining the assessed valuation of the taxable property in the redevelopment area on the effective date. If property which was shown on the assessment roll used to determine the amount of taxes allocated to the taxing agencies is transferred to the State and becomes exempt from taxation, the assessed valuation of the exempt property as shown on the assessment roll last equalized before the date on which the property was transferred to the State must be subtracted from the assessed valuation used to determine the amount of revenue allocated to the taxing agencies.

(b) Except as otherwise provided in paragraphs (c) and (d) and NRS 540A.265, that portion of the levied taxes each year in excess of the amount set forth in paragraph (a) must be allocated to and when collected must be paid into a special fund of the redevelopment agency to pay the costs of redevelopment and to pay the principal of and interest on loans, money advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, incurred by the redevelopment agency to finance or refinance, in whole or in part, redevelopment. Unless the total assessed valuation of the taxable property in a redevelopment area exceeds the total assessed value of the taxable property in the redevelopment area as shown by:

(1) The assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan; or

(2) The assessment roll last equalized before the effective date of an ordinance adopted pursuant to subsection 5,

➤ whichever occurs later, less the assessed valuation of any exempt property subtracted pursuant to paragraph (a), all of the taxes levied and collected upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies. When the redevelopment plan is terminated pursuant to the provisions of NRS 279.438 and 279.439 and all loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a tax rate levied by a taxing agency to produce revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the debt service fund of that taxing agency.

(d) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a new or increased tax rate levied by a taxing agency and was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the appropriate fund of the taxing agency.

2. Except as otherwise provided in subsection 3, in any fiscal year, the total revenue paid to a redevelopment agency must not exceed:

(a) In a county whose population is 100,000 or more or a city whose population is 150,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.

(b) In a county whose population is 30,000 or more but less than 100,000 or a city whose population is 25,000 or more but less than 150,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.

(c) In a county whose population is less than 30,000 or a city whose population is less than 25,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 20 percent of the total assessed valuation of the municipality.

➡ If the revenue paid to a redevelopment agency must be limited pursuant to paragraph (a), (b) or (c) and the redevelopment agency has more than one redevelopment area, the redevelopment agency shall determine the allocation to each area. Any revenue which would be allocated to a redevelopment agency but for the provisions of this section must be paid into the funds of the respective taxing agencies.

3. The taxing agencies shall continue to pay to a redevelopment agency any amount which was being paid before July 1, 1987, and in anticipation of which the agency became obligated before July 1, 1987, to repay any bond, loan, money advanced or any other indebtedness, whether funded, refunded, assumed or otherwise incurred.

4. For the purposes of this section, the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan is the assessment roll in existence on March 15 immediately preceding the effective date of the ordinance.

5. If in any year the assessed value of the taxable property in a redevelopment area located in a city in a county whose population is 700,000 or more as shown by the assessment roll most recently equalized has decreased by 10 percent or more from the assessed value of the taxable property in the

redevelopment area as shown by the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan, the redevelopment agency may adopt an ordinance which provides that the total assessed value of the taxable property in the redevelopment area for the purposes of ~~paragraph~~ **paragraphs (a) and (b)** of subsection 1 is the total assessed value of the taxable property in the redevelopment area as shown by the assessment roll last equalized before the effective date of the ordinance adopted pursuant to this subsection. A redevelopment agency may adopt an ordinance pursuant to this subsection only once, and the election to adopt such an ordinance is irrevocable.

6. An agency which adopts an ordinance pursuant to subsection 5 and which receives revenue ~~from taxes~~ pursuant to paragraph (b) of subsection 1 **from taxes on the taxable property located in the redevelopment area affected by the ordinance** shall set aside not less than 18 percent of that revenue received on and after the effective date of the ordinance to improve and preserve existing public educational facilities which are located within the redevelopment area or which serve pupils who reside within the redevelopment area. For each fiscal year, the agency shall prepare a written report concerning the amount of money expended for the purposes set forth in this subsection and shall, on or before November 30 of each year, submit a copy of the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission, if the report is received during an odd-numbered year, or to the next session of the Legislature, if the report is received during an even-numbered year.

7. The obligation of an agency pursuant to subsection 6 to set aside not less than 18 percent of the revenue ~~from taxes~~ allocated to and received by the agency pursuant to paragraph (b) of subsection 1 **from taxes on the taxable property located in the redevelopment area affected by the ordinance adopted by the agency pursuant to subsection 5** is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by an agency before the effective date of an ordinance adopted by the agency pursuant to subsection 5, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency on or after the effective date of an ordinance adopted by the agency pursuant to subsection 5 shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

Sec. 4. NRS 279.680 is hereby amended to read as follows:

279.680 Except as otherwise provided in NRS 279.685 ~~§~~ **and section 1 of this act**, in any redevelopment plan, or in the proceedings for the advance of money, or the making of loans, or the incurring of any indebtedness, whether funded, refunded, assumed or otherwise, by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project,

the portion of taxes mentioned in paragraph (b) of subsection 1 of NRS 279.676 may be irrevocably pledged for the payment of the principal of and interest on those loans, advances or indebtedness.

Sec. 5. NRS 279.687 is hereby amended to read as follows:

279.687 A school district shall not use any money received pursuant to subparagraph (2) of paragraph (b) of subsection 1 of NRS 279.685 , ~~for~~ paragraph (c) of subsection 1 of NRS 279.685 **or section 1 of this act** to reduce or supplant the amount of any money which the school district would otherwise expend for the purposes described in subparagraph (2) of paragraph (b) of subsection 1 of NRS 279.685 , ~~and~~ paragraph (c) of subsection 1 of NRS 279.685 ~~+~~ **and section 1 of this act**, respectively.

Sec. 6. The provisions of subsection 1 of NRS 218D.380 do not apply to the reporting requirements of section 1 of this act.

Sec. 7. This act becomes effective on July 1, 2015.

Assemblyman Ellison moved that the Assembly concur in the Senate Amendment No. 1069 to Assembly Bill No. 445.

Remarks by Assemblyman Ellison.

ASSEMBLYMAN ELLISON:
We are going to concur.

Motion carried by a constitutional majority.
Bill ordered to enrollment.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, June 1, 2015

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 146, 221, 241, 278, 326, 394, 399, 410, 436, 438, 443, 475, 476, 478, 480, 481, 485, 489, 490, 491, 493, 496, 498.

Also, I have the honor to inform your honorable body that the Senate on this day passed Assembly Bill No. 497.

Also, I have the honor to inform your honorable body that the Senate on this day adopted the report of the Conference Committee concerning Assembly Bill No. 258.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendment No. 1055 to Senate Bill No. 266.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in Assembly Amendment No. 987 to Senate Bill No. 338; Assembly Amendments Nos. 1018, 1023 to Senate Bill No. 509; Assembly Amendment No. 1057 to Senate Joint Resolution No. 13.

SHERRY RODRIGUEZ
Assistant Secretary of the Senate

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblywoman Dickman, the privilege of the floor of the Assembly Chamber for this day was extended to Tom Dickman.

On request of Assemblyman Hansen, the privilege of the floor of the Assembly Chamber for this day was extended to Josh Marin.

On request of Assemblyman Nelson, the privilege of the floor of the Assembly Chamber for this day was extended to Barbara Cegavske, Samantha Gioia, and Autumn Lyn Donovan.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to John Ohrenschall.

On request of Assemblyman Oscarson, the privilege of the floor of the Assembly Chamber for this day was extended to Gary Olsen.

On request of Assemblywoman Seaman, the privilege of the floor of the Assembly Chamber for this day was extended to Bryan Baltazar.

On request of Assemblywoman Woodbury, the privilege of the floor of the Assembly Chamber for this day was extended to Patrick Gavin.

MOTIONS, RESOLUTIONS AND NOTICES

Mr. Speaker appointed Assemblymen Munford, Silberkraus, and O'Neill as a committee to wait upon His Excellency, Governor Brian Sandoval, Governor of the State of Nevada, and to inform him that the Assembly was ready to adjourn *sine die*.

Mr. Speaker appointed Assemblywomen Woodbury, Joiner, and Titus as a committee to wait upon the Senate and to inform that honorable body that the Assembly was ready to adjourn *sine die*.

A committee from the Senate, consisting of Senators Settelmeyer, Harris, and Woodhouse appeared before the bar of the Assembly and announced that the Senate was ready to adjourn *sine die*.

Assemblywoman Woodbury reported that her committee had informed the Senate that the Assembly was ready to adjourn *sine die*.

Assemblyman Munford reported that his committee had informed the Governor that the Assembly was ready to adjourn *sine die*.

Assemblyman Paul Anderson moved that the 78th Session of the Assembly of the Legislature of the State of Nevada adjourn *sine die*.

Motion carried.

Assembly adjourned at 12:16 a.m.

Approved:

JOHN HAMBRICK
Speaker of the Assembly

Attest: SUSAN FURLONG

Chief Clerk of the Assembly