

THE SEVENTY-THIRD DAY

CARSON CITY (Wednesday), April 15, 2015

Senate called to order at 12:27 p.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by the Chaplain, Minister Barbara Jones.

Father in Heaven, as General George Washington carried his white flag with "An Appeal to Heaven" on it, we appeal to Heaven.

We ask for Holy Spirit truth, help and guidance on decisions. Give us a spirit of wisdom and revelation. May eyes of understanding be enlightened to know and do what is right for the people of Nevada.

As Ben Franklin, at the First Constitutional Convention, which was in confusion and divisions, called for prayer resulting in the Constitution, we call on You Father to bring clarity and unity on laws.

As President Lincoln said, "May we have a new birth of freedom under God," guide these representatives to bring forth more liberty in important issues.

As the government in Jamestown would not start their meeting until the Reverend prayed, we thank You, Father, for the freedom here to start in prayer.

May the Lord bless and keep you and give you peace in the midst of storms. In the Name of the risen Jesus, I pray.

AMEN.

Pledge of Allegiance to the Flag.

By previous order of the Senate, the reading of the Journal is dispensed with, and the President and Secretary are authorized to make the necessary corrections and additions.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 68, 253, 374, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES A. SETTELMAYER, *Chair*

Mr. President:

Your Committee on Education, to which were referred Senate Bills Nos. 391, 405, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BECKY HARRIS, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 441, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOSEPH P. HARDY, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 14, 2015

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bills Nos. 57, 141, 194, 273.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 24, 43, 48, 79, 92, 97, 112, 124, 126, 131, 132, 143, 151, 153, 157, 160, 169, 183, 192, 201, 204, 206, 231, 250.

CAROL AIELLO-SALA
Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS
NOTICE OF EXEMPTION

April 15, 2015

The Fiscal Analysis Division, pursuant to Joint Standing Rule No. 14.6, has determined the eligibility for exemption of: Senate Bill No. 324.

MARK KRMPOTIC
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bill No. 443 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Kieckhefer moved that Senate Bill No. 457 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Kieckhefer moved that Senate Bill No. 440 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Senator Ford moved that Senate Bill No. 439 be taken from the General File and placed on the Secretary's desk.

Motion lost on a division of the House.

Senator Ford moved that Senate Bill No. 440 be taken from the General File and placed on the Secretary's desk.

Motion lost on a division of the House.

Senator Gustavson moved that Assembly Bill No. 78 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Ford moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:42 p.m.

SENATE IN SESSION

At 1:03 p.m.

President Hutchison presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 24.

Senator Kieckhefer moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Assembly Bill No. 43.

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

Motion carried.

Assembly Bill No. 48.

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

Motion carried.

Assembly Bill No. 57.

Senator Kieckhefer moved that the bill be referred to the Committee on Revenue and Economic Development.

Motion carried.

Assembly Bill No. 79.

Senator Kieckhefer moved that the bill be referred to the Committee on Natural Resources.

Motion carried.

Assembly Bill No. 92.

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

Motion carried.

Assembly Bill No. 97.

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

Motion carried.

Assembly Bill No. 112.

Senator Kieckhefer moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 124.

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

Motion carried.

Assembly Bill No. 126.

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

Motion carried.

Assembly Bill No. 131.

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

Motion carried.

Assembly Bill No. 132.

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

Motion carried.

Assembly Bill No. 141.

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

Motion carried.

Assembly Bill No. 143.

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

Motion carried.

Assembly Bill No. 151.

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

Motion carried.

Assembly Bill No. 153.

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

Motion carried.

Assembly Bill No. 157.

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

Motion carried.

Assembly Bill No. 160.

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

Motion carried.

Assembly Bill No. 169.

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

Motion carried.

Assembly Bill No. 183.

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

Motion carried.

Assembly Bill No. 192.

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

Motion carried.

Assembly Bill No. 194.

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

Motion carried.

Assembly Bill No. 201.

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

Motion carried.

Assembly Bill No. 204.

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

Motion carried.

Assembly Bill No. 206.

Senator Kieckhefer moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 231.

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

Motion carried.

Assembly Bill No. 250.

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

Motion carried.

Assembly Bill No. 273.

Senator Kieckhefer moved that the bill be referred to the Committee on Legislative Operations and Elections.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 68.

Bill read second time.

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

Amendment No. 65.

SUMMARY—Revises provisions governing professions. (BDR 54-290)

AN ACT relating to professions; authorizing certain qualified professionals who hold a license in the District of Columbia or another state or territory of the United States to apply for ~~for~~ the issuance of an expedited license by endorsement to practice in this State; revising provisions relating to certain limited licenses to practice medicine as a resident physician; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections ~~1, 7 and~~ 1.3, 1.5, 6.3, 6.4, 6.7, 7, 8.5, 11, 14, 18, 19, 25, 28, 32, 35, 36, 41, 45 and 50-54 of this bill authorize certain qualified physicians, ~~and certain qualified~~ podiatrists, ~~other providers of health care and professionals to obtain for~~ an expedited license by endorsement to practice their respective professions in this State if the physician, ~~for~~ podiatrist, ~~other provider of health care or professional holds a valid and unrestricted license to practice in the District of Columbia or another state or territory of the United States, is~~ and meets certain other requirements. Specifically, an expedited license by endorsement may be obtained from the Board of Medical Examiners, the State Board of Nursing, the State Board of Osteopathic Medicine, the State Board of Podiatry, the Board of Examiners for Audiology and Speech Pathology, the State Board of Pharmacy, the State Board of Physical Therapy Examiners, the Board of Occupational Therapy, the Board of Massage Therapists, the Board of Psychological Examiners, the Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, the Board of Examiners for Social Workers and the Board of Examiners for Alcohol, Drug and Gambling Counselors. Sections 1.3 and 8.5 require a physician or osteopathic physician to be certified in a specialty recognized by the American Board of Medical Specialties or the American Osteopathic Association, as applicable, ~~and meets certain other requirements.~~ to obtain such an expedited license by endorsement.

Existing law authorizes the Board of Medical Examiners and the State Board of Osteopathic Medicine to issue a limited license to practice medicine as a resident physician to an applicant who meets certain requirements. (NRS 630.265, 633.401) Sections 5 and 9 of this bill require, with limited exceptions, the Board of Medical Examiners and the State Board of Osteopathic Medicine to issue those limited licenses.

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

Section 1. Chapter 630 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.5 of this act:

Sec. 1.3. 1. Except as otherwise provided in NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant:

(a) Holds a corresponding valid and unrestricted license to practice medicine in the District of Columbia or any state or territory of the United States; and

(b) Is certified in a specialty recognized by the American Board of Medical Specialties.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to practice medicine; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 630.167;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

~~for~~ (d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice medicine pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice medicine to the applicant not later than ~~45~~ 45 :

(a) Forty-five days after receiving the application ~~for~~ ; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints.

whichever occurs later.

4. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 1.5. 1. The Board may issue a license by endorsement to practice as a physician assistant to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant:

(a) Holds a corresponding valid and unrestricted license to practice as a physician assistant in the District of Columbia or any state or territory of the United States; and

(b) Is certified in a specialty recognized by the American Board of Medical Specialties.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to practice as a physician assistant; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 630.167;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice as a physician assistant pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice as a physician assistant to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints.

↪ whichever occurs later.

4. A license by endorsement to practice as a physician assistant may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 2. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing the person to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.266, inclusive, and section ~~1.3~~ 1.3 of this act, a license may be issued to any person who:

(a) Is a citizen of the United States or is lawfully entitled to remain and work in the United States;

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of the licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of the licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education, ~~for the [Coordinating Council of Medical Education of the Canadian Medical Association]~~ Royal College of Physicians and Surgeons of Canada, the College des medecins du Quebec, the College of Family Physicians of Canada or, as applicable, their successor organizations; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education;

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after receiving a medical degree from a combined dental and medical degree program approved by the Board; or

(3) Is a resident who is enrolled in a progressive postgraduate training program in the United States or Canada approved by the Board, the Accreditation Council for Graduate Medical Education, ~~for the [Coordinating Council of Medical Education of the Canadian Medical Association]~~ Royal College of Physicians and Surgeons of Canada, the

College des medecins du Quebec, the College of Family Physicians of Canada or, as applicable, their successor organizations, has completed at least 24 months of the program and has committed, in writing, to the Board that he or she will complete the program; and

(e) Passes a written or oral examination, or both, as to his or her qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if, after issuing a license to practice medicine, the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

- (a) Temporarily suspend the license;
- (b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;
- (c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;
- (d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or
- (e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:
 - (1) Placing the licensee on probation for a specified period with specified conditions;
 - (2) Administering a public reprimand;
 - (3) Limiting the practice of the licensee;
 - (4) Suspending the license for a specified period or until further order of the Board;
 - (5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;
 - (6) Requiring supervision of the practice of the licensee;
 - (7) Imposing an administrative fine not to exceed \$5,000;
 - (8) Requiring the licensee to perform community service without compensation;
 - (9) Requiring the licensee to take a physical or mental examination or an examination testing his or her competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 3. NRS 630.165 is hereby amended to read as follows:

630.165 1. Except as otherwise provided in subsection 2, an applicant for a license to practice medicine must submit to the Board, on a form provided by the Board, an application in writing, accompanied by an affidavit stating that:

(a) The applicant is the person named in the proof of graduation and that it was obtained without fraud or misrepresentation or any mistake of which the applicant is aware; and

(b) The information contained in the application and any accompanying material is complete and correct.

2. An applicant for a license by endorsement to practice medicine pursuant to NRS 630.1605 *or section ~~44~~ 1.3 of this act* must submit to the Board, on a form provided by the Board, an application in writing, accompanied by an affidavit stating that:

(a) The applicant is the person named in the license to practice medicine issued by the District of Columbia or any state or territory of the United States and that the license was obtained without fraud or misrepresentation or any mistake of which the applicant is aware; and

(b) The information contained in the application and any accompanying material is complete and correct.

3. An application submitted pursuant to subsection 1 or 2 must include all information required to complete the application.

4. In addition to the other requirements for licensure, the Board may require such further evidence of the mental, physical, medical or other qualifications of the applicant as it considers necessary.

5. The applicant bears the burden of proving and documenting his or her qualifications for licensure.

Sec. 3.5. NRS 630.195 is hereby amended to read as follows:

630.195 1. ~~In~~ *Except as otherwise provided in section 1.3 of this act,* in addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board proof that the applicant has received:

(a) The degree of doctor of medicine or its equivalent, as determined by the Board; and

(b) The standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that the applicant passed the examination given by the Commission.

2. The proof of the degree of doctor of medicine or its equivalent must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school that granted the degree, the Board may accept proof from any other source specified by the Board.

Sec. 4. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who:

(a) Wishes to donate his or her expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care; or

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,
 ➡ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that the physician has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605 ~~[-]~~ *or section ~~##~~ 1.3 of this act;*

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care:

(1) To persons in this State who are indigent, uninsured or unable to afford health care; or

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or
(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 5. NRS 630.265 is hereby amended to read as follows:

630.265 1. ~~[Except as otherwise provided in]~~ *Unless the Board denies such licensure pursuant to NRS 630.161 ~~[,]~~ or for other good cause*, the Board ~~[may]~~ *shall* issue to a qualified applicant a limited license to practice medicine as a resident physician in a graduate program approved by the Accreditation Council for Graduate Medical Education if the applicant is:

(a) A graduate of an accredited medical school in the United States or Canada; or

(b) A graduate of a foreign medical school and has received the standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that the applicant passed the examination given by it.

2. The medical school or other institution sponsoring the program shall provide the Board with written confirmation that the applicant has been appointed to a position in the program and is a citizen of the United States or lawfully entitled to remain and work in the United States. A limited license remains valid only while the licensee is actively practicing medicine in the residency program and is legally entitled to work and remain in the United States.

3. The Board may issue a limited license for not more than 1 year but may renew the license if the applicant for the limited license meets the requirements set forth by the Board by regulation.

4. The holder of a limited license may practice medicine only in connection with his or her duties as a resident physician or under such conditions as are approved by the director of the program.

5. The holder of a limited license granted pursuant to this section may be disciplined by the Board at any time for any of the grounds provided in NRS 630.161 or 630.301 to 630.3065, inclusive.

Sec. 6. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement ~~issued pursuant to NRS 630.1605 or section 1 of this act~~	\$600
For application for and issuance of a temporary, locum tenens, limited, restricted, authorized facility, special, special purpose or special event license.....	400
For renewal of a limited, restricted, authorized facility or special license	400
For application for and issuance of a license as a physician assistant, <u>including a license by endorsement</u>	400
For biennial registration of a physician assistant	800
For biennial registration of a physician.....	800
For application for and issuance of a license as a perfusionist or practitioner of respiratory care.....	400
For biennial renewal of a license as a perfusionist.....	600
For biennial registration of a practitioner of respiratory care	600
For biennial registration for a physician who is on inactive status	400
For written verification of licensure.....	50
For a duplicate identification card	25
For a duplicate license	50
For computer printouts or labels	500
For verification of a listing of physicians, per hour	20
For furnishing a list of new physicians	100

2. ~~For~~ *Except as otherwise provided in subsection 4, in addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.*

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

4. If an applicant submits an application for a license by endorsement pursuant to section 1.3 or 1.5 of this act, as applicable, the Board shall charge and collect not more than the fee specified in subsection 1 for the application for and initial issuance of a license.

Sec. 6.1. NRS 630.275 is hereby amended to read as follows:

630.275 The Board shall adopt regulations regarding the licensure of a physician assistant, including, but not limited to:

1. The educational and other qualifications of applicants.
2. The required academic program for applicants.
3. The procedures for applications for and the issuance of licenses.
4. The procedures deemed necessary by the Board for applications for and the initial issuance of licenses by endorsement pursuant to section 1.5 of this act.
5. The tests or examinations of applicants by the Board.
- ~~{5.}~~ 6. The medical services which a physician assistant may perform, except that a physician assistant may not perform those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, podiatric physicians and optometrists under chapters 631, 634, 635 and 636, respectively, of NRS, or as hearing aid specialists.
- ~~{6.}~~ 7. The duration, renewal and termination of licenses ~~+~~
~~7.}, including licenses by endorsement.~~
8. The grounds and procedures respecting disciplinary actions against physician assistants.
- ~~{8.}~~ 9. The supervision of medical services of a physician assistant by a supervising physician, including, without limitation, supervision that is performed electronically, telephonically or by fiber optics from within or outside this State or the United States.
- ~~{9.}~~ 10. A physician assistant's use of equipment that transfers information concerning the medical condition of a patient in this State electronically, telephonically or by fiber optics from within or outside this State or the United States.

Sec. 6.2. Chapter 632 of NRS is hereby amended by adding thereto the provisions set forth as sections 6.3 and 6.4 of this act.

Sec. 6.3. 1. Except as otherwise provided in NRS 632.3405, the Board may issue a license by endorsement to practice as a professional nurse to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license to practice as a professional nurse in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to practice as a professional nurse; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 632.344;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice as a professional nurse pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice as a professional nurse to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints.

↳ whichever occurs later.

4. A license by endorsement to practice as a professional nurse may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 6.4. 1. Except as otherwise provided in NRS 632.3405, the Board may issue a license by endorsement to practice as a practical nurse to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license to practice as a practical nurse in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to practice as a practical nurse; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 632.344;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice as a practical nurse pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice as a practical nurse to the applicant not later than:

(a) Forty-five days after receiving the application; or
(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,
↪ whichever occurs later.

4. A license by endorsement to practice as a practical nurse may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 6.5. NRS 632.140 is hereby amended to read as follows:

632.140 Except as otherwise provided in section 6.3 of this act:

1. Every applicant for a license to practice as a professional nurse in the State of Nevada must submit to the Board written evidence under oath that the applicant:

- (a) Is of good moral character.
- (b) Is in good physical and mental health.
- (c) Has completed a course of study in:

(1) An accredited school of professional nursing and holds a diploma therefrom; or

(2) An approved school of professional nursing in the process of obtaining accreditation and holds a diploma therefrom.

(d) Meets such other reasonable preliminary qualification requirements as the Board may from time to time prescribe.

2. Each applicant must remit the fee required by this chapter with the application for a license to practice as a professional nurse in this State.

Sec. 6.6. NRS 632.150 is hereby amended to read as follows:

632.150 1. ~~Each~~ Except as otherwise provided in NRS 632.160, 632.237 and section 6.3 of this act, each applicant who is otherwise qualified for a license to practice nursing as a professional nurse shall be required to write and pass an examination on such subjects and in such form as the Board may from time to time determine. Such written examination may be supplemented by an oral or practical examination in the discretion of the Board.

2. The Board shall issue a license to practice nursing as a professional nurse in the State of Nevada to each applicant who successfully passes such examination or examinations.

Sec. 6.7. NRS 632.237 is hereby amended to read as follows:

632.237 1. The Board may issue a license to practice as an advanced practice registered nurse to a registered nurse; ~~who~~

(a) Who is licensed by endorsement pursuant to section 6.3 of this act and holds a corresponding valid and unrestricted license to practice as an advanced practice registered nurse in the District of Columbia or any other state or territory of the United States; or

(b) Who:

(1) Has completed an educational program designed to prepare a registered nurse to:

~~[(1)]~~ (I) Perform designated acts of medical diagnosis;

~~[(2)]~~ (II) Prescribe therapeutic or corrective measures; and

~~[(3)]~~ (III) Prescribe controlled substances, poisons, dangerous drugs and devices;

~~[(b)]~~ (2) Except as otherwise provided in subsection 5, submits proof that he or she is certified as an advanced practice registered nurse by the American Board of Nursing Specialties, the National Commission for Certifying Agencies of the Institute for Credentialing Excellence, or their successor organizations, or any other nationally recognized certification agency approved by the Board; and

~~[(c)]~~ (3) Meets any other requirements established by the Board for such licensure.

2. An advanced practice registered nurse may:

(a) Engage in selected medical diagnosis and treatment; and

(b) If authorized pursuant to NRS 639.2351 and subject to the limitations set forth in subsection 3, prescribe controlled substances, poisons, dangerous drugs and devices.

↪ An advanced practice registered nurse shall not engage in any diagnosis, treatment or other conduct which the advanced practice registered nurse is not qualified to perform.

3. An advanced practice registered nurse who is authorized to prescribe controlled substances, poisons, dangerous drugs and devices pursuant to NRS 639.2351 shall not prescribe a controlled substance listed in schedule II unless:

(a) The advanced practice registered nurse has at least 2 years or 2,000 hours of clinical experience; or

(b) The controlled substance is prescribed pursuant to a protocol approved by a collaborating physician.

4. An advanced practice registered nurse may perform the acts described in subsection 2 by using equipment that transfers information concerning the medical condition of a patient in this State electronically, telephonically or by fiber optics from within or outside this State or the United States.

5. The Board shall adopt regulations:

(a) Specifying any additional training, education and experience necessary for licensure as an advanced practice registered nurse.

(b) Delineating the authorized scope of practice of an advanced practice registered nurse.

(c) Establishing the procedure for application for licensure as an advanced practice registered nurse.

6. The provisions of *subparagraph (2) of* paragraph (b) of subsection 1 do not apply to an advanced practice registered nurse who obtains a license before July 1, 2014.

Sec. 6.8. NRS 632.270 is hereby amended to read as follows:

632.270 ~~[Each]~~ *Except as otherwise provided in section 6.4 of this act, each* applicant for a license to practice as a practical nurse must submit to the Board written evidence, under oath, that the applicant:

1. Is of good moral character.

2. Has a high school diploma or its equivalent as determined by the State Board of Education.

3. Is at least 18 years of age.

4. Has:

(a) Successfully completed the prescribed course of study in an accredited school of practical nursing or an accredited school of professional nursing, and been awarded a diploma by the school;

(b) Successfully completed the prescribed course of study in an approved school of practical nursing in the process of obtaining accreditation or an approved school of professional nursing in the process of obtaining accreditation, and been awarded a diploma by the school; or

(c) Been registered or licensed as a registered nurse under the laws of another jurisdiction.

5. Meets any other qualifications prescribed in regulations of the Board.

Sec. 6.9. NRS 632.345 is hereby amended to read as follows:

632.345 1. The Board shall establish and may amend a schedule of fees and charges for the following items and within the following ranges:

	Not less than	Not more than
Application for license to practice professional nursing (registered nurse), <i>including a license by endorsement</i>	\$45	\$100
Application for license to practice practical nursing , including a <i>license by endorsement</i>	30	90
Application for temporary license to practice professional nursing or practical nursing pursuant to NRS 632.300, which fee must be credited toward the fee required for a regular license, if the applicant applies for a license	15	50
Application for a certificate to practice as a nursing assistant or medication aide – certified	15	50

Application for a temporary certificate to practice as a nursing assistant pursuant to NRS 632.300, which fee must be credited toward the fee required for a regular certificate, if the applicant applies for a certificate	5	40
Biennial fee for renewal of a license	40	100
Biennial fee for renewal of a certificate	20	50
Fee for reinstatement of a license	10	100
Application for a license to practice as an advanced practice registered nurse, <u>including a license by</u> <u>endorsement</u>	50	200
Application for recognition as a certified Registered nurse anesthetist	50	200
Biennial fee for renewal of a license to practice as an advanced practice registered nurse or certified registered nurse anesthetist	50	200
Examination fee for license to practice professional nursing	20	100
Examination fee for license to practice practical nursing	10	90
Rewriting examination for license to practice professional nursing	20	100
Rewriting examination for license to practice practical nursing	10	90
Duplicate license	5	30
Duplicate certificate	5	30
Proctoring examination for candidate from another state	25	150
Fee for approving one course of continuing education	10	50
Fee for reviewing one course of continuing education which has been changed since approval	5	30
Annual fee for approval of all courses of continuing education offered	100	500
Annual fee for review of training program	60	100
Certificate examination	10	90
Approval of instructors of training programs	50	100
Approval of proctors for certification examinations	20	50
Approval of training programs	150	250
Validation of licensure or certification	5	25

2. The Board may collect the fees and charges established pursuant to this section, and those fees or charges must not be refunded.

Sec. 7. Chapter 633 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Except as otherwise provided in NRS 633.315, the~~ The Board may issue a license by endorsement to practice ~~osteopathic medicine~~ as a physician assistant to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant:

(a) Holds a corresponding valid and unrestricted license to practice ~~osteopathic medicine~~ as a physician assistant in the District of Columbia or any state or territory of the United States; and

(b) Is certified in a specialty recognized by the American Board of Medical Specialties ~~for the American Osteopathic Association.~~

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to practice ~~osteopathic medicine~~ as a physician assistant; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 633.309;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) The application and initial license fee specified in this chapter; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice ~~osteopathic medicine~~ as a physician assistant pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice ~~osteopathic medicine~~ as a physician assistant to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

➡ whichever occurs later.

4. *A license by endorsement to practice ~~osteopathic medicine~~ as a physician assistant may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.*

Sec. 7.5. NRS 633.305 is hereby amended to read as follows:

633.305 Except as otherwise provided in section 7 of this act and NRS 633.400:

1. Every applicant for a license shall:

(a) File an application with the Board in the manner prescribed by regulations of the Board;

(b) Submit verified proof satisfactory to the Board that the applicant meets any age, citizenship and educational requirements prescribed by this chapter; and

(c) Pay in advance to the Board the application and initial license fee specified in NRS 633.501.

2. An application filed with the Board pursuant to subsection 1 must include all information required to complete the application.

3. The Board may hold hearings and conduct investigations into any matter related to the application and, in addition to the proofs required by subsection 1, may take such further evidence and require such other documents or proof of qualifications as it deems proper.

4. The Board may reject an application if the Board has cause to believe that any credential or information submitted by the applicant is false, misleading, deceptive or fraudulent.

Sec. 8. NRS 633.311 is hereby amended to read as follows:

633.311 Except as otherwise provided in NRS 633.315 ~~to~~ and 633.381 to 633.419, inclusive, ~~and section 7 of this act,~~ an applicant for a license to practice osteopathic medicine may be issued a license by the Board if:

1. The applicant is 21 years of age or older;

2. The applicant is a citizen of the United States or is lawfully entitled to remain and work in the United States;

3. The applicant is a graduate of a school of osteopathic medicine;

4. The applicant:

(a) Has graduated from a school of osteopathic medicine before 1995 and has completed:

(1) A hospital internship; or

(2) One year of postgraduate training that complies with the standards of intern training established by the American Osteopathic Association;

(b) Has completed 3 years, or such other length of time as required by a specific program, of postgraduate medical education as a resident in the United States or Canada in a program approved by the Board, the Bureau of Professional Education of the American Osteopathic Association or the Accreditation Council for Graduate Medical Education; or

(c) Is a resident who is enrolled in a postgraduate training program in this State, has completed 24 months of the program and has committed, in writing, that he or she will complete the program;

5. The applicant applies for the license as provided by law;

6. The applicant passes:

(a) All parts of the licensing examination of the National Board of Osteopathic Medical Examiners;

(b) All parts of the licensing examination of the Federation of State Medical Boards ; ~~[of the United States, Inc.];~~

(c) All parts of the licensing examination of the Board, a state, territory or possession of the United States, or the District of Columbia, and is certified by a specialty board of the American Osteopathic Association or by the American Board of Medical Specialties; or

(d) A combination of the parts of the licensing examinations specified in paragraphs (a), (b) and (c) that is approved by the Board;

7. The applicant pays the fees provided for in this chapter; and

8. The applicant submits all information required to complete an application for a license.

Sec. 8.5. NRS 633.400 is hereby amended to read as follows:

633.400 1. Except as otherwise provided in NRS 633.315, the Board shall, except for good cause, issue a license by endorsement to a person who has been issued a license to practice osteopathic medicine by the District of Columbia or any state or territory of the United States if:

(a) At the time the person files an application with the Board, the license is in effect and unrestricted; and

(b) The applicant:

(1) Is currently certified by either a specialty board of the American Board of Medical Specialties or a specialty board of the American Osteopathic Association, or was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 5 years;

(3) Has been continuously and actively engaged in the practice of osteopathic medicine within his or her specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning a license to practice osteopathic medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him or her, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice osteopathic medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 633.311.

2. Any person applying for a license by endorsement pursuant to this section shall ~~pay in~~ submit:

(a) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 633.309;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(c) In advance to the Board the application and initial license fee specified in this chapter, ~~and~~ ; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

↪ whichever occurs later.

4. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such action shall be deemed to be an action of the Board.

Sec. 9. NRS 633.401 is hereby amended to read as follows:

633.401 1. ~~{Except as otherwise provided in}~~ Unless the Board denies such licensure pursuant to NRS 633.315 ~~and~~ or for other good cause, the Board ~~may~~ shall issue a special license to practice osteopathic medicine:

(a) To authorize a person who is licensed to practice osteopathic medicine in an adjoining state to come into Nevada to care for or assist in the treatment of his or her patients in association with an osteopathic physician in this State who has primary care of the patients.

(b) To a resident while the resident is enrolled in a postgraduate training program required pursuant to the provisions of paragraph (c) of subsection 4 of NRS 633.311.

(c) Other than a license issued pursuant to NRS 633.419, for a specified period and for specified purposes to a person who is licensed to practice osteopathic medicine in another jurisdiction.

2. For the purpose of paragraph (c) of subsection 1, the osteopathic physician must:

(a) Hold a full and unrestricted license to practice osteopathic medicine in another state;

(b) Not have had any disciplinary or other action taken against him or her by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties, the American Osteopathic Association or their successors.

3. A special license issued under this section may be renewed by the Board upon application of the licensee.

4. Every person who applies for or renews a special license under this section shall pay respectively the special license fee or special license renewal fee specified in this chapter.

Sec. 10. ~~[NRS 633.416 is hereby amended to read as follows:~~

~~633.416 1. An osteopathic physician who is retired from active practice and who:~~

~~— (a) Wishes to donate his or her expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care; or~~

~~— (b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization;~~

~~— may obtain a special volunteer license to practice osteopathic medicine by submitting an application to the Board pursuant to this section.~~

~~2. An application for a special volunteer license to practice osteopathic medicine must be on a form provided by the Board and must include:~~

~~— (a) Documentation of the history of medical practice of the osteopathic physician;~~

~~— (b) Proof that the osteopathic physician previously has been issued an unrestricted license to practice osteopathic medicine in any state of the United States and that the osteopathic physician has never been the subject of disciplinary action by a medical board in any jurisdiction;~~

~~— (c) Proof that the osteopathic physician satisfies the requirements for licensure set forth in NRS 633.311 or the requirements for licensure by endorsement set forth in NRS 633.400 [;] or section 7 of this act;~~

~~— (d) Acknowledgment that the practice of the osteopathic physician under the special volunteer license to practice osteopathic medicine will be exclusively devoted to providing medical care;~~

~~— (1) To persons in this State who are indigent, uninsured or unable to afford health care; or~~

~~— (2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and~~

~~— (e) Acknowledgment that the osteopathic physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer license to practice osteopathic medicine, except for payment by a medical facility at which the osteopathic physician provides volunteer medical services of the expenses of the osteopathic physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.~~

~~3. If the Board finds that the application of an osteopathic physician satisfies the requirements of subsection 2 and that the retired osteopathic physician is competent to practice osteopathic medicine, the Board shall issue a special volunteer license to practice osteopathic medicine to the osteopathic physician.~~

~~4. The initial special volunteer license to practice osteopathic medicine issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.~~

~~5. The Board shall not charge a fee for:~~

~~(a) The review of an application for a special volunteer license to practice osteopathic medicine; or~~

~~(b) The issuance or renewal of a special volunteer license to practice osteopathic medicine pursuant to this section.~~

~~6. An osteopathic physician who is issued a special volunteer license to practice osteopathic medicine pursuant to this section and who accepts the privilege of practicing osteopathic medicine in this State pursuant to the provisions of the special volunteer license to practice osteopathic medicine is subject to all the provisions governing disciplinary action set forth in this chapter.~~

~~7. An osteopathic physician who is issued a special volunteer license to practice osteopathic medicine pursuant to this section shall comply with the requirements for continuing education adopted by the Board. (Deleted by amendment.)~~

Sec. 10.5. NRS 633.434 is hereby amended to read as follows:

633.434 The Board shall adopt regulations regarding the licensure of a physician assistant, including, without limitation:

1. The educational and other qualifications of applicants.
2. The required academic program for applicants.
3. The procedures for applications for and the issuance of licenses.

4. *The procedures deemed necessary by the Board for applications for and the issuance of initial licenses by endorsement pursuant to section 7 of this act.*

5. The tests or examinations of applicants by the Board.

~~{5.}~~ 6. The medical services which a physician assistant may perform, except that a physician assistant may not perform osteopathic manipulative therapy or those specific functions and duties delegated or restricted by law to persons licensed as dentists, chiropractors, doctors of Oriental medicine, podiatric physicians, optometrists and hearing aid specialists under chapters 631, 634, 634A, 635, 636 and 637A, respectively, of NRS.

~~{6.}~~ 7. The grounds and procedures respecting disciplinary actions against physician assistants.

~~{7.}~~ 8. The supervision of medical services of a physician assistant by a supervising osteopathic physician.

Sec. 11. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in NRS 635.073, the Board may issue a license by endorsement to practice podiatry to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant ~~is~~*

~~(a) Holds~~ holds a corresponding valid and unrestricted license to practice podiatry in the District of Columbia or any state or territory of the United States, ~~and~~

~~(b) Is certified in a specialty recognized by the American Board of Medical Specialties.~~

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to practice podiatry; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(c) A fee in the amount of the fee for an application for a license required pursuant to paragraph (a) of subsection 3 of NRS 635.050; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice podiatry pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice podiatry to the applicant not later than 45 days after receiving the application.

4. A license by endorsement to practice podiatry may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 12. NRS 635.050 is hereby amended to read as follows:

635.050 1. Any person wishing to practice podiatry in this State must, before beginning to practice, procure from the Board a license to practice podiatry.

2. ~~[A]~~ Except as otherwise provided in section 11 of this act, a license to practice podiatry may be issued by the Board to any person who:

(a) Is of good moral character.

(b) Is a citizen of the United States or is lawfully entitled to remain and work in the United States.

(c) Has received the degree of D.P.M., Doctor of Podiatric Medicine, from an accredited school of podiatry.

(d) Has completed a residency approved by the Board.

(e) Has passed the examination given by the National Board of Podiatric Medical Examiners.

(f) Has not committed any act described in subsection 2 of NRS 635.130. For the purposes of this paragraph, an affidavit signed by the applicant stating that the applicant has not committed any act described in subsection 2 of NRS 635.130 constitutes satisfactory proof.

3. An applicant for a license to practice podiatry must submit to the Board or a committee thereof pursuant to such regulations as the Board may adopt:

(a) The fee for an application for a license , including a license by endorsement, of not more than \$600;

(b) Proof satisfactory to the Board that the requirements of subsection 2 have been met; and

(c) All other information required by the Board to complete an application for a license.

➡ The Board shall, by regulation, establish the fee required to be paid pursuant to this subsection.

4. The Board may reject an application if it appears that the applicant's credentials are fraudulent or the applicant has practiced podiatry without a license or committed any act described in subsection 2 of NRS 635.130.

5. The Board may require such further documentation or proof of qualification as it may deem proper.

6. The provisions of this section do not apply to a person who applies for:

(a) A limited license to practice podiatry pursuant to NRS 635.075; or

(b) A provisional license to practice podiatry pursuant to NRS 635.082.

Sec. 13. NRS 635.065 is hereby amended to read as follows:

635.065 1. In addition to the other requirements for licensure set forth in this chapter, an applicant for a license to practice podiatry in this State who has been licensed to practice podiatry in another state or the District of Columbia must submit:

(a) An affidavit signed by the applicant that:

(1) Identifies each jurisdiction in which the applicant has been licensed to practice; and

(2) States whether a disciplinary proceeding has ever been instituted against the applicant by the licensing board of that jurisdiction and, if so, the status of the proceeding; and

(b) If the applicant is currently licensed to practice podiatry in another state or the District of Columbia, a certificate from the licensing board of that jurisdiction stating that the applicant is in good standing and no disciplinary proceedings are pending against the applicant.

2. ~~The~~ *Except as otherwise provided in section 11 of this act, the* Board may require an applicant who has been licensed to practice podiatry in another state or the District of Columbia to:

(a) Pass an examination prescribed by the Board concerning the provisions of this chapter and any regulations adopted pursuant thereto; or

(b) Submit satisfactory proof that:

(1) The applicant maintained an active practice in another state or the District of Columbia within the 5 years immediately preceding the application;

(2) No disciplinary proceeding has ever been instituted against the applicant by a licensing board in any jurisdiction in which he or she is licensed to practice podiatry; and

(3) The applicant has participated in a program of continuing education that is equivalent to the program of continuing education that is required pursuant to NRS 635.115 for podiatric physicians licensed in this State.

Sec. 14. Chapter 637B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board may issue a license by endorsement to engage in the practice of audiology or speech pathology to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license to engage in the practice of audiology or speech pathology, as applicable, in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to engage in the practice of audiology or speech pathology, as applicable; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(c) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to engage in the practice of audiology or speech pathology pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to engage in the practice of audiology or speech pathology, as

applicable, to the applicant not later than 45 days after receiving the application.

4. A license by endorsement to engage in the practice of audiology or speech pathology may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 15. NRS 637B.160 is hereby amended to read as follows:

637B.160 1. ~~[Am]~~ Except as otherwise provided in section 14 of this act, an applicant for a license to engage in the practice of audiology or speech pathology must be issued a license by the Board if the applicant:

- (a) Is over the age of 21 years;
- (b) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;
- (c) Is of good moral character;
- (d) Meets the requirements for education or training and experience provided by subsection 2;
- (e) Has completed at least 300 clock hours of supervised clinical experience in audiology or speech pathology, or both;
- (f) Applies for the license in the manner provided by the Board;
- (g) Passes any examination required by this chapter;
- (h) Pays the fees provided for in this chapter; and
- (i) Submits all information required to complete an application for a license.

2. An applicant must possess a master's degree in audiology or in speech pathology from an accredited educational institution or possess equivalent training and experience. If an applicant seeks to qualify on the basis of equivalent training and experience, the applicant must submit to the Board satisfactory evidence that he or she has obtained at least 60 semester credits, or equivalent quarter credits, in courses related to the normal development, function and use of speech and language or hearing, including, but not limited to, the management of disorders of speech or hearing and the legal, professional and ethical practices of audiology or speech pathology. At least 24 of the 60 credits, excluding any credits obtained for a thesis or dissertation, must have been obtained for courses directly relating to audiology or speech pathology.

Sec. 16. NRS 637B.230 is hereby amended to read as follows:

637B.230 1. The Board shall charge and collect only the following fees whose amounts must be determined by the Board, but may not exceed:

Application fee for a license to practice speech pathology, <u>including a license by endorsement</u>	\$100
Application fee for a license to practice audiology, <u>including a license by endorsement</u>	100
Annual fee for the renewal of a license.....	50
Reinstatement fee.....	75

2. All fees are payable in advance and may not be refunded.

Sec. 17. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 and 19 of this act.

Sec. 18. 1. The Board may issue a certificate by endorsement as a registered pharmacist to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a certificate if the applicant holds a corresponding valid and unrestricted certificate as a registered pharmacist in the District of Columbia or any state or territory of the United States.

2. An applicant for a certificate by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a certificate as a registered pharmacist; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(c) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a certificate by endorsement as a registered pharmacist pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a certificate by endorsement as a registered pharmacist to the applicant not later than 45 days after receiving the application.

4. A certificate by endorsement as a registered pharmacist may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 19. 1. The Board may issue a license by endorsement to conduct a pharmacy to an applicant who is a natural person and who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license to conduct a pharmacy in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to conduct a pharmacy; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(c) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to conduct a pharmacy pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to conduct a pharmacy to the applicant not later than 45 days after receiving the application.

4. A license by endorsement to conduct a pharmacy may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 20. NRS 639.015 is hereby amended to read as follows:

639.015 "Registered pharmacist" means:

1. A person registered in this State as such on July 1, 1947;

2. A person registered in this State as such in compliance with the provisions of paragraph (c) of section 3 of chapter 195, Statutes of Nevada 1951; or

3. A person who has complied with the provisions of NRS 639.120 , 639.134 or section 18 of this act and whose name has been entered in the registry of pharmacists of this State by the Executive Secretary of the Board and to whom a valid certificate or certificate by endorsement as a registered pharmacist or valid renewal thereof has been issued by the Board.

Sec. 21. NRS 639.120 is hereby amended to read as follows:

639.120 1. ~~Any~~ Except as otherwise provided in NRS 639.134 and section 18 of this act, an applicant to become a registered pharmacist in this State must:

(a) Be of good moral character.

(b) Be a graduate of a college of pharmacy or department of pharmacy of a university accredited by the Accreditation Council for Pharmacy Education or Canadian Council for Accreditation of Pharmacy Programs and approved by the Board or a graduate of a foreign school who has passed an examination for foreign graduates approved by the Board to demonstrate that his or her education is equivalent.

(c) Except as otherwise provided in NRS 622.090:

(1) Pass an examination approved and given by the Board with a grade of at least 75 on the examination as a whole and a grade of at least 75 on the examination on law.

(2) If he or she is an applicant for registration by reciprocity, pass the examination on law with at least a grade of 75.

(d) Complete not less than 1,500 hours of practical pharmaceutical experience as an intern pharmacist under the direct and immediate supervision of a registered pharmacist.

2. The practical pharmaceutical experience required pursuant to paragraph (d) of subsection 1 must relate primarily to the selling of drugs, poisons and devices, the compounding and dispensing of prescriptions, preparing prescriptions and keeping records and preparing reports required by state and federal statutes.

3. The Board may accept evidence of compliance with the requirements set forth in paragraph (d) of subsection 1 from boards of pharmacy of other states in which the experience requirement is equivalent to the requirements in this State.

Sec. 22. NRS 639.127 is hereby amended to read as follows:

639.127 1. An applicant for registration as a pharmacist in this State must submit an application to the Executive Secretary of the Board on a form furnished by the Board and must pay the fee fixed by the Board. The fee must be paid at the time the application is submitted and is compensation to the Board for the investigation and the examination of the applicant. Under no circumstances may the fee be refunded.

2. Proof of the qualifications of any applicant must be made to the satisfaction of the Board and must be substantiated by affidavits, records or such other evidence as the Board may require.

3. An application is only valid for 1 year after the date it is received by the Board unless the Board extends its period of validity.

4. A certificate of registration as a pharmacist must be issued to each person who the Board determines is qualified pursuant to the provisions of NRS 639.120 and 639.134 ~~and~~ and section 18 of this act. The certificate entitles the person to whom it is issued to practice pharmacy in this State.

Sec. 23. NRS 639.170 is hereby amended to read as follows:

639.170 1. The Board shall charge and collect not more than the following fees for the following services:

For the examination of an applicant for registration as a pharmacist.....	Actual cost of the examination
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For the investigation or registration of an applicant as a registered pharmacist <u>including a certificate by endorsement</u>	\$200
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For the investigation, examination or registration of an applicant as a registered pharmacist by reciprocity	300
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For the investigation or issuance of an original license to conduct a retail pharmacy, <u>including a license by endorsement</u>	600
For the biennial renewal of a license to conduct a retail pharmacy	500
For the investigation or issuance of an original license to conduct an institutional pharmacy, <u>including a license by endorsement</u>	600
For the biennial renewal of a license to conduct an institutional pharmacy	500
For the issuance of an original or duplicate certificate of registration as a registered pharmacist, <u>including a certificate by endorsement</u>	50
For the biennial renewal of registration as a registered pharmacist	200
For the reinstatement of a lapsed registration (in addition to the fees for renewal for the period of lapse)	100
For the initial registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the biennial renewal of registration of a pharmaceutical technician or pharmaceutical technician in training	50
For the investigation or registration of an intern pharmacist	50
For the biennial renewal of registration as an intern pharmacist	40
For investigation or issuance of an original license to a manufacturer or wholesaler	500
For the biennial renewal of a license for a manufacturer or wholesaler	500
For the reissuance of a license issued to a pharmacy, when no change of ownership is involved, but the license must be reissued because of a change in the information required thereon	100
For authorization of a practitioner to dispense controlled substances or dangerous drugs, or both	300
For the biennial renewal of authorization of a practitioner to dispense controlled substances or dangerous drugs, or both	300

2. If an applicant submits an application for a certificate of registration or license by endorsement pursuant to section 18 or 19 of this act, as

applicable, the Board shall charge and collect not more than the fee specified in subsection 1, respectively, for:

(a) The initial registration and issuance of an original certificate of registration as a registered pharmacist.

(b) The issuance of an original license to conduct a retail or an institutional pharmacy.

3. If a person requests a special service from the Board or requests the Board to convene a special meeting, the person must pay the actual costs to the Board as a condition precedent to the rendition of the special service or the convening of the special meeting.

~~{3.}~~ 4. All fees are payable in advance and are not refundable.

~~{4.}~~ 5. The Board may, by regulation, set the penalty for failure to pay the fee for renewal for any license, permit, authorization or certificate within the statutory period, at an amount not to exceed 100 percent of the fee for renewal for each year of delinquency in addition to the fees for renewal for each year of delinquency.

Sec. 24. NRS 639.231 is hereby amended to read as follows:

639.231 1. An application to conduct a pharmacy must be made on a form furnished by the Board and must state the name, address, usual occupation and professional qualifications, if any, of the applicant. If the applicant is other than a natural person, the application must state such information as to each person beneficially interested therein.

2. As used in subsection 1, and subject to the provisions of subsection 3, the term "person beneficially interested" means:

(a) If the applicant is a partnership or other unincorporated association, each partner or member.

(b) If the applicant is a corporation, each of its officers, directors and stockholders, provided that no natural person shall be deemed to be beneficially interested in a nonprofit corporation.

3. If the applicant is a partnership, unincorporated association or corporation and the number of partners, members or stockholders, as the case may be, exceeds four, the application must so state, and must list each of the four partners, members or stockholders who own the four largest interests in the applicant entity and state their percentages of interest. Upon request of the Executive Secretary of the Board, the applicant shall furnish the Board with information as to partners, members or stockholders not named in the application or shall refer the Board to an appropriate source of such information.

4. The completed application form must be returned to the Board with the fee prescribed by the Board, which may not be refunded. ~~{Any}~~ Except as otherwise provided in section 19 of this act, any application which is not complete as required by the provisions of this section may not be presented to the Board for consideration.

5. ~~{Upon}~~ Except as otherwise provided in section 19 of this act, upon compliance with all the provisions of this section and upon approval of the

application by the Board, the Executive Secretary shall issue a license to the applicant to conduct a pharmacy. Any other provision of law notwithstanding, such a license authorizes the holder to conduct a pharmacy and to sell and dispense drugs and poisons and devices and appliances that are restricted by federal law to sale by or on the order of a physician.

Sec. 25. Chapter 640 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board may issue a license by endorsement as a physical therapist to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license as a physical therapist in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license as a physical therapist; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 640.090;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) A fee in the amount of the fee set by a regulation of the Board pursuant to subsection 3 of NRS 640.090 for an application for a license; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement as a physical therapist pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement as a physical therapist to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints.

↳ whichever occurs later.

4. A license by endorsement as a physical therapist may be issued at a meeting of the Board or between its meetings by the Chair of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 26. NRS 640.080 is hereby amended to read as follows:

640.080 ~~[To]~~ Except as otherwise provided in section 25 of this act, to be eligible for licensure by the Board as a physical therapist, an applicant must:

1. Be of good moral character;
2. Have graduated from a school in which he or she completed a curriculum of physical therapy approved by the Board; and
3. Pass to the satisfaction of the Board an examination designated by the Board, unless he or she is entitled to licensure without examination as provided in NRS 640.120 or 640.140.

Sec. 27. NRS 640.090 is hereby amended to read as follows:

640.090 Unless he or she is entitled to licensure under NRS 640.120 or 640.140, or section 25 of this act, a person who desires to be licensed as a physical therapist must:

1. Apply to the Board, in writing, on a form furnished by the Board;
2. Include in the application evidence, under oath, satisfactory to the Board, that the person possesses the qualifications required by NRS 640.080 other than having passed the examination;
3. Pay to the Board at the time of filing the application a fee set by a regulation of the Board in an amount not to exceed \$300;
4. Submit to the Board with the application a complete set of fingerprints which the Board may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;
5. Submit other documentation and proof the Board may require; and
6. Submit all other information required to complete the application.

Sec. 28. Chapter 640A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board may issue a license by endorsement as an occupational therapist to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license as an occupational therapist in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license as an occupational therapist; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(c) A fee in the amount of the fee set by a regulation of the Board pursuant to NRS 640A.190 for the initial issuance of a license; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement as an occupational therapist pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement as an occupational therapist to the applicant not later than 45 days after receiving the application.

4. A license by endorsement as an occupational therapist may be issued at a meeting of the Board or between its meetings by the Chair of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 29. NRS 640A.120 is hereby amended to read as follows:

640A.120 ~~[To]~~ Except as otherwise provided in section 28 of this act, to be eligible for licensing by the Board as an occupational therapist or occupational therapy assistant, an applicant must:

1. Be a natural person of good moral character.

2. Except as otherwise provided in NRS 640A.130, have satisfied the academic requirements of an educational program approved by the Board. The Board shall not approve an educational program designed to qualify a person to practice as an occupational therapist or an occupational therapy assistant unless the program is accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, Inc., or its successor organization.

3. Except as otherwise provided in NRS 640A.130, have successfully completed:

(a) If the application is for licensing as an occupational therapist, 24 weeks; or

(b) If the application is for licensing as an occupational therapy assistant, 16 weeks,

➤ of supervised fieldwork experience approved by the Board. The Board shall not approve any supervised experience unless the experience was sponsored by the American Occupational Therapy Association, Inc., or its successor organization, or the educational institution at which the applicant satisfied the requirements of subsection 2.

4. Except as otherwise provided in NRS 640A.160 and 640A.170, pass an examination approved by the Board.

Sec. 30. NRS 640A.140 is hereby amended to read as follows:

640A.140 1. ~~[A]~~ Except as otherwise provided in section 28 of this act,
a person who desires to be licensed by the Board as an occupational therapist
or occupational therapy assistant must:

(a) Submit an application to the Board on a form furnished by the Board;
and

(b) Provide evidence satisfactory to the Board that he or she possesses the
qualifications required pursuant to subsections 1, 2 and 3 of NRS 640A.120.

2. The application must include all information required to complete the
application.

Sec. 31. NRS 640A.190 is hereby amended to read as follows:

640A.190 1. The Board may by regulation establish reasonable fees
for:

(a) The examination of an applicant for a license;

(b) The initial issuance of a license ~~[5]~~, including a license by
endorsement;

(c) The issuance of a temporary license;

(d) The renewal of a license; and

(e) The late renewal of a license.

2. The fees must be set in such an amount as to reimburse the Board for
the cost of carrying out the provisions of this chapter.

*Sec. 32. Chapter 640C of NRS is hereby amended by adding thereto a
new section to read as follows:*

1. The Board may issue a license by endorsement to practice massage
therapy to an applicant who meets the requirements set forth in this section.
An applicant may submit to the Board an application for such a license if the
applicant holds a corresponding valid and unrestricted license to practice
massage therapy in the District of Columbia or any state or territory of the
United States.

2. An applicant for a license by endorsement pursuant to this section
must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to
work in the United States;

(3) Has not been disciplined or investigated by the corresponding
regulatory authority of the District of Columbia or the state or territory in
which the applicant holds a license to practice massage therapy; and

(4) Has not been held civilly or criminally liable for malpractice in the
District of Columbia or any state or territory of the United States more than
once;

(b) A complete set of fingerprints and written permission authorizing the
Board to forward the fingerprints in the manner provided in NRS 640C.400;

(c) An affidavit stating that the information contained in the application
and any accompanying material is true and correct;

(d) The fees prescribed by the Board pursuant to NRS 640C.520 for the application for and initial issuance of a license; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice massage therapy pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice massage therapy to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

☛ whichever occurs later.

4. A license by endorsement to practice massage therapy may be issued at a meeting of the Board or between its meetings by the Chair and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 33. NRS 640C.400 is hereby amended to read as follows:

640C.400 1. The Board may issue a license to practice massage therapy.

2. An applicant for a license must:

(a) Be at least 18 years of age;

(b) ~~(Submit)~~ Except as otherwise provided in section 32 of this act, submit to the Board:

(1) A completed application on a form prescribed by the Board;

(2) The fees prescribed by the Board pursuant to NRS 640C.520;

(3) Proof that the applicant has successfully completed a program of massage therapy recognized by the Board;

(4) A certified statement issued by the licensing authority in each state, territory or possession of the United States or the District of Columbia in which the applicant is or has been licensed to practice massage therapy verifying that:

(I) The applicant has not been involved in any disciplinary action relating to his or her license to practice massage therapy; and

(II) Disciplinary proceedings relating to his or her license to practice massage therapy are not pending;

(5) Except as otherwise provided in NRS 640C.440, a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(6) The names and addresses of five natural persons not related to the applicant and not business associates of the applicant who are willing to serve as character references;

(7) A statement authorizing the Board or its designee to conduct an investigation to determine the accuracy of any statements set forth in the application; and

(8) If required by the Board, a financial questionnaire; and

(c) In addition to any examination required pursuant to NRS 640C.320, ~~and~~ and except as otherwise provided in section 32 of this act:

(1) Except as otherwise provided in subsection 3, pass a written examination administered by any board that is accredited by the National Commission for Certifying Agencies, or its successor organization, to examine massage therapists; or

(2) At the applicant's discretion and in lieu of a written examination, pass an oral examination prescribed by the Board.

3. If the Board determines that the examinations being administered pursuant to subparagraph (1) of paragraph (c) of subsection 2 are inadequately testing the knowledge and competency of applicants, the Board shall prepare or cause to be prepared its own written examination to test the knowledge and competency of applicants. Such an examination must be offered not less than four times each year. The location of the examination must alternate between Clark County and Washoe County. Upon request, the Board must provide a list of approved interpreters at the location of the examination to interpret the examination for an applicant who, as determined by the Board, requires an interpreter for the examination.

4. The Board shall recognize a program of massage therapy that is:

(a) Approved by the Commission on Postsecondary Education; or

(b) Offered by a public college in this State or any other state.

↪ The Board may recognize other programs of massage therapy.

5. ~~The~~ Except as otherwise provided in section 32 of this act, the Board or its designee shall:

(a) Conduct an investigation to determine:

(1) The reputation and character of the applicant;

(2) The existence and contents of any record of arrests or convictions of the applicant;

(3) The existence and nature of any pending litigation involving the applicant that would affect his or her suitability for licensure; and

(4) The accuracy and completeness of any information submitted to the Board by the applicant;

(b) If the Board determines that it is unable to conduct a complete investigation, require the applicant to submit a financial questionnaire and investigate the financial background and each source of funding of the applicant;

(c) Report the results of the investigation of the applicant within the period the Board establishes by regulation pursuant to NRS 640C.320; and

(d) Except as otherwise provided in NRS 239.0115, maintain the results of the investigation in a confidential manner for use by the Board and its members and employees in carrying out their duties pursuant to this chapter.

The provisions of this paragraph do not prohibit the Board or its members or employees from communicating or cooperating with or providing any documents or other information to any other licensing board or any other federal, state or local agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 34. Chapter 641 of NRS is hereby amended by adding thereto the provisions set forth as sections 35 and 36 of this act.

Sec. 35. 1. The Board may issue a license by endorsement as a psychologist or behavior analyst to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license as a psychologist or behavior analyst, as applicable, in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license as a psychologist or behavior analyst, as applicable; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 641.160;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) The fee prescribed by the Board pursuant to NRS 641.370 for the issuance of an initial license; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement as a psychologist or behavior analyst pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement as a psychologist or behavior analyst, as applicable, to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

➡ whichever occurs later.

4. A license by endorsement as a psychologist or behavior analyst may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 36. 1. The Board may issue a certificate by endorsement as an autism behavior interventionist to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a certificate if the applicant holds a corresponding valid and unrestricted certificate as an autism behavior interventionist in the District of Columbia or any state or territory of the United States.

2. An applicant for a certificate by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a certificate as an autism behavior interventionist; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(c) The fee prescribed by the Board pursuant to NRS 641.370 for the issuance of an initial certificate; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a certificate by endorsement as an autism behavior interventionist pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a certificate by endorsement as an autism behavior interventionist to the applicant not later than 45 days after receiving the application.

4. A certificate by endorsement as an autism behavior interventionist may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 37. NRS 641.170 is hereby amended to read as follows:

641.170 1. ~~Each~~ Except as otherwise provided in section 35 of this act, each application for licensure as a psychologist must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. ~~[Each]~~ Except as otherwise provided in section 35 of this act, each application for licensure as a behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a master's degree from an accredited college or university in a field of social science or special education and holds a current certification as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

3. Each application for licensure as an assistant behavior analyst must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has earned a bachelor's degree from an accredited college or university in a field of social science or special education approved by the Board and holds a current certification as a Board Certified Behavior Analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.

(e) Has completed other education, training or experience in accordance with the requirements established by regulations of the Board.

(f) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

4. ~~[Within]~~ Except as otherwise provided in section 35 of this act, within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure; and

(b) Issue a written statement to the applicant of its determination.

5. The written statement issued to the applicant pursuant to subsection 4 must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant for licensure as a psychologist has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that the doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 38. NRS 641.172 is hereby amended to read as follows:

641.172 1. ~~[Each]~~ Except as otherwise provided in section 36 of this act, each application for certification as an autism behavior interventionist must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 18 years of age.

(b) Is of good moral character as determined by the Board.

(c) Is a citizen of the United States, or is lawfully entitled to remain and work in the United States.

(d) Has completed satisfactorily a written examination in Nevada law and ethical practice as administered by the Board.

(e) Has completed satisfactorily a standardized practical examination developed and approved by the Board. The examination must be conducted by the applicant's supervisor, who shall make a videotape or other audio and visual recording of the applicant's performance of the examination for submission to the Board. The Board may review the recording as part of its evaluation of the applicant's qualifications.

2. ~~[Within]~~ Except as otherwise provided in section 36 of this act, within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for certification as an autism behavior interventionist; and

(b) Issue a written statement to the applicant of its determination.

3. If the Board determines that the qualifications of the applicant are insufficient for certification, the written statement issued to the applicant pursuant to subsection 2 must include a detailed explanation of the reasons for that determination.

Sec. 39. NRS 641.180 is hereby amended to read as follows:

641.180 1. Except as otherwise provided in this section and NRS 641.190, and section 35 of this act, each applicant for a license as a psychologist must pass the national examination. In addition to the national examination, the Board may require an examination in whatever applied or theoretical fields it deems appropriate.

2. The Board shall notify each applicant of the results of the national examination and any other examination required pursuant to subsection 1.

3. The Board may waive the requirement of the national examination for a person who:

- (a) Is licensed in another state;
- (b) Has at least 10 years' experience; and
- (c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 40. NRS 641.370 is hereby amended to read as follows:

641.370 1. The Board shall charge and collect not more than the following fees respectively:

For the national examination, in addition to the actual cost to the Board of the examination.....	\$100
For any other examination required pursuant to the provisions of subsection 1 of NRS 641.180, in addition to the actual costs to the Board of the examination.....	100
For the issuance of an initial license or certificate, <u>including a license or certificate by endorsement</u>	25
For the biennial renewal of a license of a psychologist	500
For the biennial renewal of a license of a licensed behavior analyst.....	400
For the biennial renewal of a license of a licensed assistant behavior analyst	275
For the biennial renewal of a certificate of a certified autism behavior interventionist	175
For the restoration of a license suspended for the nonpayment of the biennial fee for the renewal of a license	100
For the registration of a firm, partnership or corporation which engages in or offers to engage in the practice of psychology ...	300
For the registration of a nonresident to practice as a consultant	100

2. An applicant who passes the national examination and any other examination required pursuant to the provisions of subsection 1 of NRS 641.180 and who is eligible for a license as a psychologist shall pay the biennial fee for the renewal of a license, which must be prorated for the period from the date the license is issued to the end of the biennium.

3. An applicant who passes the examination and is eligible for a license as a behavior analyst or assistant behavior analyst or a certificate as a autism behavior interventionist shall pay the biennial fee for the renewal of a license or certificate, which must be prorated for the period from the date the license or certificate is issued to the end of the biennium.

4. ~~For~~ Except as otherwise provided in subsection 5 and sections 35 and 36 of this act, in addition to the fees set forth in subsection 1, the Board may charge and collect a fee for the expedited processing of a request or for any

other incidental service it provides. The fee must not exceed the cost to provide the service.

5. If an applicant submits an application for a license or certificate by endorsement pursuant to section 35 or 36 of this act, as applicable, the Board shall charge and collect not more than the fee specified in subsection 1 for the issuance of an initial license or certificate.

Sec. 41. Chapter 641A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board may issue a license by endorsement to practice as a marriage and family therapist or clinical professional counselor to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license as a marriage and family therapist or clinical professional counselor, as applicable, in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license as a marriage and family therapist or clinical professional counselor, as applicable; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(c) The fees prescribed by the Board pursuant to NRS 641A.290 for the application for and initial issuance of a license; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to practice as a marriage and family therapist or clinical professional counselor pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to practice as a marriage and family therapist or clinical professional counselor, as applicable, to the applicant not later than 45 days after receiving the application.

4. A license by endorsement to practice as a marriage and family therapist or clinical professional counselor may be issued at a meeting of the

Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 42. NRS 641A.220 is hereby amended to read as follows:

641A.220 ~~[Each]~~ Except as otherwise provided in section 41 of this act, *each* applicant for a license to practice as a marriage and family therapist must furnish evidence satisfactory to the Board that the applicant:

1. Is at least 21 years of age;
2. Is of good moral character;
3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;
4. Has completed residency training in psychiatry from an accredited institution approved by the Board, has a graduate degree in marriage and family therapy, psychology or social work from an accredited institution approved by the Board or has completed other education and training which is deemed equivalent by the Board;
5. Has:
 - (a) At least 2 years of postgraduate experience in marriage and family therapy; and
 - (b) At least 3,000 hours of supervised experience in marriage and family therapy, of which at least 1,500 hours must consist of direct contact with clients; and
6. Holds an undergraduate degree from an accredited institution approved by the Board.

Sec. 43. NRS 641A.230 is hereby amended to read as follows:

641A.230 1. ~~Except as otherwise provided in subsection 2, [and]~~ and section 41 of this act, each qualified applicant for a license to practice as a marriage and family therapist must pass a written examination given by the Board on his or her knowledge of marriage and family therapy. Examinations must be given at a time and place and under such supervision as the Board may determine.

2. The Board shall accept receipt of a passing grade by a qualified applicant on the national examination sponsored by the Association of Marital and Family Therapy Regulatory Boards in lieu of requiring a written examination pursuant to subsection 1.

3. In addition to the requirements of subsections 1 and 2, the Board may require an oral examination. The Board may examine applicants in whatever applied or theoretical fields it deems appropriate.

Sec. 44. NRS 641A.231 is hereby amended to read as follows:

641A.231 ~~[Each]~~ Except as otherwise provided in section 41 of this act, *each* applicant for a license to practice as a clinical professional counselor must furnish evidence satisfactory to the Board that the applicant:

1. Is at least 21 years of age;
2. Is of good moral character;
3. Is a citizen of the United States, or is lawfully entitled to remain and work in the United States;

4. Has:

(a) Completed residency training in psychiatry from an accredited institution approved by the Board;

(b) A graduate degree from a program approved by the Council for Accreditation of Counseling and Related Educational Programs as a program in mental health counseling or community counseling; or

(c) An acceptable degree as determined by the Board which includes the completion of a practicum and internship in mental health counseling which was taken concurrently with the degree program and was supervised by a licensed mental health professional; and

5. Has:

(a) At least 2 years of postgraduate experience in professional counseling;

(b) At least 3,000 hours of supervised experience in professional counseling which includes, without limitation:

(1) At least 1,500 hours of direct contact with clients; and

(2) At least 100 hours of counseling under the direct supervision of an approved supervisor of which at least 1 hour per week was completed for each work setting at which the applicant provided counseling; and

(c) Passed the National Clinical Mental Health Counseling Examination which is administered by the National Board for Certified Counselors.

Sec. 45. Chapter 641B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board may issue a license by endorsement to engage in social work to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license to engage in social work in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license to engage in social work; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 641B.202;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct; and

(d) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement to engage in social work pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement to engage in social work to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

↪ whichever occurs later.

4. A license by endorsement to engage in social work may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 46. NRS 641B.250 is hereby amended to read as follows:

641B.250 1. Except as otherwise provided in NRS 641B.270 and 641B.275, and section 45 of this act, before the issuance of a license, each applicant, otherwise eligible for licensure, who has paid the fee and presented the required credentials, other than an applicant for a license to engage in social work as an associate in social work, must appear personally and pass an examination concerning his or her knowledge of the practice of social work.

2. Any such examination must be fair and impartial, practical in character with questions designed to discover the applicant's fitness.

3. The Board may employ specialists and other professional consultants or examining services in conducting the examination.

4. The member of the Board who is the representative of the general public shall not participate in the grading of the examination.

5. The Board shall examine applicants for licensure at least twice a year.

Sec. 47. NRS 641B.300 is hereby amended to read as follows:

641B.300 1. The Board shall charge and collect fees not to exceed the following amounts for:

Initial application	\$40
Provisional license	75
Initial issuance of a license, <u>including a license by endorsement</u>	100
Annual renewal of a license	150
Restoration of a suspended license or reinstatement of a revoked license	150
Restoration of an expired license	200
Renewal of a delinquent license	100
Reciprocal license without examination	100

2. If an applicant submits an application for a license by endorsement pursuant to section 45 of this act, the Board shall charge and collect not

more than the fees specified in subsection 1 for the initial application for and initial issuance of a license.

Sec. 48. Chapter 641C of NRS is hereby amended by adding thereto the provisions set forth as sections 49 to 53, inclusive, of this act.

Sec. 49. 1. The Board may issue a license by endorsement as a clinical alcohol and drug abuse counselor to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license as a clinical alcohol and drug abuse counselor in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license as a clinical alcohol and drug abuse counselor; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 641C.260;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) The fees prescribed by the Board pursuant to NRS 641C.470 for the initial application for and issuance of an initial license; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement as a clinical alcohol and drug abuse counselor pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement as a clinical alcohol and drug abuse counselor to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

➤ whichever occurs later.

4. A license by endorsement as a clinical alcohol and drug abuse counselor may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 50. 1. The Board may issue a license by endorsement as an alcohol and drug abuse counselor to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license as an alcohol and drug abuse counselor in the District of Columbia or any state or territory of the United States.

2. An applicant for a license by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a license as an alcohol and drug abuse counselor; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 641C.260;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) The fees prescribed by the Board pursuant to NRS 641C.470 for the initial application for and issuance of an initial license; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a license by endorsement as an alcohol and drug abuse counselor pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a license by endorsement as an alcohol and drug abuse counselor to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

☛ whichever occurs later.

4. A license by endorsement as an alcohol and drug abuse counselor may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 51. 1. The Board may issue a certificate by endorsement as an alcohol and drug abuse counselor to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a certificate if the applicant holds a corresponding

valid and unrestricted certificate as an alcohol and drug abuse counselor in the District of Columbia or any state or territory of the United States.

2. An applicant for a certificate by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a certificate as an alcohol and drug abuse counselor; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 641C.260;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) The fees prescribed by the Board pursuant to NRS 641C.470 for the initial application for and issuance of an initial certificate; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a certificate by endorsement as an alcohol and drug abuse counselor pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a certificate by endorsement as an alcohol and drug abuse counselor to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints.

➤ whichever occurs later.

4. A certificate by endorsement as an alcohol and drug abuse counselor may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 52. 1. The Board may issue a certificate by endorsement as a problem gambling counselor to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a certificate if the applicant holds a corresponding valid and unrestricted certificate as a problem gambling counselor in the District of Columbia or any state or territory of the United States.

2. An applicant for a certificate by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a certificate as a problem gambling counselor; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided in NRS 641C.260;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) The fees prescribed by the Board pursuant to NRS 641C.470 for the initial application for and issuance of an initial certificate; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a certificate by endorsement as a problem gambling counselor pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a certificate by endorsement as a problem gambling counselor to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

➤ whichever occurs later.

4. A certificate by endorsement as a problem gambling counselor may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 53. 1. Notwithstanding any regulations adopted pursuant to NRS 641C.500, the Board may issue a certificate by endorsement as a detoxification technician to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a certificate if the applicant holds a corresponding valid and unrestricted certificate as a detoxification technician in the District of Columbia or any state or territory of the United States.

2. An applicant for a certificate by endorsement pursuant to this section must submit to the Board with his or her application:

(a) Proof satisfactory to the Board that the applicant:

(1) Satisfies the requirements of subsection 1;

(2) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(3) Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or the state or territory in which the applicant holds a certificate as a detoxification technician; and

(4) Has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States more than once;

(b) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints in the manner provided pursuant to NRS 641C.500;

(c) An affidavit stating that the information contained in the application and any accompanying material is true and correct;

(d) Any fee prescribed by the Board pursuant to NRS 641C.500 for the issuance of a certificate; and

(e) Any other information required by the Board.

3. Not later than 15 business days after receiving an application for a certificate by endorsement as a detoxification technician pursuant to this section, the Board shall provide written notice to the applicant of any additional information required by the Board to consider the application. Unless the Board denies the application for good cause, the Board shall approve the application and issue a certificate by endorsement as a detoxification technician to the applicant not later than:

(a) Forty-five days after receiving the application; or

(b) Ten days after the Board receives a report on the applicant's background based on the submission of the applicant's fingerprints,

↪ whichever occurs later.

4. A certificate by endorsement as a detoxification technician may be issued at a meeting of the Board or between its meetings by the President of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 54. NRS 641C.290 is hereby amended to read as follows:

641C.290 1. ~~Each~~ Except as otherwise provided in section 49 of this act, each applicant for a license as a clinical alcohol and drug abuse counselor must pass a written and oral examination concerning his or her knowledge of the clinical practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

2. ~~Each~~ Except as otherwise provided in section 50 or 51 of this act, each applicant for a license or certificate as an alcohol and drug abuse counselor must pass a written and oral examination concerning his or her knowledge of the practice of counseling alcohol and drug abusers, the applicable provisions of this chapter and any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

3. ~~Each~~ Except as otherwise provided in section 52 of this act, each applicant for a certificate as a problem gambling counselor must pass a written examination concerning his or her knowledge of the practice of counseling problem gamblers, the applicable provisions of this chapter and

any applicable regulations adopted by the Board pursuant to the provisions of this chapter.

4. The Board shall:

- (a) Examine applicants at least two times each year.
- (b) Establish the time and place for the examinations.
- (c) Provide such books and forms as may be necessary to conduct the examinations.
- (d) Except as otherwise provided in NRS 622.090, establish, by regulation, the requirements for passing the examination.

5. The Board may employ other persons to conduct the examinations.

Sec. 55. NRS 641C.470 is hereby amended to read as follows:

641C.470 1. The Board shall charge and collect not more than the following fees:

For the initial application for a license or certificate, <u>including a license or certificate by endorsement</u>	\$150
For the issuance of a provisional license or certificate	125
For the issuance of an initial license or certificate, <u>including a license or certificate by endorsement</u>	60
For the renewal of a license or certificate as an alcohol and drug abuse counselor, a license as a clinical alcohol and drug abuse counselor or a certificate as a problem gambling counselor.....	300
For the renewal of a certificate as a clinical alcohol and drug abuse counselor intern, an alcohol and drug abuse counselor intern or a problem gambling counselor intern.....	75
For the renewal of a delinquent license or certificate	75
For the restoration of an expired license or certificate.....	150
For the restoration or reinstatement of a suspended or revoked license or certificate.....	300
For the issuance of a license or certificate without examination.....	150
For an examination	150
For the approval of a course of continuing education.....	150

2. If an applicant submits an application for a license or certificate by endorsement pursuant to section 49, 50, 51 or 52 of this act, the Board shall charge and collect not more than the fees specified in subsection 1 for the initial application for and issuance of an initial license or certificate, as applicable.

3. The fees charged and collected pursuant to this section are not refundable.

~~[Sec. 14.]~~ Sec. 56. This act becomes effective upon passage and approval.

Senator Settlemeyer moved the adoption of the amendment

Remarks by Senator Settelmeyer.

Amendment No. 65 makes four changes to Senate Bill No. 68. The amendment expands expedited licensing to the following boards as provided for in Title 54 of the *Nevada Revised Statutes*, "Professions, Occupations and Businesses": Nursing; Audiologists and Speech Pathologists; Pharmacists and Pharmacy; Physical Therapists; Occupational Therapists; Massage Therapists; Psychologists, Licensed Behavior Analysts, Licensed Assistant Behavior Analysts and Certified Autism Behavior Interventionists; Marriage and Family Therapists and Clinical Professional Counselors.

The amendment does not include expedited licensing for "paraprofessionals" by the boards referenced above. The amendment: 1) deletes references to "is certified in a specialty recognized by the American Board of Medical Specialties"; 2) deletes references to the "Canadian Medical Association" and replaces it with "The Royal College of Physicians and Surgeons of Canada, the College des Medecins du Quebec, and the College of Family Physicians of Canada, or successor organizations"; and 3) requires boards contained in the bill to provide notice to the applicant of any additional information required by the board to consider the application and the length of time the board has to issue an application for a license by endorsement.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 253.

Bill read second time.

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

Amendment No. 460.

SUMMARY—Enacts provisions governing the sale of guaranteed asset protection waivers. (BDR 57-795)

AN ACT relating to insurance; providing that certain provisions governing insurance are not applicable to guaranteed asset protection waivers; providing for the sale of guaranteed asset protection waivers; prohibiting a creditor from conditioning certain terms of a finance agreement on the purchase of a guaranteed asset protection waiver; requiring the disclosure of certain information in a guaranteed asset protection waiver; setting forth certain requirements concerning the cancellation of a guaranteed asset protection waiver; requiring a retail dealer of vehicles who sells guaranteed asset protection waivers to purchase a policy of contractual liability insurance under certain circumstances; authorizing the Commissioner of Insurance to enforce provisions governing guaranteed asset protection waivers in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 10 of this bill defines the term "guaranteed asset protection waiver" as a contract pursuant to which a creditor, in exchange for separately stated consideration, agrees to waive part or all of the amount owed to the creditor pursuant to a finance agreement in the event of a total physical damage loss or unrecovered theft of the vehicle covered by the finance agreement. Section 16 of this bill provides that the marketing, issuance, sale, offering for sale, making, proposing to make and administration of guaranteed asset protection waivers is not subject to title 57 of NRS governing insurance except for certain provisions of title 57 of NRS that give

the Commissioner of Insurance the authority to regulate and conduct investigations and hearings on violations of law. (NRS 679B.020-679B.125, 679B.130, 679B.136, 679B.140, 679B.159-679B.180, 679B.187-679B.220, 679B.310-679B.370) Section 16 also provides that provisions governing guaranteed asset protection waivers do not apply to a debt cancellation or debt suspension agreement regulated by certain federal laws, or to a policy of insurance. Section 17 of this bill prohibits a creditor who sells or offers for sale guaranteed asset protection waivers from including certain words in the name of the business of the creditor that could indicate that the creditor is an insurer.

Section 18 of this bill authorizes a creditor to offer to sell or sell a guaranteed asset protection waiver to a borrower who owes or expects to owe money to the creditor pursuant to a finance agreement. Section 18 also provides that the cost to purchase a guaranteed asset protection waiver which meets the specified requirements must be separately stated as part of the amount financed and must not be considered a finance charge or interest, thereby expressly providing that such guaranteed asset protection waivers, specifically, must have their purchase price included as part of the amount financed. Section 19 of this bill prohibits a creditor from requiring the purchase of a guaranteed asset protection waiver as a condition for the approval of credit, the terms of the credit or the terms of the sale or lease of a vehicle covered by the finance agreement. Section 20 of this bill requires certain information to be disclosed in a certain manner in a guaranteed asset protection waiver. Section 21 of this bill: (1) requires a guaranteed asset protection waiver to provide a free-look period in which a borrower may cancel a guaranteed asset protection waiver and receive a full refund; (2) requires a guaranteed asset protection waiver to allow cancellation after the free-look period; (3) requires a borrower to provide a written request for a refund after the cancellation of a guaranteed asset protection waiver outside of the free-look period in order to receive such a refund; and ~~[(3)]~~ (4) authorizes a creditor to apply any refund owed to the borrower because of the cancellation of a guaranteed asset protection waiver to the amount owed to the creditor pursuant to the finance agreement.

Section 22 of this bill requires a retail dealer of vehicles to purchase a policy of contractual liability insurance that insures the obligations of each guaranteed asset protection waiver that the dealer sells or offers for sale other than for a leased vehicle. Section 23 of this bill requires a creditor to maintain certain records. Section 24 of this bill requires a creditor to make records concerning guaranteed asset protection waivers available to the Commissioner to enable the Commissioner to enforce provisions governing guaranteed asset protection waivers. Sections 15 and 25 of this bill authorize the Commissioner to issue a cease and desist order to or impose a civil penalty against a person who violates any provision governing guaranteed asset protection waivers, except where a guaranteed asset protection waiver is sold in connection with a lease or sale of a vehicle for commercial use or

resale. Section 15 also exempts guaranteed asset protection waivers sold in connection with such sales and leases from requirements to disclose certain information.

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 25, 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 14, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Administrator" means a person who is responsible for administering a guaranteed asset protection waiver that is sold or offered for sale by a creditor.*

Sec. 4. *"Benefits" means a waiver, pursuant to a guaranteed asset protection waiver, of part or all of the amount due on a finance agreement after a total physical damage loss or unrecovered theft of a vehicle covered by the finance agreement.*

Sec. 5. *"Borrower" means a person who owes money to a creditor pursuant to a finance agreement.*

Sec. 6. *"Creditor" means a person to whom money is owed pursuant to a finance agreement, including, without limitation, the assignee of such an agreement.*

Sec. 7. *"Dealer" means a seller of a vehicle who provides or arranges for the provision of credit to the buyer of the vehicle for the purpose of financing the purchase of the vehicle.*

Sec. 8. *"Finance agreement" means:*

1. *A loan made to the buyer of a vehicle for the purpose of financing the purchase of the vehicle and that is secured by the vehicle.*

2. *A lease between a long-term lessee and a long-term lessor.*

3. *A retail installment contract, as defined in NRS 97.105, for the purchase of a vehicle.*

Sec. 9. *"Free-look period" means a period beginning on or after the effective date of a guaranteed asset protection waiver in which the borrower may cancel the guaranteed asset protection waiver with no penalty, fee or other cost.*

Sec. 10. *"Guaranteed asset protection waiver" means a contract pursuant to which a creditor, in exchange for separately stated consideration, agrees to waive part or all of the amount due to the creditor pursuant to a finance agreement in the event of a total physical damage loss or unrecovered theft of a vehicle covered by the finance agreement.*

Sec. 11. *"Lease" has the meaning ascribed to it in NRS 482.053.*

Sec. 12. *"Long-term lessee" has the meaning ascribed to it in NRS 482.053.*

Sec. 13. "Long-term lessor" has the meaning ascribed to it in NRS 482.053.

Sec. 14. "Vehicle" has the meaning ascribed to it in NRS 482.135, and includes, without limitation, any boat, recreational vehicle, all-terrain vehicle, trailer, personal watercraft or snowmobile.

Sec. 15. 1. The provisions of subsection 2 of section 18 of this act ~~and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 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this act and section 25 of this act do not apply to a guaranteed asset protection waiver offered for sale or sold in connection with a lease or retail installment transaction to a buyer or lessor who purchases or leases the vehicle solely or primarily for commercial use or resale.

2. As used in this section, "retail installment transaction" has the meaning ascribed to it in NRS 97.115.

Sec. 16. 1. Except as otherwise provided in this chapter, the marketing, issuance, sale, offering for sale, making, proposing to make and administration of guaranteed asset protection waivers are not subject to the provisions of title 57 of NRS, except, when applicable, the provisions of NRS 679B.020 to 679B.125, inclusive, 679B.130, 679B.136, 679B.140, 679B.159 to 679B.180, inclusive, 679B.187 to 679B.220, inclusive, and 679B.310 to 679B.370, inclusive.

2. A creditor, an administrator or any other person is not required to obtain a certificate of authority from the Commissioner pursuant to chapter 680A of NRS to issue, sell, offer for sale or administer guaranteed asset protection waivers.

3. The provisions of this chapter do not apply to a debt cancellation contract or debt suspension agreement offered in accordance with 12 C.F.R. Part 37 or 721 or to a policy of insurance.

Sec. 17. 1. Except as otherwise provided in this section, a creditor who sells or offers for sale guaranteed asset protection waivers shall not include in the name of the business of the creditor:

(a) The words "insurance," "casualty," "surety," "mutual" or any other word or term that implies that the creditor is engaged in the business of transacting insurance or is a surety company; or

(b) A name that is deceptively similar to the name or description of an insurer or surety company.

2. A creditor may include the word "guaranty" or a similar word in the name of the business of the creditor.

3. This section does not apply to a creditor who, before January 1, 2016, includes in the name of the business of the creditor a name that does not comply with the provisions of subsection 1. Such a creditor shall include in each guaranteed asset protection waiver the creditor sells or offers for sale a statement that the guaranteed asset protection waiver is not a contract of insurance.

Sec. 18. 1. Any creditor may offer to sell or sell a guaranteed asset protection waiver to a borrower who owes or expects to owe money to the

creditor pursuant to a finance agreement. A borrower may pay for a guaranteed asset protection waiver using a one-time payment or periodic payments.

2. Except as otherwise provided in section 15 of this act, any cost to a borrower for the purchase of a guaranteed asset protection waiver which is entered into in compliance with the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and any regulations adopted pursuant thereto, must be separately stated as part of the amount financed and must not be considered a finance charge or interest.

3. Upon the sale of a guaranteed asset protection waiver, the guaranteed asset protection waiver becomes a part of the finance agreement. A guaranteed asset protection waiver remains a part of a finance agreement if the finance agreement is assigned, sold or transferred by the creditor.

Sec. 19. A creditor shall not require the purchase of a guaranteed asset protection waiver as a condition for the approval of credit, the terms of the credit or the terms of the sale or lease of a vehicle covered by the finance agreement.

Sec. 20. 1. A guaranteed asset protection waiver must contain a conspicuous statement, printed in at least 12-point type that is larger than the surrounding text and with a heading that is printed in all capital letters, stating that:

(a) A guaranteed asset protection waiver is not a policy of liability or casualty insurance and does not satisfy the requirement to maintain liability insurance pursuant to NRS 485.185; and

(b) Failure to make a timely payment under the terms of the finance agreement may void the guaranteed asset protection waiver.

2. Except as otherwise provided in section 15 of this act, a guaranteed asset protection waiver must disclose, if applicable, in writing and in a clear and conspicuous manner:

~~1.~~ (a) The name and address of the creditor who sells the guaranteed asset protection waiver and the borrower who purchases the guaranteed asset protection waiver;

~~2.~~ (b) The identity of any administrator, if different from the creditor;

~~3.~~ (c) The purchase price and the terms of the guaranteed asset protection waiver, including, without limitation, the requirements for and conditions of coverage and any exclusions associated with the guaranteed asset protection waiver;

~~4.~~ (d) That the borrower will be provided a full refund of the purchase price of the guaranteed asset protection waiver if the waiver is cancelled within the free-look period and benefits have not been provided;

~~5.~~ (e) The manner in which the borrower may obtain benefits under a guaranteed asset protection waiver, including, without limitation, a telephone number and address that the borrower may use to apply for benefits;

~~f 6. Whether the guaranteed asset protection waiver may be cancelled after the free look period and, if so, the conditions under which the guaranteed asset protection waiver may be cancelled and the manner in which the borrower may request a cancellation;~~

~~7. The method used to calculate any refund of the purchase price of the guaranteed asset protection waiver if the guaranteed asset protection waiver is cancelled or the finance agreement is terminated;~~ and

~~f8. f~~ f Notice of the provisions of sections 19 and 21 of this act ~~f. f~~, the manner in which a borrower may request cancellation of a guaranteed asset protection waiver after the free-look period and the method that will be used to calculate any refund due to the borrower pursuant to section 21 of this act.

Sec. 21. 1. A guaranteed asset protection waiver must provide a free-look period of not less than 30 days. If the guaranteed asset protection waiver is cancelled within this period and no benefits have been provided, the creditor must refund the full purchase price of the guaranteed asset protection waiver.

2. ~~If a~~ A borrower must be able to cancel a guaranteed asset protection waiver ~~fprovides for a refund of any part of the purchase price if the guaranteed asset protection waiver is cancelled~~ after the free-look period.

~~f. f~~ f If a guaranteed asset protection waiver is cancelled after the free-look period and no benefits have been provided, the creditor must refund any unearned portion of the purchase price of the guaranteed asset protection waiver in the manner specified in the guaranteed asset protection waiver.

3. To request a full or partial refund of the purchase price of a guaranteed asset protection waiver that is cancelled after the free-look period, the borrower must provide a written request for a refund to the person specified in the terms of the guaranteed asset protection waiver. If the guaranteed asset protection waiver is cancelled because the finance agreement is terminated, the borrower must provide the request within 90 days after the termination of the finance agreement.

~~f3. f~~ 4. The creditor may apply any refund owed to the borrower because of the cancellation of a guaranteed asset protection waiver, including, without limitation, cancellation during the free-look period or cancellation caused by a default on the finance agreement or the repossession of the vehicle associated with the finance agreement, to any amount still owed to the creditor under the finance agreement.

Sec. 22. 1. A dealer who sells or offers to sell guaranteed asset protection waivers shall purchase a policy of contractual liability insurance that insures the obligations of each guaranteed asset protection waiver the dealer sells or offers for sale other than a guaranteed asset protection waiver concerning a leased vehicle. Any other type of creditor who sells or offers to sell guaranteed asset protection waivers may purchase such a policy.

2. A policy of contractual liability insurance purchased pursuant to this section must:

(a) *Be issued by an insurer who is authorized to transact insurance in this State or pursuant to the provisions of chapter 685A of NRS.*

(b) *State the obligation of the insurer to reimburse or pay to the creditor any amount that the creditor is obligated to waive pursuant to the guaranteed asset protection waivers insured by the policy.*

(c) *Provide coverage for any person to whom a guaranteed asset protection waiver is assigned, including, without limitation, as part of a finance agreement.*

(d) *Remain in effect until the policy is cancelled or terminated.*

3. *The cancellation or termination of a policy of contractual liability insurance purchased pursuant to this section must not reduce the responsibility of the insurer to provide coverage for guaranteed asset protection waivers:*

(a) *That were issued by the insured creditor before the date of the cancellation or termination; and*

(b) *For which the creditor has paid for coverage.*

Sec. 23. 1. *A creditor or the designee of a creditor shall maintain records of the transactions governed by this chapter. The records must include, without limitation:*

(a) *A copy of each type of guaranteed asset protection waiver that the creditor sells or offers for sale;*

(b) *The name and address of each borrower who possesses a guaranteed asset protection waiver under which the creditor has a duty to perform, to the extent that the creditor knows the name and address of each borrower; and*

(c) *The date and a description of each claim made by a borrower under a guaranteed asset protection waiver.*

2. *A creditor or the designee of a creditor shall retain all records relating to a guaranteed asset protection waiver for at least 1 year after the contract has expired.*

3. *The records required to be maintained pursuant to this section may be stored on a computer disc or other storage device for a computer from which the records may be readily printed.*

Sec. 24. *A creditor shall, within 14 business days after a request by the Commissioner, make available to the Commissioner for inspection any accounts, books and records concerning any guaranteed asset protection waiver sold or offered for sale by the creditor which are reasonably necessary to enable the Commissioner to determine whether the creditor is in compliance with the provisions of this chapter.*

Sec. 25. *Except as otherwise provided in section 15 of this act:*

1. *The Commissioner may order any person, including, without limitation, a creditor or administrator, to cease and desist any conduct that violates any provision of this chapter.*

2. *A person who violates any provision of this chapter may, after a hearing conducted pursuant to NRS 679B.310 to 679B.370, inclusive, be*

assessed a civil penalty by the Commissioner of not more than \$500 for each act or violation, not to exceed an aggregate amount of \$10,000 for violations of a similar nature. For the purposes of this section, violations shall be deemed to be of a similar nature if the violations consist of the same or similar conduct, regardless of the number of times the conduct occurred.

Sec. 26. The amendatory provisions of this act do not apply to any guaranteed asset protection waiver that becomes effective before January 1, 2016.

Sec. 27. This act becomes effective:

1. 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

2. On January 1, 2016, for all other purposes.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 460 makes two changes to Senate Bill No. 253. Provides that a borrower may cancel a guaranteed asset protection (GAP) waiver after the free-look period, and if no benefits have been provided, the creditor must refund the unearned portion of the purchase price and the method used to calculate that refund. The borrower must make a written request for a refund. Requires a GAP waiver to contain a disclosure in writing in at least 12-point type that is larger than the surrounding text stating that a GAP waiver is not liability or casualty motor vehicle insurance and that failure to make a timely payment under the terms of the vehicle finance agreement may result in the GAP waiver being voided.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 374.

Bill read second time.

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

Amendment No. 485.

SUMMARY—Revises provisions relating to energy ~~[and]~~ conservation standards. (BDR 58-800)

AN ACT relating to energy ~~[and]~~ conservation standards; revising provisions relating to certain energy conservation standards adopted by the Director of the Office of Energy and the governing body of a local government; providing that certain design professionals are not subject to disciplinary action for complying with certain ~~[building and design codes;]~~ energy conservation standards; providing that the adoption of certain energy conservation standards by the Director and the governing body of a local government shall not be deemed to prohibit the Director or governing body from approving and implementing certain energy efficiency programs; ~~[requiring the Public Utilities Commission of Nevada to establish by regulation a program under which certain customers of an electric utility may apply for and receive a reduction in the costs to the customer for electric service;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Office of Energy and the governing body of a local government to adopt certain standards for the conservation of energy in buildings. (NRS 701.220) Section 1 of this bill prohibits the Director and a governing body from adopting certain standards ~~[relating to a reduction in]~~ mandating a deviation from certain requirements for air changes per hour in an applicable climate zone of a building. Sections 1, 3 and 4 of this bill provide that certain design professionals are not subject to disciplinary action by their respective licensing boards for complying with ~~[certain building and design codes]~~ the energy conservation standards adopted by a governing body, [] pursuant to section 1. Section 1 further provides that the adoption of certain energy conservation standards by the Director and a governing body shall not be deemed to prohibit the Director or governing body from approving and implementing certain energy efficiency programs related to new residential construction.

~~[Existing law generally provides for the regulation of public utilities by the Public Utilities Commission of Nevada, including the approval of rates for electric service. (Chapter 704 of NRS) Section 2 of this bill requires the Commission to establish by regulation a program under which a person who is a customer of an electric utility and who resides with and has legal custody of a child who utilizes life sustaining equipment may apply to and receive from the electric utility a reduction in the costs to the person for electric service.]~~

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

Section 1. NRS 701.220 is hereby amended to read as follows:

701.220 1. The Director shall adopt regulations for the conservation of energy in buildings, including manufactured homes. ~~[Such]~~ *Except as otherwise provided in subsection 5, such* regulations must include the adoption of the most recent version of the International Energy Conservation Code, issued by the International Code Council, and any amendments to the Code that will not materially lessen the effective energy savings requirements of the Code and are deemed necessary to support effective compliance and enforcement of the Code, and must establish the minimum standards for:

- (a) The construction of floors, walls, ceilings and roofs;
- (b) The equipment and systems for heating, ventilation and air-conditioning;
- (c) Electrical equipment and systems;
- (d) Insulation; and
- (e) Other factors which affect the use of energy in a building.

➡ The regulations must provide for the adoption of the most recent version of the International Energy Conservation Code, and any amendments thereto, every third year.

2. The Director may exempt a building from a standard if the Director determines that application of the standard to the building would not accomplish the purpose of the regulations.

3. The regulations must authorize allowances in design and construction for sources of renewable energy used to supply all or a part of the energy required in a building.

4. The standards adopted by the Director are the minimum standards for the conservation of energy and energy efficiency in buildings in this State. The governing body of a local government that is authorized by law to adopt and enforce a building code:

(a) Except as otherwise provided in paragraph (b), shall incorporate the standards adopted by the Director in its building code;

(b) ~~May~~ *Except as otherwise provided in subsection 5, may* adopt higher or more stringent standards and must report any such higher or more stringent standards, along with supporting documents, to the Director; and

(c) Shall enforce the standards adopted.

5. *The Director or the governing body of a local government shall not adopt a standard ~~requiring a reduction in~~ which mandates a deviation from the requirements for air changes per hour in an applicable climate zone ~~that exceeds by more than 20 percent any requirement for a reduction in air changes per hour as prescribed in R402.4.1 to R402.4.4, inclusive, of the 2009~~ as prescribed by the most recent version of the International Energy Conservation Code ~~+~~ adopted by the Director pursuant to subsection 1 that is:*

(a) Less than 4 1/2 but not more than 7 air changes per hour for an attached residence or any residence for which fire sprinklers are installed;
or

(b) Less than 4 but not more than 7 air changes per hour for any residence other than a residence described in paragraph (a).

6. *A design professional who complies with the standards adopted by the ~~Director pursuant to this section or the building and design codes adopted by the~~ governing body of a local government pursuant to this section is not subject to disciplinary action by the State Board of Architecture, Interior Design and Residential Design pursuant to paragraph (f) of subsection 1 of NRS 623.270 or the State Board of Professional Engineers and Land Surveyors pursuant to NRS 625.410.*

7. *Nothing in this section shall be deemed to prohibit the Director or the governing body of a local government from approving and implementing a program for the purpose of increasing energy efficiency in new residential construction through the use of sample inspections.*

8. The Director shall solicit comments regarding the adoption of regulations pursuant to this section from:

- (a) Persons in the business of constructing and selling homes;
- (b) Contractors;
- (c) Public utilities;

(d) Local building officials; and

(e) The general public,

↪ before adopting any regulations. The Director must conduct at least three hearings in different locations in the State, after giving 30 days' notice of each hearing, before the Director may adopt any regulations pursuant to this section.

9. *As used in this section, "design professional" means a person who holds a professional license or certificate issued pursuant to chapter 623 or 625 of NRS.*

Sec. 2. ~~[Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The Commission shall establish by regulation a program under which a person who is a customer of an electric utility and who resides with and has legal custody of a child who utilizes life sustaining equipment may apply for and receive from the electric utility a reduction in the cost to the person for electric service in an amount not to exceed 10 percent of the base rate applicable to residential customers of the electric utility.~~

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

~~(a) "Child" means a person who is under 18 years of age.~~

~~(b) "Life sustaining equipment" means equipment which utilizes mechanical or artificial means to sustain, restore or supplant a vital function, or mechanical equipment that is relied upon for mobility both within and outside of buildings. The term includes, without limitation, respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, intermittent positive pressure breathing machines and motorized wheelchairs.~~ (Deleted by amendment.)

Sec. 3. NRS 623.270 is hereby amended to read as follows:

623.270 1. ~~[The]~~ Except as otherwise provided in subsection 6 of NRS 701.220, the Board may place the holder of any certificate of registration issued pursuant to the provisions of this chapter on probation, publicly reprimand the holder of the certificate, impose a fine of not more than \$10,000 against him or her, suspend or revoke his or her license, impose the costs of investigation and prosecution upon him or her or take any combination of these disciplinary actions for any of the following acts:

(a) The certificate was obtained by fraud or concealment of a material fact.

(b) The holder of the certificate has been found guilty by the Board or found guilty or guilty but mentally ill by a court of justice of any fraud, deceit or concealment of a material fact in his or her professional practice, or has been convicted by a court of justice of a crime involving moral turpitude.

(c) The holder of the certificate has been found guilty by the Board of incompetency, negligence or gross negligence in:

- (1) The practice of architecture or residential design; or
- (2) His or her practice as a registered interior designer.

(d) The holder of a certificate has affixed his or her signature or seal to plans, drawings, specifications or other instruments of service which have not been prepared by the holder of the certificate or in his or her office, or under his or her responsible control, or has permitted the use of his or her name to assist any person who is not a registered architect, registered interior designer or residential designer to evade any provision of this chapter.

(e) The holder of a certificate has aided or abetted any unauthorized person to practice:

- (1) Architecture or residential design; or
- (2) As a registered interior designer.

(f) The holder of the certificate has violated any law, regulation or code of ethics pertaining to:

- (1) The practice of architecture or residential design; or
- (2) Practice as a registered interior designer.

(g) The holder of a certificate has failed to comply with an order issued by the Board or has failed to cooperate with an investigation conducted by the Board.

2. The conditions for probation imposed pursuant to the provisions of subsection 1 may include, but are not limited to:

- (a) Restriction on the scope of professional practice.
- (b) Peer review.
- (c) Required education or counseling.
- (d) Payment of restitution to each person who suffered harm or loss.

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

4. The Board shall not privately reprimand the holder of any certificate of registration issued pursuant to this chapter.

5. As used in this section:

(a) "Gross negligence" means conduct which demonstrates a reckless disregard of the consequences affecting the life or property of another person.

(b) "Incompetency" means conduct which, in:

- (1) The practice of architecture or residential design; or
- (2) Practice as a registered interior designer,

↪ demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation.

(c) "Negligence" means a deviation from the normal standard of professional care exercised generally by other members in:

- (1) The profession of architecture or residential design; or
- (2) Practice as a registered interior designer.

Sec. 4. NRS 625.410 is hereby amended to read as follows:

625.410 ~~[The]~~ *Except as otherwise provided in subsection 6 of NRS 701.220, the Board may take disciplinary action against a licensee, an applicant for licensure, an intern or an applicant for certification as an intern for:*

1. The practice of any fraud or deceit in obtaining or attempting to obtain or renew a license or cheating on any examination required by this chapter.
2. Any gross negligence, incompetency or misconduct in the practice of professional engineering as a professional engineer or in the practice of land surveying as a professional land surveyor.
3. Aiding or abetting any person in the violation of any provision of this chapter or regulation adopted by the Board.
4. Conviction of or entry of a plea of nolo contendere to any crime an essential element of which is dishonesty or which is directly related to the practice of engineering or land surveying.
5. A violation of any provision of this chapter or regulation adopted by the Board.
6. Discipline by another state or territory, the District of Columbia, a foreign country, the Federal Government or any other governmental agency, if at least one of the grounds for discipline is the same or substantially equivalent to any ground contained in this chapter.
7. Practicing after the license of the professional engineer or professional land surveyor has expired or has been suspended or revoked.
8. Failing to comply with an order issued by the Board.
9. Failing to provide requested information within 30 days after receipt of a request by the Board or its investigators concerning a complaint made to the Board.

Sec. 5. This act becomes effective ~~for~~

~~1. 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~~

~~2. On July 1, 2015, for all other purposes.~~

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 485 makes three changes to Senate Bill No. 374: 1) prohibits the Director of the Office of Energy or the governing body of a local government from adopting certain standards mandating requirements for certain air changes per hour in an applicable climate zone pursuant to any adopted version of the International Energy Conservation Code; 2) provides that a design professional who complies with the standards adopted by the governing body of a local government pursuant to this section is not subject to disciplinary action by the professional's licensing board; and 3) deletes the requirement of the Public Utilities Commission of Nevada to establish a program to offer a reduction in electric utility costs to a customer who resides with and has legal custody of a child who utilizes life-sustaining equipment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 391.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 511.

SUMMARY—Revises provisions governing educational instruction in the subject of reading. (BDR 34-644)

AN ACT relating to education; requiring the board of trustees of each school district and the governing body of each charter school to prepare a plan to improve the literacy of pupils enrolled in certain grades; requiring the principal of each public elementary school to designate a learning strategist to train and assist teachers in providing intensive instruction to pupils who have been identified as deficient in the subject area of reading; requiring certain teachers at public schools to complete professional development concerning the subject area of reading; requiring certain interventions for pupils enrolled in kindergarten or grade 1, 2 or 3 who do not achieve adequate proficiency in reading; prohibiting a public school from promoting a pupil to grade 4 if the pupil does not achieve proficiency in reading; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 5 of this bill requires the board of trustees of each school district or the governing body of a charter school to prepare a plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 and submit the plan to the Department of Education for its approval.

Section 6 of this bill requires the principal of a public elementary school, including, without limitation, a charter school, to designate a licensed teacher employed by the school who has demonstrated leadership abilities to serve as a learning strategist to train and assist teachers in providing intensive instruction to pupils who have been identified as deficient in the subject area of reading. Section 6 also : (1) authorizes a school district or charter school to provide additional compensation to learning strategists and teachers whose overall performance is determined to be "highly effective" under the statewide performance evaluation system; and (2) requires each teacher employed by a school district or charter school to teach kindergarten or grade 1, 2, 3 or 4 to complete professional development prescribed by the State Board of Education concerning the subject area of reading.

Section 8 of this bill requires the principal of a school to provide notice that a pupil exhibits a deficiency in the subject area of reading to the parent or guardian of a pupil enrolled in kindergarten or grade 1, 2 or 3. Section 9 of this bill requires a public elementary school to: (1) establish a plan to monitor the progress of a pupil enrolled in kindergarten or grade 1, 2 or 3 who has a deficiency in the subject area of reading ; ~~to: (1) receive intensive instruction in reading;~~ and (2) ~~have his or her~~ assess the proficiency in reading ~~[assessed]~~ of a pupil for whom such a plan is established at the beginning of the next school year.

Existing law authorizes a pupil enrolled in a public school, other than a charter school, to be retained in the same grade upon joint agreement by the pupil's teacher and principal. (NRS 392.125) Existing law also requires the governing body of a charter school to adopt rules for the academic retention

of pupils who are enrolled in the charter school. (NRS 386.583) Section 10 of this bill provides that, unless a pupil receives an exemption by the superintendent of schools of the school district or the governing body of the charter school, as recommended by the principal, a pupil enrolled in grade 3 must be retained in grade 3 rather than promoted to grade 4 if the pupil does not obtain the score prescribed by the State Board on the criterion-referenced examination in reading. Section 10 also: (1) provides certain good-cause exemptions for certain pupils to allow them to be promoted to grade 4 even if they did not obtain that score; and (2) requires the State Board to prescribe an alternate examination for pupils who do not obtain that score. Section 14 of this bill makes conforming changes. Section 3 of this bill similarly provides that a pupil enrolled in grade 3 at a charter school must be retained in grade 3 rather than promoted to grade 4 if the pupil does not obtain the score presented by the State Board on the criterion-referenced examination unless the pupil receives a good-cause exemption.

Section 11 of this bill requires the principal of a school to: (1) provide notice to the parent or legal guardian of a pupil who will be retained in grade 3; (2) develop a plan to monitor the progress of the pupil in achieving proficiency in reading; and (3) ensure that the pupil receives intensive instructional services in the subject area of reading. Section 11 requires the board of trustees of each school district or the governing body of a charter school to prescribe the intensive instructional services that the principal of a school is required to implement for a pupil who is retained in grade 3. Section 11 ~~also~~ requires such instructional services to be provided by a teacher who is: (1) different than the teacher who provided instructional services to the pupil during the immediately preceding school year; and (2) highly effective, as demonstrated by pupil performance data and performance evaluations. Section 11 also authorizes such instructional services to be provided by a teacher who is the same teacher who provided instructional services to the pupil during the immediately preceding school year in certain circumstances.

Section 12 of this bill requires the principal of a school to offer the parent or legal guardian of a pupil who is retained in grade 3 certain additional instructional options. Sections 3 and 13 of this bill require the board of trustees of each school district and the governing body of a charter school to prepare a report concerning the number and percentage of pupils who are retained in grade 3 for deficiency in reading and: (1) submit the report to the Department; and (2) post the report on the Internet website maintained by the school district or charter school, as applicable.

Section 15 of this bill makes an appropriation for Fiscal Year 2015-2016 and Fiscal Year 2016-2017 for distribution to elementary schools. Section 15 requires schools that receive an allocation of money from the appropriation to use the money for the literacy programs in kindergarten and grades 1, 2 and 3 to support school-based efforts to ensure all pupils are proficient in reading by the end of the third grade. Section 15 requires the board of

trustees of a school district and the governing body of a charter school that receives a grant of money to prepare and submit to the Department of Education a report that includes: (1) a description of the programs or services for which the money was used; and (2) the number of pupils who participated in a program or received services. Section 15 also requires the Department of Education to prepare a report concerning the programs for which the money is used and submit the report and certain recommendations to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature and to the Governor.

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

Section 1. NRS 385.3481 is hereby amended to read as follows:

385.3481 1. The annual report of accountability prepared pursuant to NRS 385.347 must include information on the attendance, truancy and transiency of pupils, including, without limitation:

(a) Records of the attendance and truancy of pupils in all grades, including, without limitation:

(1) The average daily attendance of pupils, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(2) For each elementary school, middle school and junior high school in the district, including, without limitation, each charter school sponsored by the district that provides instruction to pupils enrolled in a grade level other than high school, information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

(b) The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033 , ~~for~~ 392.125 ~~or~~ *or section 10 of this act*, for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district.

(c) The transiency rate of pupils for each school in the district and the district as a whole, including, without limitation, each charter school sponsored by the district. For the purposes of this paragraph, a pupil is not transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

(d) The number of habitual truants reported for each school in the district and for the district as a whole, including, without limitation, the number who are:

(1) Reported to an attendance officer, a school police officer or a local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144;

(2) Referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144; and

(3) Referred for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2 of NRS 392.144.

2. On or before September 30 of each year:

(a) The board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required by paragraph (a) of subsection 1.

(b) The State Public Charter School Authority and each college or university within the Nevada System of Higher Education that sponsors a charter school shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in the charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3 of NRS 385.347.

Sec. 2. NRS 385.3583 is hereby amended to read as follows:

385.3583 The annual report of accountability prepared by the State Board pursuant to NRS 385.3572 must include information on the attendance, truancy and transiency of pupils, including, without limitation:

1. For all elementary schools, junior high schools and middle schools, the rate of attendance, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

2. The number of pupils in each grade who are retained in the same grade pursuant to NRS 392.033, ~~for~~ 392.125 ~~or~~ *or section 10 of this act*, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole.

3. The transiency rate of pupils, reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole. For the purposes of this subsection, a pupil is not a transient if the pupil is transferred to a different school within the school district as a result of a change in the zone of attendance by the board of trustees of the school district pursuant to NRS 388.040.

4. The number of habitual truants reported for each school district, including, without limitation, each charter school in the district, and for this State as a whole, including, without limitation, the number who are:

(a) Reported to an attendance officer, a school police officer or a local law enforcement agency pursuant to paragraph (a) of subsection 2 of NRS 392.144;

(b) Referred to an advisory board to review school attendance pursuant to paragraph (b) of subsection 2 of NRS 392.144; and

(c) Referred for the imposition of administrative sanctions pursuant to paragraph (c) of subsection 2 of NRS 392.144.

Sec. 3. NRS 386.583 is hereby amended to read as follows:

386.583 1. The governing body of a charter school shall adopt rules for the academic retention of pupils who are enrolled in the charter school ~~that are consistent with sections 8, 10 and 11 of this act.~~ The rules must ~~prescribe~~ :

(a) *Prescribe the conditions under which a pupil may be retained in the same grade rather than promoted to the next higher grade for the immediately succeeding school year.*

(b) *Require a pupil enrolled in grade 3 to be retained in the same grade rather than promoted to grade 4 when required pursuant to section 10 of this act.*

2. *On or before September 1 of each year, the governing body of each charter school shall:*

(a) *Prepare a report concerning the number and percentage of pupils at the charter school who were retained in grade 3 pursuant to section 10 of this act for a deficiency in the subject area of reading;*

(b) *Submit a copy of the report to the Department; and*

(c) *Post the report on the Internet website maintained by the charter school and otherwise make the report available to the parents and legal guardians of pupils enrolled in the charter school and the general public.*

Sec. 4. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.

Sec. 5. 1. *The board of trustees of each school district and the governing body of each charter school shall prepare a plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3. Such a plan must include, without limitation:*

(a) *A program to provide intensive instruction to pupils who have been identified as deficient in the subject area of reading to ensure that those pupils achieve adequate proficiency in that subject area. Such a program must include, without limitation, regularly scheduled reading sessions in small groups and specific instruction on phonological and phonemic awareness, decoding skills and reading fluency;*

(b) *Procedures for assessing a pupil's proficiency in the subject area of reading ~~during~~ using valid and reliable assessments that have been approved by the State Board by regulation:*

(1) Within the first 30 days of school after the pupil enters kindergarten or upon enrollment in kindergarten if the pupil enrolls after that period; and

(2) During grades 1, 2 and 3;

(c) *A program to improve the proficiency in reading of pupils who are limited English proficient; and*

(d) *Procedures for facilitating collaboration between learning strategists and classroom teachers.*

2. *The board of trustees of each school district or the governing body of a charter school, as applicable, shall ~~submit~~ :*

(a) Submit its plan to the Department for approval on or before the date prescribed by the Department on a form prescribed by the Department ~~+~~;
and

(b) Make such revisions to the plan as the Department determines are necessary.

Sec. 6. 1. The principal of a public elementary school, including, without limitation, a charter school, shall designate a licensed teacher employed by the school who has demonstrated leadership abilities to serve as a learning strategist to train and assist teachers at the school to provide intensive instruction to pupils who have been identified as deficient in the subject area of reading.

2. A school district or charter school may provide additional compensation to:

(a) A licensed teacher designated as a learning strategist pursuant to this section; or

(b) A teacher who is employed by a school district or charter school to teach kindergarten or grade 1, 2, 3 or 4 whose overall performance is determined to be highly effective under the statewide performance evaluation system established by the State Board pursuant to NRS 391.465.

3. Each teacher employed by a school district or charter school to teach kindergarten or grade 1, 2, 3 or 4 shall complete professional development provided by a learning strategist designated pursuant to subsection 1 in the subject area of reading.

~~3-4~~ 4. The State Board shall prescribe by regulation:

(a) Any training or professional development that a learning strategist is required to successfully complete;

(b) Any professional development that a teacher employed by a school district or charter school to teach kindergarten or grade 1, 2, 3 or 4 is required to receive from a learning strategist in the subject area of reading; and

(c) The duties and responsibilities of a learning strategist.

Sec. 7. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 13, inclusive, of this act.

Sec. 8. If a pupil enrolled at a public elementary school in kindergarten or grade 1, 2 or 3 exhibits a deficiency in the subject area of reading based upon state or local assessments or upon the observations of the pupil's teacher, the principal of the school must provide written notice of the deficiency to the parent or legal guardian of the pupil ~~+~~ within 30 days after the date on which the deficiency is discovered. The written notice must, without limitation:

1. Identify the educational programs and services that the pupil will receive to improve the pupil's proficiency in the subject area of reading, including, without limitation, the programs and services included in the plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 that has been approved by the Department pursuant to section 5 of this act;

2. Explain that if the pupil does not achieve adequate proficiency in the subject area of reading before the completion of grade 3, the pupil will be retained in grade 3 rather than promoted to grade 4, unless the pupil receives a good-cause exemption pursuant to section 10 of this act;

3. Describe the strategies which the parent or legal guardian may use at home to help improve the proficiency of the pupil in the subject area of reading;

4. Explain that the criterion-referenced examination in the subject area of reading administered pursuant to NRS 389.550 is not the only factor used to determine whether the pupil will be retained in grade 3 and that other options are available for the pupil to demonstrate proficiency if the pupil is eligible for a good-cause exemption ~~set forth in subsection 2 of~~ pursuant to section 10 of this act; ~~and~~

5. Describe the policy and specific criteria adopted by the board of trustees of the school district or governing body of a charter school, as applicable, pursuant to section 11 of this act regarding the promotion of a pupil to grade 4 at any time during the school year if the pupil is retained in grade 3 pursuant to section 10 of this act ~~and~~;

6. Include information regarding the English literacy development of a pupil who is limited English proficient; and

7. Describe the strategies which the parent or legal guardian may use at home to help improve the English literacy of a pupil who is limited English proficient.

Sec. 9. 1. A public elementary school that ~~determines~~ has notified the parent or legal guardian of a pupil that ~~it~~, based upon the results of state or local assessments, it has been determined that the pupil ~~enrolled in kindergarten or grade 1, 2 or 3 at the school~~ has a deficiency in the subject area of reading pursuant to section 8 of this act shall ~~ensure~~, within 30 days after providing such notice, establish a plan to monitor the progress of the pupil in the subject area of reading.

2. A plan to monitor the progress of a pupil in the subject area of reading must be established by the teacher of the pupil and any other relevant school personnel and approved by the principal of the school and the parents of the pupil. The plan must include a description of any intervention services that will be provided to the pupil to correct the deficiency and must include that the pupil ~~is~~

~~1. Receives will receive intensive instruction in reading to ensure the pupil achieves adequate proficiency in reading. Such instruction must include, without limitation, the programs and services included in the plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 approved by the Department pursuant to section 5 of this act.~~

~~2. Has his or her~~

3. A school that establishes a plan to monitor the progress of a pupil in the subject area of reading shall assess the proficiency of the pupil in the subject area of reading ~~assessed~~ at the beginning of the next school year

~~after receiving the intensive instruction described in subsection 1 in the manner prescribed by the plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 approved by the Department pursuant to section 5 of this act, the plan is established pursuant to this section.~~

Sec. 10. 1. Except as otherwise provided in this section, a pupil enrolled in grade 3 must be retained in grade 3 rather than promoted to grade 4 if the pupil does not obtain a score in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 389.550 that meets the passing score prescribed by the State Board pursuant to subsection ~~4~~ 7.

2. The superintendent of schools of a school district or the governing body of a charter school, as applicable, may authorize the promotion of a pupil to grade 4 who would otherwise be retained in grade 3 only if the superintendent or governing body, as applicable, approves a good-cause exemption for the pupil ~~receives a good cause~~ upon a determination by the principal of the school pursuant to subsection 4 that the pupil is eligible for such an exemption.

3. A good-cause exemption must be approved for a pupil who previously was retained in grade 3. Any other pupil is eligible for a good-cause exemption if the pupil:

(a) Demonstrates an acceptable level of proficiency in reading on an alternative standardized reading assessment approved by the State Board;

(b) Demonstrates, through a portfolio of the pupil's work, proficiency in reading at grade level, as evidenced by demonstration of mastery of the academic standards in reading beyond the retention level;

(c) Is limited English proficient and has received less than 2 years of instruction in a program of instruction that teaches English as a second language;

(d) Received intensive remediation in the subject area of reading for 2 or more years but still demonstrates a deficiency in reading and was previously retained in kindergarten or grade 1 ~~1~~ or 2 ~~for 3~~ for a total of 2 years; ~~for any one grade;~~

(e) Is a pupil with a disability and his or her individualized education program indicates that the pupil's participation in the criterion-referenced examinations administered pursuant to NRS 389.550 is not appropriate; or

(f) Is a pupil with a disability and:

(1) He or she participates in the criterion-referenced examinations administered pursuant to NRS 389.550;

(2) His or her individualized education program or plan developed in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, documents that the pupil has received intensive remediation in reading for more than 2 years, but he or she still demonstrates a deficiency in reading; and

(3) He or she was previously retained in kindergarten or grade 1, 2 or 3.

~~{3-}~~ 4. The ~~{parent or legal guardian of a}~~ principal of a school in which a pupil ~~{may request}~~ who may be retained in grade 3 pursuant to subsection 1 is enrolled shall consider the factors set forth in subsection 3 and determine whether the pupil is eligible for a good-cause exemption ~~;~~ ~~{pursuant to subsection 2. by submitting a written request to the principal of the school. Upon receipt of such a request:~~

~~—(a) The~~ In making the determination, the principal must consider documentation provided by the pupil's teacher ~~{must provide documentation to the principal of the school in which the pupil is enrolled}~~ indicating whether the promotion of the pupil is appropriate ~~{,}~~ based upon the record of the pupil. Such documentation must only consist of the existing plan for monitoring the progress of the pupil, the pupil's individualized education program, if applicable, and the pupil's plan in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, if applicable ~~. ~~{, the pupil's report card and the pupil's portfolio of work.~~~~

~~—(b) Upon receipt of the documentation pursuant to paragraph (a), the principal must review the documentation and discuss the recommendations with the pupil's teacher.~~

~~—(c)~~ If the principal determines that promotion of the pupil to grade 4 is appropriate, the principal must submit a written recommendation to the superintendent of schools of the school district or to the governing body of the charter school, as applicable.

~~{(d)}~~ The superintendent of schools or the governing body of the charter school, as applicable, shall approve or deny the recommendation of the principal and provide written notice of the approval or denial to the principal.

~~{4-}~~ 5. A principal who determines that a pupil is eligible for a good-cause exemption shall notify the parent or legal guardian of the pupil whether the superintendent of schools of the school district or the governing body of the charter school, as applicable, approves the good-cause exemption.

6. The principal of a school in which a pupil for whom a good-cause exemption is approved and who is promoted to grade 4 must ensure that the pupil continues to receive intensive instruction in the subject area of reading. Such instruction must include, without limitation, strategies based upon scientifically based research that will improve proficiency in the subject area of reading.

7. The State Board shall prescribe by regulation:

(a) The score which a pupil enrolled in grade 3 must obtain in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 389.550 to be promoted to grade 4 ~~{,}~~ without a good-cause exemption; and

(b) An alternate examination for administration to pupils enrolled in grade 3 who do not obtain the passing score in the subject area of reading on the criterion-referenced examination administered pursuant to NRS 389.550

and the passing score such a pupil must obtain on the alternate examination to be promoted to grade 4 ~~4~~

~~5.7] without a good-cause exemption.~~

8. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 11. 1. If a pupil will be retained in grade 3 pursuant to section 10 of this act, the principal of the school must:

(a) Provide written notice to the parent or legal guardian of the pupil that the pupil will be retained in grade 3 ~~unless the pupil receives a good-cause exemption pursuant to section 10 of this act.~~ The written notice must include, without limitation, a description of the intensive instructional services in the subject area of reading that the pupil will receive ~~if he or she is retained~~ to improve the proficiency of the pupil in that subject area.

(b) Develop a plan to monitor the progress of the pupil ~~in achieving proficiency~~ in the subject area of reading.

(c) Require the teacher of the pupil to develop a portfolio of the pupil's work in the subject area of reading, which must be updated as necessary to reflect progress made by the pupil.

(d) Ensure that the pupil receives intensive instructional services in the subject area of reading that are designed to improve the pupil's proficiency in the subject area of reading, including, without limitation:

(1) Programs and services included in the plan to improve the literacy of pupils enrolled in kindergarten and grades 1, 2 and 3 approved by the Department pursuant to section 5 of this act;

(2) Instruction for at least 90 minutes each school day based upon scientifically based reading instruction research; and

(3) Intensive instructional services prescribed by the board of trustees of the school district pursuant to subsection 2, as determined appropriate for the pupil.

2. The board of trustees of each school district or the governing body of a charter school, as applicable, shall:

(a) Review and evaluate the plans for monitoring the progress of pupils developed pursuant to subsection 1.

(b) Prescribe the intensive instructional services in the subject area of reading which the principal of a school must implement as determined appropriate for a pupil who is retained in grade 3 pursuant to section 10 of this act, which may include, without limitation:

(1) Instruction that is provided in small groups;

(2) Instruction provided in classes with reduced pupil-teacher ratios;

(3) A timeline for frequently monitoring the progress of the pupil;

(4) Tutoring and mentoring;

(5) Classes which are designed to increase the ability of pupils to transition from grade 3 to grade 4;

(6) Instruction provided through an extended school day, school week or school year;

(7) Programs to improve a pupil's proficiency in reading which are offered during the summer; or

(8) Any combination of the services set forth in subparagraphs (1) to (7), inclusive.

3. ~~The~~ Except as otherwise provided in subsection 4, the intensive instructional services in the subject area of reading required by this section must be provided to the pupil by a teacher:

(a) Who is different than the teacher who provided instructional services to the pupil during the immediately preceding school year; and

(b) Who has been determined to be highly effective, as demonstrated by pupil performance data and performance evaluations.

4. The intensive instructional services in the subject area of reading required by this section may be provided to the pupil by the same teacher who provided instructional services to the pupil during the immediately preceding school year if a different teacher who meets the requirements of paragraph (b) of subsection 3 is not reasonably available and the pupil:

(a) Has an individualized education program; or

(b) Is enrolled in a school district in a county whose population is less than 100,000.

5. The board of trustees of each school district and the governing body of a charter school, as applicable, shall develop a policy by which the principal of a school may promote a pupil who is retained in grade 3 pursuant to section 10 of this act to grade 4 at any time during the school year if the pupil demonstrates adequate proficiency in the subject area of reading. The policy must include the specific criteria a pupil must satisfy to be eligible for promotion, including, without limitation, a reasonable expectation that the pupil's progress will allow him or her to sufficiently master the requirements for a fourth-grade reading level. If a pupil is promoted after November 1 of a school year, he or she must demonstrate proficiency in reading at a level prescribed by the State Board.

~~5.1~~ 6. If a principal of a school determines that a pupil is not academically ready for promotion to grade 4 after being retained in grade 3 and the pupil received intensive instructional services pursuant to this section, the school district in which the pupil is enrolled must allow the parent or legal guardian of the pupil to decide, in consultation with the principal of the school, whether to place the pupil in a transitional instructional setting which is designed to produce learning gains sufficient for the pupil to meet the performance standards required for grade 4 while continuing to receive remediation in the subject area of reading.

7. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 12. In addition to the intensive instructional services provided to a pupil who is retained in grade 3 pursuant to section 10 of this act, the principal of the school must offer the parent or legal guardian of the pupil at least one of the following instructional options:

1. *Supplemental tutoring which is based upon scientifically based research concerning reading instruction;*

2. *Providing the parent or legal guardian with a plan for reading with the pupil at home and participating in any workshops that may be available in the school district to assist the parent or guardian with reading with his or her child at home, as set forth in an agreement with the parent or legal guardian; or*

3. *Providing the pupil with a mentor or tutor who has received specialized training in teaching pupils how to read.*

Sec. 13. *On or before September 1 of each year, the board of trustees of each school district shall:*

1. *Prepare a report concerning the number and percentage of pupils at each public school within the school district who were retained in grade 3 pursuant to section 10 of this act for a deficiency in the subject area of reading.*

2. *Submit a copy of the report to the Department.*

3. *Post the report on the Internet website maintained by the school district and otherwise make the report available to the parents and legal guardians of pupils enrolled in the school district and the general public.*

Sec. 14. NRS 392.125 is hereby amended to read as follows:

392.125 1. Except as otherwise provided in subsection 4, before any pupil enrolled in a public school may be retained in the same grade rather than promoted to the next higher grade for the succeeding school year, the pupil's teacher and principal must make a reasonable effort to arrange a meeting and to meet with the pupil's parents or guardian to discuss the reasons and circumstances.

2. ~~{The}~~ *Except as otherwise provided in section 10 of this act, the teacher and the principal in joint agreement have the final authority to retain a pupil in the same grade for the succeeding school year.*

3. Except as otherwise provided in subsection 2 of NRS 392.033 for the promotion of a pupil to high school, no pupil may be retained more than one time in the same grade.

4. ~~{This}~~ *Except as otherwise provided in NRS 386.583, this section does not apply to the academic retention of pupils who are enrolled in a charter school.*

Sec. 15. 1. There is hereby appropriated from the State General Fund to the Other State Education Programs Account in the State General Fund the following sums:

(a) For the Fiscal Year 2015-2016.....\$4,900,000

(b) For the Fiscal Year 2016-2017\$22,300,000

2. The Department of Education shall distribute the money appropriated by subsection 1 through a competitive grants program. Grants must be awarded by the Department based on the demonstrated needs of the school districts and charter schools and will be awarded to school districts and to charter schools that have been approved by the State Public Charter School

Authority. Grants must be used for literacy programs for pupils enrolled in kindergarten and grades 1, 2 and 3 established pursuant to section 5 of this act and to support other school-based efforts to ensure that all pupils are proficient in the subject area of reading by the end of the third grade. Such school-based efforts may include, without limitation:

- (a) Hiring or training learning strategists;
- (b) Entering into contracts with vendors for the purchase of reading assessments, textbooks, computer software or other materials;
- (c) Providing professional development for school personnel;
- (d) Providing programs to pupils before and after school and during intercessions or summer school; and
- (e) Providing other evidence-based literacy initiatives for pupils enrolled in kindergarten and grades 1, 2 and 3.

3. The board of trustees of a school district or the governing body of a charter school that receives a grant of money pursuant to subsection 2 shall:

- (a) Set measurable performance objectives based on aggregated pupil achievement data; and
- (b) Prepare and submit to the Department of Education, on or before July 1, 2016, a report that includes, without limitation:
 - (1) A description of the programs or services for which the money was used by each school; and
 - (2) The number of pupils who participated in a program or received services.

4. The Department of Education shall, to the extent that money is available for that purpose, hire an independent consultant to evaluate the programs or services paid for by a grant of money received by a school district or charter school pursuant to subsection 2.

5. The Department of Education shall prepare a report that includes, without limitation:

- (a) Identification of the schools that received an allocation of money by the school district or grant of money from the Department, as applicable;
- (b) The amount of money received by each school;
- (c) A description of the programs or services for which the money was used by each school;
- (d) The number of pupils who participated in a program or received services;
- (e) The average expenditure per pupil for each program or service;
- (f) An evaluation of the effectiveness of the program or service, including, without limitation, data regarding the academic and linguistic achievement and proficiency of pupils who participated in such a program or received such services; and
- (g) Any recommendations for legislation, including, without limitation, legislation to continue or expand programs or services that are identified as effective in improving the reading proficiency of pupils in kindergarten through grade 3.

6. On or before ~~[October]~~ August 31, 2016, the Department of Education shall submit a preliminary report prepared pursuant to subsection 5 to the State Board of Education and the Legislative Committee on Education. On or before November 15, 2016, the Department ~~[of Education]~~ shall submit the final report prepared pursuant to subsection 5 and any recommendations made by the State Board or the Legislative Committee on Education to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

7. The sums appropriated by subsection 1 to a school district or a charter school:

(a) Must be accounted for separately from any other money received by the school districts or charter school, as applicable, and used only for the purposes specified in this section.

(b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.

(c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

8. 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.

Sec. 16. This act becomes effective 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 for all other purposes:

1. This section, sections 4 to ~~[7]~~ 9, inclusive, ~~[9]~~ and 15 of this act become effective on July 1, 2015.

2. Sections 1, 2, 3 ~~[7, 8]~~ and 10 to 14, inclusive, of this act become effective on July 1, 2019.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment clarifies the process for district and charter school literacy plans; sets required timelines for parental notification and student progress monitoring plans; requires that no student be retained twice in grade 3; clarifies the criteria and procedures for approval of a good-cause exemption to grade 3 retention, and requires continued reading support for students given an exemption; requires additional information be provided to parents of English Language Learners; authorizes school districts to provide additional compensation to literacy specialists and highly effective teachers; revises program reporting requirements; allows a retained student, who has an Individualized Education Plan or who attends a school located in a rural community,

to be taught again by the same teacher if a different qualified teacher is not reasonably available; and provides other clarifying changes.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 405.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 513.

SUMMARY—Expands the program of Zoom schools and the provision of programs and services to children who are limited English proficient in certain other schools. (BDR S-887)

AN ACT relating to education; making an appropriation to provide certain programs and services at Zoom elementary, middle, junior high and high schools and at other schools that enroll children who are limited English proficient or who are eligible for such a designation; requiring the State Board of Education to develop for recommendation as proposed legislation a definition of and procedure for reporting pupils who are identified as long-term limited English proficient; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The 77th Session of the Nevada Legislature appropriated money for the Clark County School District and the Washoe County School District to carry out a program of Zoom elementary schools during the 2013-2015 biennium to provide a comprehensive package of programs and services for children who are limited English proficient or eligible for such a designation. The other school districts and the State Public Charter School Authority were authorized to apply for a grant of money from the appropriation to provide programs and services to children who are limited English proficient or eligible for such a designation. (Section 16.2 of chapter 515, Statutes of Nevada 2013, p. 3418) ~~[This]~~ Section 1 of this bill makes an appropriation for the Clark County School District and the Washoe County School District to continue to carry out a program of Zoom elementary schools and to expand the program to middle schools, junior high schools and high schools during the 2015-2017 biennium. ~~[This bill]~~ Section 1 also authorizes the other school districts and the State Public Charter School Authority to apply to the Department of Education for a grant of money from the appropriation to provide programs and services during the 2015-2017 biennium for children who are limited English proficient or eligible for such a designation. In addition, ~~[this bill]~~ section 1 requires the State Board of Education to prescribe statewide performance levels and outcome indicators to measure the effectiveness of the programs and services for which money is allocated from the appropriation to the school districts and charter schools. Finally, ~~[this bill]~~ section 1 requires the Department to contract for an independent evaluation of the effectiveness of the programs and services provided by the

school districts and charter schools that received an allocation of money from the appropriation.

Section 2 of this bill requires the State Board to develop for recommendation as proposed legislation to the 79th Session of the Nevada Legislature a definition of and procedure for reporting pupils who are identified as long-term limited English proficient.

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.031 the following sums:

- (a) For the Fiscal Year 2015-2016.....\$49,950,000
- (b) For the Fiscal Year 2016-2017\$49,950,000

2. The Department of Education shall transfer from the Account for Programs for Innovation and the Prevention of Remediation to the school districts specified in this subsection the following sums for Fiscal Year 2015-2016 and Fiscal Year 2016-2017:

<u>School District:</u>	<u>2015-2016</u>	<u>2016-2017</u>
Clark County School District.....	\$39,035,925	\$39,035,925
Washoe County School District	\$6,743,250	\$6,743,250

3. The Board of Trustees of the Clark County School District and the Board of Trustees of the Washoe County School District shall identify the elementary schools within the School District to operate as Zoom elementary schools based upon which elementary schools within the School District:

- (a) Have the highest percentage of pupils who are limited English proficient or eligible for designation as limited English proficient; and
- (b) Are the lowest performing academically.

4. The Board of Trustees of the Clark County School District and the Board of Trustees of the Washoe County School District shall allocate from the money appropriated by subsection 1 for each Zoom elementary school to:

- (a) Provide prekindergarten programs free of charge;
- (b) Expand full-day kindergarten classes;
- (c) Operate reading skills centers;
- (d) Provide, free of charge, a summer academy or an intersession academy for those schools that do not operate on a traditional school calendar, including, without limitation, the provision of transportation to attend the summer academy or intersession academy;
- (e) Provide professional development for teachers and other licensed educational personnel regarding effective instructional practices and strategies for children who are limited English proficient;
- (f) Offer recruitment and retention incentives for the teachers and other licensed educational personnel who provide any of the programs and services set forth in this subsection from the list of incentives prescribed by the State Board of Education pursuant to subsection ~~11.1~~ 12; and

(g) Engage and involve parents and families of children who are limited English proficient, including, without limitation, increasing effective culturally appropriate communication with and outreach to parents and families to support the academic achievement of those children.

5. A Zoom elementary school that receives an allocation of money pursuant to subsection 4 shall offer each of the programs and services prescribed in paragraphs (a) to (g), inclusive, of that subsection so that the Zoom elementary school may offer a comprehensive package of programs and services for pupils who are limited English proficient. A Zoom elementary school shall not use the money for any other purpose. A reading skills center must provide:

(a) Support at the Zoom elementary school in the assessment of reading and literacy problems and language acquisition barriers for pupils; and

(b) Instructional intervention to enable pupils to overcome such problems and barriers by the completion of grade 3.

6. The Board of Trustees of the Clark County School District shall identify ~~two~~ at least three middle schools, ~~for~~ junior high schools ~~and two~~ or high schools within the school district to operate as Zoom middle schools, ~~for~~ junior high schools ~~and Zoom~~ or high schools. The Board of Trustees of the Washoe County School District shall identify at least one middle school, ~~for~~ junior high school ~~and one~~ or high school within the school district to operate as a Zoom middle school, ~~for~~ junior high school ~~and a Zoom~~ or high school. Each such board of trustees shall identify those schools based upon which middle schools, junior high schools and high schools within the school district:

(a) Have the highest percentage of pupils who are limited English proficient; and

(b) Are the lowest performing academically.

7. The Clark County School District and the Washoe County School District shall allocate from the money appropriated by subsection 1 for each Zoom middle school, ~~for~~ junior high school and ~~each Zoom~~ high school to:

(a) Reduce class sizes for pupils who are limited English proficient and provide English language literacy based classes;

(b) Provide direct instructional intervention to each pupil who is limited English proficient using the data available from applicable assessments of that pupil;

(c) Provide for an extended school day;

(d) Provide, free of charge, a summer academy or an intersession academy for those schools that do not operate on a traditional school calendar, including, without limitation, the provision of transportation to attend the summer academy or intersession academy;

(e) Provide professional development for teachers and other licensed educational personnel regarding effective instructional practices and strategies for pupils who are limited English proficient;

(f) Offer recruitment and retention incentives for teachers and other licensed educational personnel who provide any of the programs and services set forth in this subsection from the list of incentives prescribed by the State Board of Education pursuant to subsection ~~11; and~~ 12;

(g) Engage and involve parents and families of pupils who are limited English proficient, including, without limitation, increasing effective culturally appropriate communication with and outreach to parents and families to support the academic achievement of those pupils ~~11; and~~

(h) Provide other evidence-based programs and services that are approved by the Department of Education and that are designed to meet the specific needs of pupils enrolled in the school who are limited English proficient.

↪ Each Zoom middle school ~~11; or~~ junior high school and ~~each Zoom~~ high school that receives an allocation of money pursuant to this subsection shall offer each of the programs and services prescribed in paragraphs (a) to ~~(g);~~ (h), inclusive, so that the Zoom middle school ~~11; or~~ junior high school or ~~Zoom~~ high school offers a comprehensive package of programs and services for pupils who are limited English proficient.

8. On or before August ~~17;~~ 1, 2015, the Clark County School District and the Washoe County School District shall each provide a report to the ~~Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee~~ Department of Education which includes the:

(a) Zoom elementary schools identified by the School District pursuant to subsection 3 and the plan of each such school for carrying out the programs and services prescribed by paragraphs (a) to (g), inclusive, of subsection 4; and

(b) Zoom middle schools ~~11; or~~ junior high schools and high schools identified by the School District pursuant to subsection 6 and the plan of each school for carrying out the programs and services prescribed by paragraphs (a) to ~~(g);~~ (h), inclusive, of subsection 7.

9. From the appropriation made by subsection 1, the Department of Education shall use not more than \$4,170,825 in Fiscal Year 2015-2016 and \$4,170,825 in Fiscal Year 2016-2017 to provide grants of money to the State Public Charter School Authority and the school districts, other than the Clark County School District or the Washoe County School District. The board of trustees of such a school district and the State Public Charter School Authority may submit an application to the Department on a form prescribed by the Department that includes, without limitation:

(a) The number of pupils in the school district or charter schools, as applicable, who are limited English proficient or eligible for designation as limited English proficient; and

(b) A description of the programs and services the school district or charter schools, as applicable, will provide with a grant of money, which may include, without limitation:

(1) The creation or expansion of high-quality, developmentally appropriate prekindergarten programs, free of charge, that will increase enrollment of children who are limited English proficient;

(2) The acquisition and implementation of empirically proven assessment tools to determine the reading level of pupils who are limited English proficient and technology-based tools, such as software, designed to support the learning of pupils who are limited English proficient;

(3) Professional development for teachers and other educational personnel regarding effective instructional practices and strategies for children who are limited English proficient;

(4) The provision of programs and services for pupils who are limited English proficient, free of charge, before and after school, during the summer or intersession for those schools that do not operate on a traditional school calendar, including, without limitation, the provision of transportation to attend the summer academy or intersession academy;

(5) Engaging and involving parents and families of children who are limited English proficient, including, without limitation, increasing effective, culturally appropriate communication with and outreach to parents and families to support the academic achievement of those children; ~~and~~

(6) Offering recruitment and retention incentives for the teachers and other licensed educational personnel who provide any of the programs and services set forth in this subsection from the list of incentives prescribed by the State Board of Education pursuant to subsection ~~11.1~~ 12; and

(7) Provide other evidence-based programs and services that are approved by the Department and that are designed to meet the specific needs of pupils enrolled in the school who are limited English proficient.

10. The Department of Education shall distribute the money appropriated by subsection 1 to school districts and the State Public Charter School Authority that submit applications pursuant to subsection 9 based upon the number of pupils enrolled in each such school district or charter school, as applicable, who are limited English proficient or eligible for designation as limited English proficient, and not on a competitive basis. A school district and the State Public Charter School Authority that receives a grant of money pursuant to this subsection shall provide a report to the Department in the form prescribed by the Department with the information required for the Department's report pursuant to subsection ~~14.1~~ 15.

11. On or before August 17, 2015, the Department of Education shall submit a report to the State Board of Education and the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee which includes:

(a) The information reported by the Clark County School District and the Washoe County School District pursuant to subsection 8; and

(b) The school districts and charter schools for which an allocation of money is approved pursuant to subsection 10 and the plan of each such school district and charter school for carrying out the programs and services

prescribed by subparagraphs (1) to (7), inclusive, of paragraph (b) of subsection 9.

12. The State Board of Education shall prescribe:

(a) A list of recruitment and retention incentives for the school districts and the State Public Charter School Authority that receive an allocation of money pursuant to this section to offer to teachers and other licensed educational personnel pursuant to paragraph (f) of subsection 4, paragraph (f) of subsection 7 and subparagraph (6) of paragraph (b) of subsection 9; and

(b) Criteria and procedures to notify a school district or a charter school that receives an allocation of money pursuant to this section if the school district or charter school is not implementing the programs and services for which the allocation was made in accordance with the applicable requirements of this section or in accordance with the performance levels prescribed by the State Board pursuant to subsection ~~12.~~ 13, including, without limitation, a plan of corrective action for the school district or charter school to follow to meet the requirements of this section or the performance levels.

~~12.~~ 13. The State Board of Education shall prescribe statewide performance levels and outcome indicators to measure the effectiveness of the programs and services for which money is allocated to the school districts and charter schools pursuant to this section. The performance levels must establish minimum expected levels of performance on a yearly basis based upon the performance results of children who participate in the programs and services. The outcome indicators must be designed to track short-term and long-term impacts on the progress of children who participate in the programs and services, including, without limitation:

(a) The number of children who participated;

(b) The extent to which the children who participated improved their English language proficiency and literacy levels compared to other children who are limited English proficient or eligible for such a designation who did not participate in the programs and services; and

(c) To the extent that a valid comparison may be established, a comparison of the academic achievement and growth in the subject areas of English language arts and mathematics of children who participated in the programs and services to other children who are limited English proficient or eligible for such a designation who did not participate in the programs and services.

~~13.~~ 14. The Department of Education shall contract for an independent evaluation of the effectiveness of the programs and services offered by each Zoom elementary school pursuant to subsection 4, each Zoom middle school ~~for~~ junior high school and ~~each Zoom~~ high school pursuant to subsection 7 and the programs and services offered by the other school districts and the charter schools pursuant to subsection 9.

~~[14.]~~ 15. The Clark County School District, the Washoe County School District and the Department of Education shall each prepare an annual report that includes, without limitation:

(a) An identification of the schools that received an allocation of money by the School District or a grant of money from the Department, as applicable.

(b) How much money each such school received.

(c) A description of the programs or services for which the money was used by each such school.

(d) The number of children who participated in a program or received services.

(e) The average per-child expenditure per program or service that was funded.

(f) For the report prepared by the School Districts, an evaluation of the effectiveness of such programs and services, including, without limitation, data regarding the academic and linguistic achievement and proficiency of children who participated in the programs or received services.

(g) Any recommendations for legislation, including, without limitation:

(1) For the continuation or expansion of programs and services that are identified as effective in improving the academic and linguistic achievement and proficiency of children who are limited English proficient.

(2) A plan for transitioning the funding for providing the programs and services set forth in this section to pupils who are limited English proficient from categorical funding to a weighted per pupil formula within the Nevada Plan.

(h) For the report prepared by the Department, in addition to the information reported for paragraphs (a) to (e), inclusive, and paragraph (g):

(1) The results of the independent evaluation required by subsection ~~[13.]~~ 14 of the effectiveness of the programs and services, including, without limitation, data regarding the academic and linguistic achievement and proficiency of children who participated in a program or received a service;

(2) Whether a school district or charter school was notified that it was not implementing the programs and services for which an allocation of money was made pursuant to this section in accordance with the applicable requirements of this section or in accordance with the performance levels prescribed by the State Board of Education pursuant to subsection ~~[12.]~~ 13 and the status of such a school district or charter school, if any, in complying with a plan for corrective action; and

(3) Whether each school district or charter school that received an allocation of money pursuant to this section met the performance levels prescribed by the State Board of Education pursuant to subsection ~~[12.]~~ 13.

~~[15.]~~ 16. The annual report prepared by the Clark County School District and the Washoe County School District pursuant to subsection ~~[14.]~~ 15 must be submitted ~~[1.]~~ to the Department of Education on or before June 1, 2016, and January 16, 2017, respectively. The Department shall submit the

information reported by those school districts and the information prepared by the Department pursuant to subsection 15:

(a) On or before June 15, 2016, to the State Board of Education and the Legislative Committee on Education.

(b) On or before February 1, 2017, to the State Board of Education and the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

~~[16.]~~ 17. The Department of Education may require a Zoom school or other public school that receives an allocation of money pursuant to this section to provide a report to the Department on:

(a) The number of vacancies, if any, in full-time licensed educational personnel at the school;

(b) The number of probationary employees, if any, employed at the school;

(c) The number, if any, of persons who are employed at the school as substitute teachers for 20 consecutive days or more in the same classroom or assignment and designated as long-term substitute teachers; and

(d) Any other information relating to the personnel at the school as requested by the Department.

18. The sums appropriated by subsection 1:

(a) Must be accounted for separately from any other money received by school districts or charter schools of this State and used only for the purposes specified in this section.

(b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district and the school district, or to settle any negotiations.

(c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

~~[17.]~~ 19. Upon request of the Legislative Commission, the Clark County School District and the Washoe County School District shall make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of the money transferred pursuant to subsection 2.

~~[18.]~~ 20. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2015-2016 must be added to the money transferred for Fiscal Year 2016-2017 and may be expended as that money is expended. Any remaining balance of the transfers made by subsection 2 for Fiscal Year 2016-2017, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2017, and must be reverted to the State General Fund on or before September 15, 2017.

~~[19.]~~ 21. Any remaining balance of the allocations made by subsection 9 for Fiscal Year 2015-2016 must be added to the allocations for Fiscal Year 2016-2017 and may be expended as that money is expended. Any remaining

balance of the allocations made by subsection 9 for Fiscal Year 2016-2017, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2017, and must be reverted to the State General Fund on or before September 15, 2017.

~~[20.]~~ 22. As used in this section ~~[, "limited"]~~ :

(a) "Limited English proficient" has the meaning ascribed to it in NRS 385.007.

(b) "Probationary employee" has the meaning ascribed to it in NRS 391.311.

Sec. 2. For the purposes of NRS 385.347 and 385.3487 and any related provisions, the State Board of Education shall develop for recommendation as proposed legislation to the 79th Session of the Nevada Legislature:

1. A definition of "long-term limited English proficient"; and

2. A procedure for the school districts and charter schools to separately count and report on pupils who are identified as long-term limited English proficient, including, without limitation, the number of and progress made by such pupils.

~~[Sec. 2.]~~ Sec. 3. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment merges elements from Senate Bill No. 430 related to Zoom School services, reporting and future recommendations.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 441.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 455.

SUMMARY—~~[Revises]~~ Enacts provisions relating to ~~[cottage]~~ craft food ~~[industries.]~~ operations. (BDR 40-988)

AN ACT relating to ~~[cottage]~~ craft food operations; ~~[adding]~~ exempting a craft food operation from certain inspections and other rules enforced by certain health authorities; providing certain requirements for a craft food operation; providing that certain pickled foods ~~[to the list of foods which]~~ may be prepared and sold by a ~~[cottage]~~ craft food operation; providing requirements for the training of and registration for a person who produces certain pickled foods for a craft food operation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a cottage food operation is not a food establishment for the purposes of certain provisions of existing law ~~[,]~~ and ~~[,]~~ as such ~~[,]~~ is not subject to certain inspections and the enforcement of certain rules and regulations by certain state and local health authorities. (NRS 446.020,

446.866) Section ~~[2]~~ 3 of this bill ~~[adds]~~ provides that a craft food operation is not a food establishment for the same purposes as a cottage food operation and, as such, is also not subject to certain inspections and enforcement by health authorities. Section 10 of this bill specifies the requirements for a craft food operation and authorizes the production of acidified foods ~~[to the list of food items that a cottage]~~ by a craft food operation. ~~[may prepare.]~~ "Acidified foods" are defined in section ~~[1]~~ 6 of this bill as ~~["an"]~~ "a food item containing either fruits, vegetables or both fruits and vegetables which, when prepared for sale, has a finished equilibrium pH of not more than 4.6." Section ~~[1 also]~~ 11 of this bill provides various requirements for a person who ~~[prepares]~~ produces such acidified foods, including certain required training, successful completion of an examination, pH testing of the foods, the documentation of certain information about the foods produced and registration with the State Department of Agriculture. ~~[The]~~ Section 12 of this bill provides that the Department is authorized to charge a reasonable fee for such training, examinations and registration ~~[,]~~ and may inspect the premises of a producer of acidified foods if: (1) it is suspected of being the source of an outbreak of illness known or suspected to be caused by a contaminated food item; or (2) a food item produced there may be deemed adulterated.

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

Section 1. ~~[Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:]~~

~~1. For the purposes of a cottage food operation, as that term is defined in NRS 446.866, an acidified food must be produced by a person who:~~

~~(a) Meets the requirements of NRS 446.866.~~

~~(b) Has, within 5 years before producing such food, attended a course of training in basic food safety and the preparation and canning of acidified foods which has been approved by the State Department of Agriculture.~~

~~(c) Has passed an examination on the preparation of acidified foods which has been approved by the State Department of Agriculture.~~

~~(d) Has provided proof of completion of the requirements of paragraphs (b) and (c) to the health authority with whom the person is registered pursuant to subsection 3 of NRS 446.866.~~

~~(e) Maintains a log and supporting documentation for not less than 5 years which must include:~~

~~(1) The name of each product produced;~~

~~(2) The recipe for each product produced, including, without limitation, the ingredients and the process used in preparation of the product;~~

~~(3) The canning date of each batch produced; and~~

~~(4) The results of the pH test for each batch produced.~~

~~(f) For the purposes of paragraph (e), uses a pH test meter that meets the requirements of the regulations adopted by the State Department of Agriculture.~~

~~—(g) Uses only canning recipes that have been approved by, or included in publications approved by, the State Department of Agriculture.~~

~~—(h) Is registered with the State Department of Agriculture to receive updates on, without limitation, the testing and preparation of acidified foods and workshops or other training relating to the safe production of acidified foods.~~

~~—(i) Includes on the label of each acidified food:~~

~~—(1) In addition to the requirements of paragraph (c) of subsection 1 of NRS 446.866, the date the product was produced; and~~

~~—(2) In place of the requirements of paragraph (d) of subsection 1 of NRS 446.866, the words "Made in an Acidified (Cottage) Food Operation That is Not Subject to Government Inspection" printed prominently and in capital letters.~~

~~2. The State Department of Agriculture may charge a reasonable fee for:~~

~~—(a) Registration pursuant to paragraph (h) of subsection 1;~~

~~—(b) A course of training pursuant to paragraph (b) of subsection 1; and~~

~~—(c) An examination pursuant to paragraph (c) of subsection 1.~~

~~3. The State Department of Agriculture shall adopt regulations necessary to carry out the provisions of this section.~~

~~1. As used in this section, "acidified foods" means an item containing either fruits, vegetables or both fruits and vegetables which, when prepared for sale, has a finished equilibrium pH level of not more than 4.6. The term:~~

~~—(a) Includes, without limitation, pickles, salsa and hot sauce.~~

~~—(b) Does not include any product that includes, without limitation, milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean ingredients or any other ingredients capable of supporting the rapid growth of infectious or toxigenic microorganisms.] (Deleted by amendment.)~~

Sec. 2. [NRS 446.866 is hereby amended to read as follows:

~~446.866 1. A cottage food operation which manufactures or prepares a food item by any manner or means whatever for sale, or which offers or displays a food item for sale, is not a "food establishment" pursuant to paragraph (h) of subsection 2 of NRS 446.020 if each such food item is:~~

~~—(a) Sold on the private property of the natural person who manufactures or prepares the food item or at a location where the natural person who manufactures or prepares the food item sells the food item directly to a consumer, including, without limitation, a farmers' market licensed pursuant to chapter 244 or 268 of NRS, flea market, swap meet, church bazaar, garage sale or craft fair, by means of an in person transaction that does not involve selling the food item by telephone or via the Internet;~~

~~—(b) Sold to a natural person for his or her consumption and not for resale;~~

~~—(c) Affixed with a label which complies with the federal labeling requirements set forth in 21 U.S.C. § 343(w) and 9 C.F.R. Part 317 and 21 C.F.R. Part 101;~~

~~—(d) [Labeled] Except as otherwise provided in section 1 of this act, labeled with "MADE IN A COTTAGE FOOD OPERATION THAT IS NOT~~

~~SUBJECT TO GOVERNMENT FOOD SAFETY INSPECTION"~~ printed prominently on the label for the food item;

~~— (e) Prepackaged in a manner that protects the food item from contamination during transport, display, sale and acquisition by consumers; and~~

~~— (f) Prepared and processed in the kitchen of the private home of the natural person who manufactures or prepares the food item or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, charitable or other nonprofit organization.~~

~~— 2. No local zoning board, planning commission or governing body of an unincorporated town, incorporated city or county may adopt any ordinance or other regulation that prohibits a natural person from preparing food in a cottage food operation.~~

~~— 3. Each natural person who wishes to conduct a cottage food operation must, before selling any food item, register the cottage food operation with the health authority by submitting such information as the health authority deems appropriate, including, without limitation:~~

~~— (a) The name, address and contact information of the natural person conducting the cottage food operation; and~~

~~— (b) If the cottage food operation sells food items under a name other than the name of the natural person who conducts the cottage food operation, the name under which the cottage food operation sells food items.~~

~~— 4. The health authority may charge a fee for the registration of a cottage food operation pursuant to subsection 3 in an amount not to exceed the actual cost of the health authority to establish and maintain a registry of cottage food operations.~~

~~— 5. The health authority may inspect a cottage food operation only to investigate a food item that may be deemed to be adulterated pursuant to NRS 585.300 to 585.360, inclusive, or an outbreak or suspected outbreak of illness known or suspected to be caused by a contaminated food item. The cottage food operation shall cooperate with the health authority in any such inspection. If, as a result of such inspection, the health authority determines that the cottage food operation has produced an adulterated food item or was the source of an outbreak of illness caused by a contaminated food item, the health authority may charge and collect from the cottage food operation a fee in an amount that does not exceed the actual cost of the health authority to conduct the investigation.~~

~~— 6. As used in this section:~~

~~— (a) "Cottage food operation" means a natural person who manufactures or prepares food items in his or her private home or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, charitable or other nonprofit organization, for sale to a natural person for consumption and whose gross sales of such food items are not more than \$35,000 per calendar year.~~

~~— (b) "Food item" means:~~

- ~~— (1) Nuts and nut mixes;~~
 - ~~— (2) Candies;~~
 - ~~— (3) Jams, jellies and preserves;~~
 - ~~— (4) Vinegar and flavored vinegar;~~
 - ~~— (5) Dry herbs and seasoning mixes;~~
 - ~~— (6) Dried fruits;~~
 - ~~— (7) Cereals, trail mixes and granola;~~
 - ~~— (8) Popcorn and popcorn balls; [or]~~
 - ~~— (9) Acidified foods that meet the requirements of section 1 of this act; or~~
 - ~~— (10) Baked goods that:~~
 - ~~— (I) Are not potentially hazardous foods;~~
 - ~~— (II) Do not contain cream, uncooked egg, custard, meringue or cream cheese frosting or garnishes; and~~
 - ~~— (III) Do not require time or temperature controls for food safety.]~~
- (Deleted by amendment.)

Sec. 3. NRS 446.020 is hereby amended to read as follows:

446.020 1. Except as otherwise limited by subsection 2, "food establishment" means any place, structure, premises, vehicle or vessel, or any part thereof, in which any food intended for ultimate human consumption is manufactured or prepared by any manner or means whatever, or in which any food is sold, offered or displayed for sale or served.

2. The term does not include:

(a) Private homes, unless the food prepared or manufactured in the home is sold, or offered or displayed for sale or for compensation or contractual consideration of any kind;

(b) Fraternal or social clubhouses at which attendance is limited to members of the club;

(c) Vehicles operated by common carriers engaged in interstate commerce;

(d) Any establishment in which religious, charitable and other nonprofit organizations sell food occasionally to raise money or in which charitable organizations receive salvaged food in bulk quantities for free distribution, unless the establishment is open on a regular basis to sell food to members of the general public;

(e) Any establishment where animals are slaughtered which is regulated and inspected by the State Department of Agriculture;

(f) Dairy farms and plants which process milk and products of milk or frozen desserts which are regulated under chapter 584 of NRS;

(g) The premises of a wholesale dealer of alcoholic beverages licensed under chapter 369 of NRS who handles only alcoholic beverages which are in sealed containers;

(h) A cottage food operation that meets the requirements of NRS 446.866 with respect to food items as defined in that section; ~~[or]~~

(i) A craft food operation that meets the requirements of section 10 of this act with respect to food items as defined in that section; or

(j) A farm for purposes of holding a farm-to-fork event.

Sec. 4. Chapter 583 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 14, inclusive, of this act.

Sec. 5. As used in sections 5 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 9, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 6. 1. "Acidified foods" means a food item containing either fruits, vegetables or both fruits and vegetables which, when prepared for sale, has a finished equilibrium pH level of not more than 4.6.

2. The term does not include any product that includes, without limitation, milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean ingredients or any other ingredients capable of supporting the rapid growth of infectious or toxigenic microorganisms.

Sec. 7. "Craft food operation" means a natural person who manufactures or prepares acidified foods in his or her private home or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, charitable or other nonprofit organization, for sale to a natural person for consumption, and whose gross sales of such foods are not more than \$35,000 per calendar year.

Sec. 8. "Department" means the State Department of Agriculture.

Sec. 9. "Health authority" means the officers and agents of the Division of Public and Behavioral Health of the Department of Health and Human Services, or the officers and agents of the local boards of health.

Sec. 10. 1. A craft food operation which manufactures or prepares a food item by any manner or means whatever for sale, or which offers or displays a food item for sale, is not a "food establishment" pursuant to paragraph (i) of subsection 2 of NRS 446.020 if each such food item is:

(a) Sold on the private property of the natural person who manufactures or prepares the food item or at a location where the natural person who manufactures or prepares the food item sells the food item directly to a consumer, including, without limitation, a farmers' market licensed pursuant to chapter 244 or 268 of NRS, flea market, swap meet, church bazaar, garage sale or craft fair, by means of an in-person transaction that does not involve selling the food item by telephone or via the Internet;

(b) Sold to a natural person for his or her consumption and not for resale;

(c) Affixed with a label which complies with the federal labeling requirements set forth in 21 U.S.C. § 343(w) and 9 C.F.R. Part 317 and 21 C.F.R. Part 101;

(d) Labeled with:

(1) The date the food item was produced; and

(2) "MADE IN A CRAFT FOOD OPERATION THAT IS NOT SUBJECT TO GOVERNMENT FOOD SAFETY INSPECTION" printed prominently on the label for the food item;

(e) Prepackaged in a manner that protects the food item from contamination during transport, display, sale and acquisition by consumers; and

(f) Prepared and processed in the kitchen of the private home of the natural person who manufactures or prepares the food item or, if allowed by the health authority, in the kitchen of a fraternal or social clubhouse, a school or a religious, charitable or other nonprofit organization.

2. No local zoning board, planning commission or governing body of an unincorporated town, incorporated city or county may adopt any ordinance or other regulation that prohibits a natural person from preparing food in a craft food operation.

3. As used in this section, "food item" means acidified foods produced by a person who meets the requirements of sections 11 to 14, inclusive, of this act.

Sec. 11. For the purposes of a craft food operation, an acidified food must be produced by a person who:

1. Complies with the requirements of section 10 of this act;

2. Is registered pursuant to section 12 of this act;

3. Maintains a log and supporting documentation for not less than 5 years which must include:

(a) The name of each acidified food produced;

(b) The recipe for each acidified food produced, including, without limitation, the ingredients and the process used in preparation of the acidified food;

(c) The canning date of each batch produced; and

(d) The results of the pH test for each batch produced;

4. For the purposes of paragraph (c), uses a pH test meter that meets the requirements of the regulations adopted by the State Department of Agriculture; and

5. Uses only canning recipes that have been approved by, or included in publications approved by, the State Department of Agriculture.

Sec. 12. 1. The Department shall register a person who produces acidified foods if the person:

(a) Completes a course of training in basic food safety and the preparation and canning of acidified foods which has been approved by the Department;

(b) Passes an examination on the preparation of acidified foods which has been approved by the Department;

(c) Pays the registration fee prescribed by the Department; and

(d) Provides the Department with such information as the Department deems appropriate, including, without limitation:

(1) The name, address and contact information of the natural person who is producing the acidified foods; and

(2) If the acidified foods are sold under a name other than that of the natural person who produces the acidified foods, the name under which the natural person sells the acidified foods.

2. A registration that is issued or otherwise recorded pursuant to subsection 1 is valid for 3 years after the date of initial registration and may be renewed pursuant to the provisions of subsection 3.

3. The Department shall renew a registration that is issued or otherwise recorded pursuant to subsection 1 every 3 years if the person:

(a) Provides proof satisfactory to the Department that the person has complied with the requirements of section 11 of this act;

(b) Completes a course of training in basic food safety and the preparation and canning of acidified foods which has been approved by the Department;

(c) Passes an examination on the preparation of acidified foods which has been approved by the Department;

(d) Pays the renewal fee prescribed by the Department; and

(e) Provides the Department with any such information as the Department deems appropriate.

4. The Department shall provide to each person registered to produce acidified foods pursuant to this section:

(a) Periodic updates on, without limitation, the testing and preparation of acidified foods; and

(b) Information about workshops or other training opportunities related to the safe production of acidified foods.

5. The Department may inspect the premises of a person registered to produce acidified foods pursuant to this section only to investigate a food item that may be deemed to be adulterated pursuant to NRS 585.300 to 585.360, inclusive, or an outbreak or suspected outbreak of illness known or suspected to be caused by a contaminated food item. The producer of acidified foods shall cooperate with the Department in any such inspection. If, as a result of such an inspection, the Department determines that the producer of acidified foods has produced an adulterated food item or was the source of an outbreak of illness caused by a contaminated food item, the Department may charge and collect from the producer of acidified foods a fee in an amount that does not exceed the actual cost to the Department to conduct the investigation.

6. The Department may charge a reasonable fee for:

(a) Registration pursuant to subsection 1;

(b) Renewal of a registration pursuant to subsection 3;

(c) A course of training pursuant to subsections 1 and 3;

(d) An examination pursuant to subsections 1 and 3; and

(e) An investigation conducted pursuant to subsection 5.

7. The Department shall adopt regulations necessary to carry out the provisions of sections 5 to 14, inclusive, of this act.

Sec. 13. 1. In addition to any other requirements set forth in sections 5 to 14, inclusive, of this act, an applicant for registration or renewal of registration as a producer of acidified foods 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 pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for registration or renewal of registration; or

(b) A separate form prescribed by the Department.

3. An applicant may not be registered or have his or her registration renewed by the Department if the applicant:

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

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

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the 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. 14. 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 person who is registered as a producer of acidified foods, the Department shall deem the registration of 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 registrant by the district attorney or other public agency pursuant to NRS 425.550 stating that the registrant has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a registration 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 registration was suspended stating that the

person whose registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

~~{Sec. 3.}~~ Sec. 15. 1. This act becomes effective:

~~{1.}~~ (a) On passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

~~{2.}~~ (b) On January 1, 2016, for all other purposes.

2. Sections 13 and 14 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 455 to Senate Bill No. 441: 1) provides that a craft food operation is not a food establishment for the same purposes as a cottage food operation and, as such, is not subject to certain inspections and enforcement by health authorities; 2) specifies the requirements for a craft food operation and authorizes the production of acidified foods by a craft food operation; and 3) authorizes the State Department of Agriculture to inspect the premises of a producer of acidified foods if it is suspected of being the source of an outbreak of illness known or suspected to be caused by a contaminated food item or a food item produced on the premises may be deemed adulterated.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bills Nos. 253, 391, 405 be re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

Senator Kieckhefer moved that Senate Bill No. 75 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Roberson moved that Senate Bill No. 242 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Roberson moved that Senate Bill No. 252 be taken from the General File and placed at the bottom of the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 440.

Bill read third time.

Remarks by Senator Settelmeyer.

Senate Bill No. 440 provides requirements for motor vehicle insurance coverage for a motor vehicle used by a driver in connection with a transportation network company (TNC). During any period the driver is providing transportation services, a TNC or a driver must continuously maintain insurance for the payment of tort liabilities with liability limits that are specified in the bill. A TNC must disclose in writing, prior to connecting a driver to a potential passenger using the digital network or software application, the insurance coverage and liability limits the company provides for a driver while he or she is providing transportation services. The TNC must also notify the driver that his or her personal automobile insurance may not provide coverage for the use of a motor vehicle to provide transportation services.

The TNC must provide coverage as primary insurance if the insurance provided by the driver is insufficient. An insurer who provides a policy of TNC insurance is prohibited from requiring a driver's personal automobile insurance policy to deny a claim before providing coverage. Further, a personal automobile insurance policy is not required to include TNC insurance. However, an insurer may include TNC insurance in such a policy and may charge an additional premium for doing so. Finally, a driver must carry proof of TNC insurance at all times when he or she is logged into the digital network or software application service, available to receive requests, or provide transportation services and provide proof of coverage when the driver is involved in an accident. The bill is effective on October 1, 2015.

Roll call on Senate Bill No. 440:

YEAS—11.

NAYS—Atkinson, Denis, Ford, Kihuen, Manendo, Parks, Segerblom, Smith, Spearman, Woodhouse—10.

Senate Bill No. 440 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 13.

Bill read third time.

Remarks by Senator Harris.

Senate Bill No. 13 replaces the definition of "pupil with a disability" with the federal definition of "child with a disability." It also requires the minimum standards for the special education of students with hearing impairments be in accordance with federal law.

This bill is effective on July 1, 2015.

Roll call on Senate Bill No. 13:

YEAS—21.

NAYS—None.

Senate Bill No. 13 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 48.

Bill read third time.

Remarks by Senator Lipparelli.

Senate Bill No. 48 eliminates the requirement that the Director of the Department of Health and Human Services establish a statewide health information exchange system, including the establishment of a governing entity for the system, and eliminates various provisions relating to

a statewide health information exchange system. The measure retains existing provisions governing health information exchanges and revises the definition of a "health information exchange." The bill further authorizes the Director to establish or contract with not more than one health information exchange to serve as the statewide health information exchange for certain purposes.

The measure also requires certification from the Director before a health information exchange may operate in this State and establishes provisions governing the certification of health information exchanges. The bill provides for the imposition of an administrative fine for a health information exchange operating without certification and gives a health information exchange that is already operating in this State until July 1, 2016, to comply with this requirement. Finally, the measure revises certain provisions relating to health records to require the patient's consent for the retrieval, rather than the transmission, of his or her health records. This measure is effective upon passage and approval for the purpose of adopting regulations, and January 1, 2016, for all other purposes.

Roll call on Senate Bill No. 48:

YEAS—21.

NAYS—None.

Senate Bill No. 48 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 94.

Bill read third time.

Remarks by Senator Ford.

Senate Bill No. 94 makes various changes regarding the administration and eligibility criteria for the transferrable film tax credit program administered by the Office of Economic Development.

The bill eliminates the June 30, 2023, expiration date for the program, thus, making the program permanent rather than a pilot program. The bill also removes the \$10 million limitation on the total amount of tax credits that may be approved, and instead limits the total amount of tax credits to the amount appropriated or authorized for each fiscal year.

The bill changes the definition of "qualified expenditures and production costs" that may serve as the basis for transferable tax credits to reflect "qualified direct production expenditures," and further clarifies the types of expenditures and productions that may qualify for the tax credits.

Various provisions are changed to reflect that the transferable tax credits are available only to a "production company" rather than a "producer." A production company is required to prove that 70 percent of the funding for the qualified project has been obtained, rather than having to prove that 50 percent or more of the funding has been placed in an escrow account.

Finally, the bill increases, from 14 days to 60 days, the length of time permitted for the Office of Economic Development to certify the statutorily required audit and make a final determination of whether a certificate of transferable tax credits will be issued.

Roll call on Senate Bill No. 94:

YEAS—21.

NAYS—None.

Senate Bill No. 94 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 104.

Bill read third time.

Remarks by Senator Settelmeyer.

Senate Bill No. 104 provides an exception to the requirement that political advertisements disclose the name of the person or entity who paid for such advertising and include a statement indicating that the advertisement was approved by a candidate. This exception applies to any statement or communication appearing on any article of clothing, regardless of its cost, and certain other forms of advertising including buttons, pens, candy, jar openers and balloons having a retail value of less than \$5 each. The bill is effective on October 1, 2015.

Roll call on Senate Bill No. 104:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 104 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 138.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 138 provides that each law enforcement agency in the State must report annually to the Attorney General specific information about each seizure and forfeiture it conducts.

The Office of the Attorney General is to develop standardized forms for law enforcement agencies to use for the reports and is to make the reports available on its website by April 1 of each year along with an aggregate report of all forfeitures in the State. Information on any law enforcement agency that is out of compliance with these requirements is to be included in the aggregate report. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 138:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 138 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 142.

Bill read third time.

Remarks by Senator Gustavson.

Senate Bill No. 142 revises the definition of "tri-mobile" to mean every motor vehicle designed to travel with three wheels in contact with the ground, at least one of which is power driven. The term does not include a motorcycle with a sidecar. The bill also provides that money in the Account for the Program for the Education of Motorcycle Riders may only be used to pay the expenses of the Program and not for any other purpose. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 142:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 167.

Bill read third time.

The following amendment was proposed by Senator Spearman:

Amendment No. 288.

SUMMARY—Revises provisions relating to employment. (BDR 18-265)

AN ACT relating to employment; revising provisions governing the filing of complaints of employment discrimination with the Nevada Equal Rights Commission; revising the relief that the Commission may order if it determines that an unlawful practice has occurred; providing that it is an unlawful employment practice for an employer, employment agency or labor organization to discriminate against a person for inquiring about, discussing or disclosing information about wages in certain circumstances; revising provisions relating to the time in which an employee may seek relief in district court for a claim of unlawful employment practices; providing civil penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits an employer, employment agency or labor organization from discriminating against any person with respect to employment or membership, as applicable, on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin. (NRS 613.330) Existing law also requires the Nevada Equal Rights Commission to accept certain complaints alleging unlawful discriminatory practices and, if the Commission determines that an unlawful practice has occurred, order: (1) the person engaging in the practice to cease and desist; and (2) for a case involving an unlawful employment practice, the restoration of all benefits and rights to which the aggrieved person is entitled. (NRS 233.157, 233.170)

Section 1 of this bill revises provisions governing the filing of complaints alleging a practice of unlawful discrimination in compensation to require that the complaint be filed within 300 days after any date on which: (1) a decision or practice resulting in discriminatory compensation is adopted; (2) a person becomes subject to such a decision or practice; or (3) a person is affected by an application of such a decision or practice. Section 2 of this bill revises the powers of the Commission to order remedies for unlawful employment practices. Section 2 authorizes the Commission to : (1) award back pay for a period beginning 3 years before the date of the filing of a complaint regarding an unlawful employment practice and ending on the date the Commission issues an order regarding the complaint ~~for~~ ; and (2) order a civil penalty for an unlawful employment practice that the Commission determines is willful, in increasing amounts, based on the number of such practices the person has committed in the previous 5 years.

Section 3 of this bill prohibits an employer, employment agency or labor organization from discriminating against any employee, person or member, as applicable, for inquiring about, discussing or disclosing information about wages unless the person has access to information about the wages of other persons as part of his or her essential job functions and discloses the information to a person who does not have access to that information.

Section 12 of this bill requires the Commission, if it does not conclude that an unfair employment practice has occurred, to issue a letter to the person who filed the complaint concerning an unfair employment practice. This letter must notify the person of his or her right to apply to the district court for an order relating to the alleged unfair employment practice. Section 13 of this bill provides that a person may apply to a district court for relief pursuant to section 12 up to 90 days after the date of issuance of the letter described in section 12, in addition to the existing authority to apply to a district court for relief up to 180 days after the date of the alleged act.

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

Section 1. NRS 233.160 is hereby amended to read as follows:

233.160 1. A complaint which alleges unlawful discriminatory practices in:

(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.

(b) Employment or public accommodations must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.

↪ A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.

2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.

3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:

(a) A copy of the complaint;

(b) An explanation of the rights which are available to that party; and

(c) A copy of the Commission's procedures.

4. *For the purposes of paragraph (b) of subsection 1, an unlawful discriminatory practice in employment which relates to compensation occurs on each date on which:*

(a) A decision or other practice resulting in discriminatory compensation is adopted;

(b) *A person becomes subject to a decision or other practice resulting in discriminatory compensation; or*

(c) *A person is affected by an application of a decision or other practice resulting in discriminatory compensation, including, without limitation, each time wages, benefits or other compensation is paid, resulting, in whole or in part, from such a decision or other practice.*

Sec. 2. NRS 233.170 is hereby amended to read as follows:

233.170 1. When a complaint is filed whose allegations if true would support a finding of unlawful practice, the Commission shall determine whether to hold an informal meeting to attempt a settlement of the dispute in accordance with the regulations adopted pursuant to NRS 233.157. If the Commission determines to hold an informal meeting, the Administrator may, to prepare for the meeting, request from each party any information which is reasonably relevant to the complaint. No further action may be taken if the parties agree to a settlement.

2. If an agreement is not reached at the informal meeting, the Administrator shall determine whether to conduct an investigation into the alleged unlawful practice in accordance with the regulations adopted pursuant to NRS 233.157. After the investigation, if the Administrator determines that an unlawful practice has occurred, the Administrator shall attempt to mediate between or reconcile the parties. The party against whom a complaint was filed may agree to cease the unlawful practice. If an agreement is reached, no further action may be taken by the complainant or by the Commission.

3. If the attempts at mediation or conciliation fail, the Commission may hold a public hearing on the matter. After the hearing, if the Commission determines that an unlawful practice has occurred, it may:

(a) Serve a copy of its findings of fact within 10 calendar days upon any person found to have engaged in the unlawful practice; and

(b) Order the person to:

(1) Cease and desist from the unlawful practice.

(2) In cases involving an unlawful employment practice, restore all benefits and rights to which the aggrieved person is entitled, including, but not limited to, rehiring, back pay for a period ~~[not to exceed 2 years after the date of the most recent unlawful practice,]~~ *described in subsection 4*, annual leave time, sick leave time or pay, other fringe benefits and seniority, with interest thereon from the date of the Commission's decision at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the Commission's decision, plus 2 percent. The rate of interest must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

(3) In cases involving an unlawful employment practice that the Commission determines was willful, pay a civil penalty of:

(I) For the first unlawful employment practice that the person has engaged in during the immediately preceding 5 years which the Commission determines was willful, not more than \$10,000.

(II) For the second unlawful employment practice that the person has engaged in during the immediately preceding 5 years which the Commission determines was willful, not more than \$15,000.

(III) For the third and any subsequent unlawful employment practice that the person has engaged in during the immediately preceding 5 years which the Commission determines was willful, not more than \$25,000.

4. For the purposes of subparagraph (2) of paragraph (b) of subsection 3, the period for back pay must not exceed a period beginning 3 years before the date on which the complaint was filed and ending on the date the Commission issues an order pursuant to paragraph (b) of subsection 3, addressing all unlawful practices which occur during that period and which are similar or related to an unlawful practice in the complaint.

5. The order of the Commission is a final decision in a contested case for the purpose of judicial review. If the person fails to comply with the Commission's order, the Commission shall apply to the district court for an order compelling such compliance, but failure or delay on the part of the Commission does not prejudice the right of an aggrieved party to judicial review. The court shall issue the order unless it finds that the Commission's findings or order are not supported by substantial evidence or are otherwise arbitrary or capricious. If the court upholds the Commission's order and finds that the person has violated the order by failing to cease and desist from the unlawful practice or to make the payment ordered, the court shall award the aggrieved party actual damages for any economic loss and no more.

~~{5.}~~ 6. After the Commission has held a public hearing and rendered a decision, the complainant is barred from proceeding on the same facts and legal theory before any other administrative body or officer.

Sec. 3. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, it is an unlawful employment practice for an employer to discriminate against any of his or her employees, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof, because the employee, person or member, as applicable, has inquired about, discussed or disclosed his or her wages or the wages of another employee, person or member.

2. The provisions of subsection 1 do not apply to an employee, person or member who has access to information about the wages of other employees, persons or members as part of his or her essential job functions and discloses that information to a person who does not have access to that information unless the disclosure is in response to a charge, complaint or investigation for a violation of NRS 613.330.

Sec. 4. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

5. "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 other conditions of employment.

6. "Person" includes the State of Nevada and any of its political subdivisions.

7. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 5. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* concerning unlawful employment practices related to sexual orientation and gender identity or expression do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 6. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, or because he or she has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive ~~[-]~~, *and section 3 of this act*.

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 7. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in those instances where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical,

mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a disability would otherwise have been hired, classified, referred or prepared under a training or retraining program.

3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his or her age if the person is less than 40 years of age.

4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.

5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age.

6. It is not an unlawful employment practice for an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards so long as such requirements are not precluded by law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

Sec. 8. NRS 613.380 is hereby amended to read as follows:

613.380 Notwithstanding any other provision of NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, it is not an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if those differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, nor is it an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, if the test, its administration or

action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

Sec. 9. NRS 613.390 is hereby amended to read as follows:

613.390 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because the individual is an Indian living on or near a reservation.

Sec. 10. NRS 613.400 is hereby amended to read as follows:

613.400 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* requires any employer, employment agency, labor organization or joint labor-management committee subject to NRS 613.310 to 613.435, inclusive, *and section 3 of this act* to grant preferential treatment to any person or to any group because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of the individual or group on account of an imbalance which exists with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in any community, section or other area, or in the available workforce in any community, section or other area.

Sec. 11. NRS 613.405 is hereby amended to read as follows:

613.405 Any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

Sec. 12. NRS 613.420 is hereby amended to read as follows:

613.420 If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* has occurred ~~[any]~~ :

1. Any person alleging such a practice may apply to the district court for an order granting or restoring to that person the rights to which the person is entitled under those sections ~~[]~~ ; *and*

2. *The Commission shall issue a letter to the person who filed the complaint pursuant to NRS 613.405 notifying the person of his or her rights pursuant to subsection 1.*

Sec. 13. NRS 613.430 is hereby amended to read as follows:

613.430 No action authorized by NRS 613.420 may be brought more than 180 days after the date of the act complained of ~~[-]~~ *or more than 90 days after the date of the issuance of the letter described in subsection 2 of NRS 613.420, whichever is later.* When a complaint is filed with the Nevada Equal Rights Commission the limitation provided by this section is tolled as to any action authorized by NRS 613.420 during the pendency of the complaint before the Commission.

Sec. 14. This act becomes effective on July 1, 2015.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Amendment No. 288 revises Senate Bill No. 167 to create a tiered system of penalties for employers who engage in willful and unlawful discrimination in employment. This amendment requires an employer who has willfully and illegally chosen to discriminate against its employees to pay a penalty of \$10,000 for the first instance in a 5-year period, \$15,000 for the second instance and \$25,000 for each subsequent instance.

The intent of this amendment is to put some teeth into our State's laws which prohibit discrimination. Without this amendment, the employer is only liable for what should have paid the employee in the first place, and, while the employee certainly deserves to have his or her rightful pay and benefits restored, it creates an incentive for the employer to discriminate when they know there is no actual penalty for doing so beyond simply paying what they would already have to pay. This amendment creates a cost for employers who willfully choose to illegally discriminate.

This amendment is patterned after the New Jersey law. New Jersey's law is significantly more punitive. Its penalties range from \$10,000 up to \$50,000 and are available for any employment discrimination, not merely willful discrimination. This amendment takes New Jersey's law and makes it better by only penalizing employers who willfully choose to break the law.

This is a good amendment. It makes Senate Bill No. 167 better by creating a real deterrent against employers who choose to do something that we all agree is fundamentally wrong. Everyone in this Chamber agrees that discriminating on the basis of race, religion, gender, sexual orientation, disability and age is wrong. This amendment simply pairs that principle with a method to stop employers who choose to violate it. I urge your vote for this amendment.

Motion lost on a division of the House.

The following amendment was proposed by Senator Spearman:

Amendment No. 289.

SUMMARY—Revises provisions relating to employment. (BDR 18-265)

AN ACT relating to employment; revising provisions governing the filing of complaints of employment discrimination with the Nevada Equal Rights Commission; revising the relief that the Commission may order if it determines that an unlawful practice has occurred; providing that it is an unlawful employment practice for an employer, employment agency or labor organization to discriminate against a person for inquiring about, discussing or disclosing information about wages in certain circumstances; revising provisions relating to the time in which an employee may seek relief in district court for a claim of unlawful employment practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits an employer, employment agency or labor organization from discriminating against any person with respect to employment or membership, as applicable, on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin. (NRS 613.330) Existing law also requires the Nevada Equal Rights Commission to accept certain complaints alleging unlawful discriminatory practices and, if the Commission determines that an unlawful practice has occurred, order: (1) the person engaging in the practice to cease and desist; and (2) for a case involving an unlawful employment practice, the restoration of all benefits and rights to which the aggrieved person is entitled. (NRS 233.157, 233.170)

Section 1 of this bill revises provisions governing the filing of complaints alleging a practice of unlawful discrimination in compensation to require that the complaint be filed within 300 days after any date on which: (1) a decision or practice resulting in discriminatory compensation is adopted; (2) a person becomes subject to such a decision or practice; or (3) a person is affected by an application of such a decision or practice. Section 1 also requires the Commission to notify each party to a complaint of the period of time that a person may apply to a district court for relief. Section 2 of this bill revises the powers of the Commission to order remedies for unlawful employment practices. Section 2 authorizes the Commission to award back pay for a period beginning 3 years before the date of the filing of a complaint regarding an unlawful employment practice and ending on the date the Commission issues an order regarding the complaint.

Section 3 of this bill prohibits an employer, employment agency or labor organization from discriminating against any employee, person or member, as applicable, for inquiring about, discussing or disclosing information about wages unless the person has access to information about the wages of other persons as part of his or her essential job functions and discloses the information to a person who does not have access to that information.

Section 12 of this bill requires the Commission, if it does not conclude that an unfair employment practice has occurred, to issue a letter to the person who filed the complaint concerning an unfair employment practice. This letter must notify the person of his or her right to apply to the district court for an order relating to the alleged unfair employment practice. Section 13 of this bill provides that a person may apply to a district court for relief pursuant to section 12 up to 90 days after the date of issuance of the letter described in section 12, in addition to the existing authority to apply to a district court for relief up to 180 days after the date of the alleged act.

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

Section 1. NRS 233.160 is hereby amended to read as follows:

233.160 1. A complaint which alleges unlawful discriminatory practices in:

(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.

(b) Employment or public accommodations must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.

➔ A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.

2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.

3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:

- (a) A copy of the complaint;
- (b) An explanation of the rights which are available to that party; and
- (c) A copy of the Commission's procedures.

4. The Commission shall notify each party to the complaint of the limitation on the period of time that a person may apply to the district court for relief pursuant to NRS 613.430.

5. For the purposes of paragraph (b) of subsection 1, an unlawful discriminatory practice in employment which relates to compensation occurs on each date on which:

(a) *A decision or other practice resulting in discriminatory compensation is adopted;*

(b) *A person becomes subject to a decision or other practice resulting in discriminatory compensation; or*

(c) *A person is affected by an application of a decision or other practice resulting in discriminatory compensation, including, without limitation, each time wages, benefits or other compensation is paid, resulting, in whole or in part, from such a decision or other practice.*

Sec. 2. NRS 233.170 is hereby amended to read as follows:

233.170 1. When a complaint is filed whose allegations if true would support a finding of unlawful practice, the Commission shall determine whether to hold an informal meeting to attempt a settlement of the dispute in accordance with the regulations adopted pursuant to NRS 233.157. If the Commission determines to hold an informal meeting, the Administrator may, to prepare for the meeting, request from each party any information which is reasonably relevant to the complaint. No further action may be taken if the parties agree to a settlement.

2. If an agreement is not reached at the informal meeting, the Administrator shall determine whether to conduct an investigation into the alleged unlawful practice in accordance with the regulations adopted

pursuant to NRS 233.157. After the investigation, if the Administrator determines that an unlawful practice has occurred, the Administrator shall attempt to mediate between or reconcile the parties. The party against whom a complaint was filed may agree to cease the unlawful practice. If an agreement is reached, no further action may be taken by the complainant or by the Commission.

3. If the attempts at mediation or conciliation fail, the Commission may hold a public hearing on the matter. After the hearing, if the Commission determines that an unlawful practice has occurred, it may:

(a) Serve a copy of its findings of fact within 10 calendar days upon any person found to have engaged in the unlawful practice; and

(b) Order the person to:

(1) Cease and desist from the unlawful practice.

(2) In cases involving an unlawful employment practice, restore all benefits and rights to which the aggrieved person is entitled, including, but not limited to, rehiring, back pay for a period ~~[not to exceed 2 years after the date of the most recent unlawful practice,]~~ *described in subsection 4*, annual leave time, sick leave time or pay, other fringe benefits and seniority, with interest thereon from the date of the Commission's decision at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the Commission's decision, plus 2 percent. The rate of interest must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

4. *For the purposes of subparagraph (2) of paragraph (b) of subsection 3, the period for back pay must not exceed a period beginning 3 years before the date on which the complaint was filed and ending on the date the Commission issues an order pursuant to paragraph (b) of subsection 3, addressing all unlawful practices which occur during that period and which are similar or related to an unlawful practice in the complaint.*

5. The order of the Commission is a final decision in a contested case for the purpose of judicial review. If the person fails to comply with the Commission's order, the Commission shall apply to the district court for an order compelling such compliance, but failure or delay on the part of the Commission does not prejudice the right of an aggrieved party to judicial review. The court shall issue the order unless it finds that the Commission's findings or order are not supported by substantial evidence or are otherwise arbitrary or capricious. If the court upholds the Commission's order and finds that the person has violated the order by failing to cease and desist from the unlawful practice or to make the payment ordered, the court shall award the aggrieved party actual damages for any economic loss and no more.

~~{5.}~~ 6. After the Commission has held a public hearing and rendered a decision, the complainant is barred from proceeding on the same facts and legal theory before any other administrative body or officer.

Sec. 3. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, it is an unlawful employment practice for an employer to discriminate against any of his or her employees, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof, because the employee, person or member, as applicable, has inquired about, discussed or disclosed his or her wages or the wages of another employee, person or member.*

2. *The provisions of subsection 1 do not apply to an employee, person or member who has access to information about the wages of other employees, persons or members as part of his or her essential job functions and discloses that information to a person who does not have access to that information unless the disclosure is in response to a charge, complaint or investigation for a violation of NRS 613.330.*

Sec. 4. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

5. "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 other conditions of employment.

6. "Person" includes the State of Nevada and any of its political subdivisions.

7. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 5. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* concerning unlawful employment practices related to sexual orientation and gender identity or expression do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 6. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, or because he or she has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive ~~[]~~, *and section 3 of this act*.

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 7. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an

employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in those instances where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical, mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a disability would otherwise have been hired, classified, referred or prepared under a training or retraining program.

3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his or her age if the person is less than 40 years of age.

4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.

5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age.

6. It is not an unlawful employment practice for an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards so long as such requirements are not precluded by law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

Sec. 8. NRS 613.380 is hereby amended to read as follows:

613.380 Notwithstanding any other provision of NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, it is not an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if those differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, nor is it an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, if the test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

Sec. 9. NRS 613.390 is hereby amended to read as follows:

613.390 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because the individual is an Indian living on or near a reservation.

Sec. 10. NRS 613.400 is hereby amended to read as follows:

613.400 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* requires any employer, employment agency, labor organization or joint labor-management committee subject to NRS 613.310 to 613.435, inclusive, *and section 3 of this act* to grant preferential treatment to any person or to any group because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of the individual or group on account of an imbalance which exists with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in any community, section or other area, or in the available workforce in any community, section or other area.

Sec. 11. NRS 613.405 is hereby amended to read as follows:

613.405 Any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

Sec. 12. NRS 613.420 is hereby amended to read as follows:

613.420 If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* has occurred ~~[any]~~ :

1. Any person alleging such a practice may apply to the district court for an order granting or restoring to that person the rights to which the person is entitled under those sections ~~[]~~ ; *and*

2. *The Commission shall issue a letter to the person who filed the complaint pursuant to NRS 613.405 notifying the person of his or her rights pursuant to subsection 1.*

Sec. 13. NRS 613.430 is hereby amended to read as follows:

613.430 No action authorized by NRS 613.420 may be brought more than 180 days after the date of the act complained of ~~[]~~ *or more than 90 days after the date of the issuance of the letter described in subsection 2 of NRS 613.420, whichever is later.* When a complaint is filed with the Nevada Equal Rights Commission the limitation provided by this section is tolled as to any action authorized by NRS 613.420 during the pendency of the complaint before the Commission.

Sec. 14. This act becomes effective on July 1, 2015.

Senator Spearman moved the adoption of the amendment.

Remarks by Senators Spearman and Hardy.

SENATOR SPEARMAN:

Amendment No. 289 simply revises Senate Bill No. 167 to require the Nevada Equal Rights Commission to notify all parties to a complaint, at the time the complaint is filed, of the statute of limitations to take the claim to court if the attempt to resolve the complaint with NERC fails. This is a common sense amendment to a big bill. All it does is ensure that everyone involved in a case knows they only have 180 days from the date the discrimination occurred or 90 days from the date that NERC closes a claim without granting relief, to file a case in district court. Many workers in Nevada simply do not have the time or knowhow to go searching through NRS to find these provisions. Nor would they necessarily even know what the statute of limitations is. We should ensure all workers get the full protection of our laws that prohibit discrimination against them regardless of whether they have the time or ability to find all the relevant laws on their own. This amendment helps to achieve that noble and necessary goal. I urge your vote for this amendment.

SENATOR HARDY:

I was looking at the amendments consistent with Nos. 288, 289, 291, 292, 587 and 587. Is there a reason for all the different amendments from the same person in three different ways?

SENATOR SPEARMAN:

Thank you for asking that question. Yes, these amendments are all necessary. These are the elements that need to be present in any bill that talks about equal pay. They all are necessary, and I would urge everyone's vote on all of them.

SENATOR HARDY:

Why are there separate amendments when it could all have been done in one?

SENATOR SPEARMAN:

They are separate because we had to look through the bill, Senate Bill No. 167. As I found things that were not there that needed to be there, I got back with Legal and did that. I think any member of this Body would do the same.

Senators Ford, Manendo and Woodhouse requested a roll call vote on Senator Spearman's motion.

Roll call vote on Senator Spearman's motion.

YEAS—9.

NAYS—Brower, Farley, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Lipparelli, Roberson, Settelmeyer—11.

EXCUSED—Smith.

The motion having failed to receive a majority, Mr. President declared it lost.

The following amendment was proposed by Senator Spearman:

Amendment No. 291.

SUMMARY—Revises provisions relating to employment. (BDR 18-265)

AN ACT relating to employment; revising provisions governing the filing of complaints of employment discrimination with the Nevada Equal Rights Commission; revising the relief that the Commission may order if it determines that an unlawful practice has occurred; providing that it is an unlawful employment practice for an employer, employment agency or labor organization to discriminate against a person for inquiring about, discussing or disclosing information about wages in certain circumstances; revising provisions relating to the time in which an employee may seek relief in district court for a claim of unlawful employment practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits an employer, employment agency or labor organization from discriminating against any person with respect to employment or membership, as applicable, on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin. (NRS 613.330) Existing law also requires the Nevada Equal Rights Commission to accept certain complaints alleging unlawful discriminatory practices and, if the Commission determines that an unlawful practice has occurred, order: (1) the person engaging in the practice to cease and desist; and (2) for a case involving an unlawful employment practice, the restoration of all benefits and rights to which the aggrieved person is entitled. (NRS 233.157, 233.170)

Section 1 of this bill revises provisions governing the filing of complaints alleging a practice of unlawful discrimination in compensation to require that the complaint be filed within 300 days after any date on which: (1) a decision or practice resulting in discriminatory compensation is adopted; (2) a person becomes subject to such a decision or practice; or (3) a person is affected by an application of such a decision or practice. Section 2 of this bill revises the powers of the Commission to order remedies for unlawful employment practices. Section 2 authorizes the Commission to award back pay for a period beginning 3 years before the date of the filing of a complaint regarding an unlawful employment practice and ending on the date the Commission issues an order regarding the complaint.

Section 3 of this bill prohibits an employer, employment agency or labor organization from discriminating against any employee, person or member, as applicable, for inquiring about, discussing or disclosing information about wages unless the person has access to information about the wages of other persons as part of his or her essential job functions and discloses the information to a person who does not have access to that information.

Section 7 of this bill provides that it is an unlawful employment practice to use a qualification which: (1) is based upon or derived from a difference on the basis of sex; or (2) produces more differential treatment on the basis of sex than an alternative proposed by the affected person which would serve the same purpose.

Section 12 of this bill requires the Commission, if it does not conclude that an unfair employment practice has occurred, to issue a letter to the person who filed the complaint concerning an unfair employment practice. This letter must notify the person of his or her right to apply to the district court for an order relating to the alleged unfair employment practice. Section 13 of this bill provides that a person may apply to a district court for relief pursuant to section 12 up to 90 days after the date of issuance of the letter described in section 12, in addition to the existing authority to apply to a district court for relief up to 180 days after the date of the alleged act.

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

Section 1. NRS 233.160 is hereby amended to read as follows:

233.160 1. A complaint which alleges unlawful discriminatory practices in:

(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.

(b) Employment or public accommodations must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.

➡ A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which

has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.

2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.

3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:

- (a) A copy of the complaint;
- (b) An explanation of the rights which are available to that party; and
- (c) A copy of the Commission's procedures.

4. *For the purposes of paragraph (b) of subsection 1, an unlawful discriminatory practice in employment which relates to compensation occurs on each date on which:*

(a) A decision or other practice resulting in discriminatory compensation is adopted;

(b) A person becomes subject to a decision or other practice resulting in discriminatory compensation; or

(c) A person is affected by an application of a decision or other practice resulting in discriminatory compensation, including, without limitation, each time wages, benefits or other compensation is paid, resulting, in whole or in part, from such a decision or other practice.

Sec. 2. NRS 233.170 is hereby amended to read as follows:

233.170 1. When a complaint is filed whose allegations if true would support a finding of unlawful practice, the Commission shall determine whether to hold an informal meeting to attempt a settlement of the dispute in accordance with the regulations adopted pursuant to NRS 233.157. If the Commission determines to hold an informal meeting, the Administrator may, to prepare for the meeting, request from each party any information which is reasonably relevant to the complaint. No further action may be taken if the parties agree to a settlement.

2. If an agreement is not reached at the informal meeting, the Administrator shall determine whether to conduct an investigation into the alleged unlawful practice in accordance with the regulations adopted pursuant to NRS 233.157. After the investigation, if the Administrator determines that an unlawful practice has occurred, the Administrator shall attempt to mediate between or reconcile the parties. The party against whom a complaint was filed may agree to cease the unlawful practice. If an agreement is reached, no further action may be taken by the complainant or by the Commission.

3. If the attempts at mediation or conciliation fail, the Commission may hold a public hearing on the matter. After the hearing, if the Commission determines that an unlawful practice has occurred, it may:

- (a) Serve a copy of its findings of fact within 10 calendar days upon any person found to have engaged in the unlawful practice; and
- (b) Order the person to:

(1) Cease and desist from the unlawful practice.

(2) In cases involving an unlawful employment practice, restore all benefits and rights to which the aggrieved person is entitled, including, but not limited to, rehiring, back pay for a period ~~[not to exceed 2 years after the date of the most recent unlawful practice,]~~ *described in subsection 4*, annual leave time, sick leave time or pay, other fringe benefits and seniority, with interest thereon from the date of the Commission's decision at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the Commission's decision, plus 2 percent. The rate of interest must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

4. *For the purposes of subparagraph (2) of paragraph (b) of subsection 3, the period for back pay must not exceed a period beginning 3 years before the date on which the complaint was filed and ending on the date the Commission issues an order pursuant to paragraph (b) of subsection 3, addressing all unlawful practices which occur during that period and which are similar or related to an unlawful practice in the complaint.*

5. The order of the Commission is a final decision in a contested case for the purpose of judicial review. If the person fails to comply with the Commission's order, the Commission shall apply to the district court for an order compelling such compliance, but failure or delay on the part of the Commission does not prejudice the right of an aggrieved party to judicial review. The court shall issue the order unless it finds that the Commission's findings or order are not supported by substantial evidence or are otherwise arbitrary or capricious. If the court upholds the Commission's order and finds that the person has violated the order by failing to cease and desist from the unlawful practice or to make the payment ordered, the court shall award the aggrieved party actual damages for any economic loss and no more.

~~{5.}~~ 6. After the Commission has held a public hearing and rendered a decision, the complainant is barred from proceeding on the same facts and legal theory before any other administrative body or officer.

Sec. 3. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, it is an unlawful employment practice for an employer to discriminate against any of his or her employees, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof, because the employee, person or member, as applicable, has inquired about, discussed or disclosed his or her wages or the wages of another employee, person or member.*

2. *The provisions of subsection 1 do not apply to an employee, person or member who has access to information about the wages of other employees, persons or members as part of his or her essential job functions and discloses that information to a person who does not have access to that*

information unless the disclosure is in response to a charge, complaint or investigation for a violation of NRS 613.330.

Sec. 4. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

5. "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 other conditions of employment.

6. "Person" includes the State of Nevada and any of its political subdivisions.

7. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 5. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* concerning unlawful employment practices related to sexual

orientation and gender identity or expression do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 6. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, or because he or she has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive ~~[-]~~, *and section 3 of this act*.

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 7. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in those instances where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint

labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical, mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a disability would otherwise have been hired, classified, referred or prepared under a training or retraining program.

3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his or her age if the person is less than 40 years of age.

4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.

5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age.

6. It is not an unlawful employment practice for an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards so long as such requirements are not precluded by law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

7. For the purpose of subsection 1, the term "bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise" does not include:

(a) A qualification which is based upon or derived from a difference on the basis of sex; or

(b) A qualification that the employer, employment agency, labor organization or joint labor-management committee has refused to change after an affected person has presented an alternative practice that would

serve the same purpose without producing the same amount of differential treatment on the basis of sex.

Sec. 8. NRS 613.380 is hereby amended to read as follows:

613.380 Notwithstanding any other provision of NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, it is not an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if those differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, nor is it an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, if the test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

Sec. 9. NRS 613.390 is hereby amended to read as follows:

613.390 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because the individual is an Indian living on or near a reservation.

Sec. 10. NRS 613.400 is hereby amended to read as follows:

613.400 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* requires any employer, employment agency, labor organization or joint labor-management committee subject to NRS 613.310 to 613.435, inclusive, *and section 3 of this act* to grant preferential treatment to any person or to any group because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of the individual or group on account of an imbalance which exists with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in any community, section or other area, or in the available workforce in any community, section or other area.

Sec. 11. NRS 613.405 is hereby amended to read as follows:

613.405 Any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act*

may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

Sec. 12. NRS 613.420 is hereby amended to read as follows:

613.420 If the Nevada Equal Rights Commission does not conclude that an unfair employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* has occurred ~~[, any]~~ :

1. Any person alleging such a practice may apply to the district court for an order granting or restoring to that person the rights to which the person is entitled under those sections ~~[,]~~ ; and

2. *The Commission shall issue a letter to the person who filed the complaint pursuant to NRS 613.405 notifying the person of his or her rights pursuant to subsection 1.*

Sec. 13. NRS 613.430 is hereby amended to read as follows:

613.430 No action authorized by NRS 613.420 may be brought more than 180 days after the date of the act complained of ~~[,]~~ *or more than 90 days after the date of the issuance of the letter described in subsection 2 of NRS 613.420, whichever is later.* When a complaint is filed with the Nevada Equal Rights Commission the limitation provided by this section is tolled as to any action authorized by NRS 613.420 during the pendency of the complaint before the Commission.

Sec. 14. This act becomes effective on July 1, 2015.

Senator Spearman moved the adoption of the amendment

Remarks by Senator Spearman.

Amendment No. 291 revises the Senate Bill No. 167 to prohibit the use of qualifications of employment which are either based upon or derived from a difference on the basis of sex or which would discriminate more than an alternative proposed by the employee that would serve the same business purpose. The provisions of this amendment are taken directly from the Federal Paycheck Fairness Act, and they do two things. First, they prohibit an employer from being able to effectively discriminate on the basis of gender by simply finding something other than gender upon which to base their discrimination. For example, an employer who has not historically hired women, could continue to discriminate on the basis of gender by instead citing the longer experience of its male workers as the basis for their higher salaries. This amendment would prohibit this use of experience as a proxy for gender. Second, the provisions of this amendment prohibit an employer from using a more discriminatory practice when the employee has used an alternative that discriminates less but still satisfies the same business purpose. When an employee takes the time to offer his or her employer a better alternative, the employer should not be able to ignore the suggestion and continue to discriminate. Good employers, of course, would not do either of these things. Bad employers, however, can under current law. This amendment simply closes those loopholes and requires the employers of this State to be fair to their employees. I urge your vote on this amendment.

Senators Ford, Kihuen and Woodhouse requested a roll call vote on Senator Spearman's motion.

Roll call vote on Senator Spearman's motion.

YEAS—9.

NAYS—Brower, Farley, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Lipparelli, Roberson, Settelmeyer—11.

EXCUSED—Smith.

The motion having failed to receive a majority, Mr. President declared it lost.

The following amendment was proposed by Senator Smith:

Amendment No. 587.

SUMMARY—Revises provisions relating to employment. (BDR 18-265)

AN ACT relating to employment; revising provisions governing the filing of complaints of employment discrimination with the Nevada Equal Rights Commission; revising the relief that the Commission may order if it determines that an unlawful practice has occurred; providing that it is an unlawful employment practice for an employer, employment agency or labor organization to discriminate against a person for inquiring about, discussing or disclosing information about wages in certain circumstances; revising provisions relating to the time in which an employee may seek relief in district court for a claim of unlawful employment practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits an employer, employment agency or labor organization from discriminating against any person with respect to employment or membership, as applicable, on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin. (NRS 613.330) Existing law also requires the Nevada Equal Rights Commission to accept certain complaints alleging unlawful discriminatory practices and, if the Commission determines that an unlawful practice has occurred, order: (1) the person engaging in the practice to cease and desist; and (2) for a case involving an unlawful employment practice, the restoration of all benefits and rights to which the aggrieved person is entitled. (NRS 233.157, 233.170)

Section 1 of this bill revises provisions governing the filing of complaints alleging a practice of unlawful discrimination in compensation to require that the complaint be filed within 300 days after any date on which: (1) a decision or practice resulting in discriminatory compensation is adopted; (2) a person becomes subject to such a decision or practice; or (3) a person is affected by an application of such a decision or practice. Section 2 of this bill revises the powers of the Commission to order remedies for unlawful employment practices. Section 2 authorizes the Commission to award back pay for a period beginning 3 years before the date of the filing of a complaint regarding an unlawful employment practice and ending on the date the Commission issues an order regarding the complaint.

Section 3 of this bill prohibits an employer, employment agency or labor organization from discriminating against any employee, person or member,

as applicable, for inquiring about, discussing or disclosing information about wages unless the person has access to information about the wages of other persons as part of his or her essential job functions and discloses the information to a person who does not have access to that information.

Section 12 of this bill requires the Commission, ~~[if it does not conclude that an unfair employment practice has occurred,]~~ at the conclusion of its investigation into an alleged unfair employment practice, to issue a letter to the person who filed the complaint concerning an unfair employment practice. This letter must notify the person of his or her right to apply to the district court for an order relating to the alleged unfair employment practice ~~[]~~ to: (1) grant or restore certain rights if the Commission did not enter such an order; (2) direct the person found to have engaged in the practice to pay the costs and reasonable attorney's fees incurred by the aggrieved person; (3) if the practice relates to discrimination on the basis of sex, direct the person found to have engaged in the practice to pay compensatory or, in certain circumstances, punitive damages; or (4) any combination thereof. Section 13 of this bill provides that a person may apply to a district court for relief pursuant to section 12 up to 90 days after the date of issuance of the letter described in section 12, in addition to the existing authority to apply to a district court for relief up to 180 days after the date of the alleged act.

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

Section 1. NRS 233.160 is hereby amended to read as follows:

233.160 1. A complaint which alleges unlawful discriminatory practices in:

(a) Housing must be filed with the Commission not later than 1 year after the date of the occurrence of the alleged practice or the date on which the practice terminated.

(b) Employment or public accommodations must be filed with the Commission not later than 300 days after the date of the occurrence of the alleged practice.

➡ A complaint is timely if it is filed with an appropriate federal agency within that period. A complainant shall not file a complaint with the Commission if any other state or federal administrative body or officer which has comparable jurisdiction to adjudicate complaints of discriminatory practices has made a decision upon a complaint based upon the same facts and legal theory.

2. The complainant shall specify in the complaint the alleged unlawful practice and sign it under oath.

3. The Commission shall send to the party against whom an unlawful discriminatory practice is alleged:

- (a) A copy of the complaint;
- (b) An explanation of the rights which are available to that party; and
- (c) A copy of the Commission's procedures.

4. *For the purposes of paragraph (b) of subsection 1, an unlawful discriminatory practice in employment which relates to compensation occurs on each date on which:*

(a) A decision or other practice resulting in discriminatory compensation is adopted;

(b) A person becomes subject to a decision or other practice resulting in discriminatory compensation; or

(c) A person is affected by an application of a decision or other practice resulting in discriminatory compensation, including, without limitation, each time wages, benefits or other compensation is paid, resulting, in whole or in part, from such a decision or other practice.

Sec. 2. NRS 233.170 is hereby amended to read as follows:

233.170 1. When a complaint is filed whose allegations if true would support a finding of unlawful practice, the Commission shall determine whether to hold an informal meeting to attempt a settlement of the dispute in accordance with the regulations adopted pursuant to NRS 233.157. If the Commission determines to hold an informal meeting, the Administrator may, to prepare for the meeting, request from each party any information which is reasonably relevant to the complaint. No further action may be taken if the parties agree to a settlement.

2. If an agreement is not reached at the informal meeting, the Administrator shall determine whether to conduct an investigation into the alleged unlawful practice in accordance with the regulations adopted pursuant to NRS 233.157. After the investigation, if the Administrator determines that an unlawful practice has occurred, the Administrator shall attempt to mediate between or reconcile the parties. The party against whom a complaint was filed may agree to cease the unlawful practice. If an agreement is reached, no further action may be taken by the complainant or by the Commission.

3. If the attempts at mediation or conciliation fail, the Commission may hold a public hearing on the matter. After the hearing, if the Commission determines that an unlawful practice has occurred, it may:

(a) Serve a copy of its findings of fact within 10 calendar days upon any person found to have engaged in the unlawful practice; and

(b) Order the person to:

(1) Cease and desist from the unlawful practice.

(2) In cases involving an unlawful employment practice, restore all benefits and rights to which the aggrieved person is entitled, including, but not limited to, rehiring, back pay for a period ~~not to exceed 2 years after the date of the most recent unlawful practice,~~ described in subsection 4, annual leave time, sick leave time or pay, other fringe benefits and seniority, with interest thereon from the date of the Commission's decision at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the Commission's decision, plus

2 percent. The rate of interest must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

4. *For the purposes of subparagraph (2) of paragraph (b) of subsection 3, the period for back pay must not exceed a period beginning 3 years before the date on which the complaint was filed and ending on the date the Commission issues an order pursuant to paragraph (b) of subsection 3, addressing all unlawful practices which occur during that period and which are similar or related to an unlawful practice in the complaint.*

5. The order of the Commission is a final decision in a contested case for the purpose of judicial review. If the person fails to comply with the Commission's order, the Commission shall apply to the district court for an order compelling such compliance, but failure or delay on the part of the Commission does not prejudice the right of an aggrieved party to judicial review. The court shall issue the order unless it finds that the Commission's findings or order are not supported by substantial evidence or are otherwise arbitrary or capricious. If the court upholds the Commission's order and finds that the person has violated the order by failing to cease and desist from the unlawful practice or to make the payment ordered, the court shall award the aggrieved party actual damages for any economic loss and no more.

~~{5-}~~ 6. After the Commission has held a public hearing and rendered a decision, the complainant is barred from proceeding on the same facts and legal theory before any other administrative body or officer.

Sec. 3. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 2, it is an unlawful employment practice for an employer to discriminate against any of his or her employees, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof, because the employee, person or member, as applicable, has inquired about, discussed or disclosed his or her wages or the wages of another employee, person or member.*

2. *The provisions of subsection 1 do not apply to an employee, person or member who has access to information about the wages of other employees, persons or members as part of his or her essential job functions and discloses that information to a person who does not have access to that information unless the disclosure is in response to a charge, complaint or investigation for a violation of NRS 613.330.*

Sec. 4. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, unless the context otherwise requires:

1. "Disability" means, with respect to a person:

(a) A physical or mental impairment that substantially limits one or more of the major life activities of the person, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

4. "Gender identity or expression" means a gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

5. "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 other conditions of employment.

6. "Person" includes the State of Nevada and any of its political subdivisions.

7. "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 5. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* concerning unlawful employment practices related to sexual orientation and gender identity or expression do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 6. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, or because he or she has made a charge, testified, assisted or

participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive ~~[]~~, *and section 3 of this act.*

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 7. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in those instances where religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical, mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a disability would otherwise have been hired, classified, referred or prepared under a training or retraining program.

3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to

classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his or her age if the person is less than 40 years of age.

4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.

5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age.

6. It is not an unlawful employment practice for an employer to require employees to adhere to reasonable workplace appearance, grooming and dress standards so long as such requirements are not precluded by law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

Sec. 8. NRS 613.380 is hereby amended to read as follows:

613.380 Notwithstanding any other provision of NRS 613.310 to 613.435, inclusive, *and section 3 of this act*, it is not an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if those differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, nor is it an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, if the test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin.

Sec. 9. NRS 613.390 is hereby amended to read as follows:

613.390 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to

any individual because the individual is an Indian living on or near a reservation.

Sec. 10. NRS 613.400 is hereby amended to read as follows:

613.400 Nothing contained in NRS 613.310 to 613.435, inclusive, *and section 3 of this act* requires any employer, employment agency, labor organization or joint labor-management committee subject to NRS 613.310 to 613.435, inclusive, *and section 3 of this act* to grant preferential treatment to any person or to any group because of the race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin of the individual or group on account of an imbalance which exists with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin in any community, section or other area, or in the available workforce in any community, section or other area.

Sec. 11. NRS 613.405 is hereby amended to read as follows:

613.405 Any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, gender identity or expression, age, disability, religion or national origin.

Sec. 12. NRS 613.420 is hereby amended to read as follows:

613.420 ~~If~~ When the Nevada Equal Rights Commission ~~does not conclude that~~ *concludes its investigation regarding whether* an unfair employment practice within the scope of NRS 613.310 to 613.435, inclusive, *and section 3 of this act* has occurred ~~[, any]~~ :

1. Any person alleging such a practice may apply to the district court for an order ~~[granting]~~ :

(a) If the Commission did not issue an order granting or restoring to that person the rights to which the person is entitled under those sections ~~[, any]~~ , granting or restoring such rights;

(b) Directing a person found to have engaged in an unfair employment practice to pay the costs and reasonable attorney's fees incurred by the aggrieved person to pursue the claim;

(c) If the unfair employment practice relates to discrimination on the basis of sex, directing a person found to have engaged in an unfair employment practice to pay an amount determined to be appropriate by the court as compensatory damages or, if the court determines that the person acted with malice or reckless indifference, punitive damages; or

(d) Any combination of paragraphs (a), (b) and (c); and

2. *The Commission shall issue a letter to the person who filed the complaint pursuant to NRS 613.405 notifying the person of his or her rights pursuant to subsection 1.*

Sec. 13. NRS 613.430 is hereby amended to read as follows:

613.430 No action authorized by NRS 613.420 may be brought more than 180 days after the date of the act complained of ~~[-]~~ *or more than 90 days after the date of the issuance of the letter described in subsection 2 of NRS 613.420, whichever is later.* When a complaint is filed with the Nevada Equal Rights Commission the limitation provided by this section is tolled as to any action authorized by NRS 613.420 during the pendency of the complaint before the Commission.

Sec. 14. This act becomes effective on July 1, 2015.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

This amendment revises language in section 12 of the bill concerning investigations of unfair employment practices by the Equal Rights Commission. The new language provides that, at the conclusion of an investigation into whether an unfair practice has occurred, the person alleging the practice may apply to the district court for various remedies, including: first, if the Commission did not issue an order granting or restoring rights, an order from the court doing so; second, an order directing the offending party to pay costs and reasonable attorney's fees to the person harmed; third, if the claim is found to involve sex discrimination, to order compensatory damages or, if the offender is found to have acted with malice or reckless indifference, punitive damages; or fourth, any combination of the items described above.

I just want to briefly note that, while I very much appreciate the sponsor bring Senate Bill No. 167 before this Body, and while I believe it is a vital piece of legislation that should pass out of this House with enthusiastic unanimous support, I believe we can make it better.

We can adopt Amendment No. 587, which I have just described, to this bill, and ensure that any person who is discriminated against by their employer in this State will truly be made whole for the indignities they have suffered.

At the same time, we can and should make it crystal clear to employers in Nevada that discrimination is not the only wrong, but that it will be punished in the same way the federal government punishes this behavior, and the same way that many large corporations and large insurance companies handle these claims, namely, by allowing for attorney's fees and compensatory and punitive damages to be awarded to a harmed individual. There is no reason why Nevada should not meet the highest standard possible when it comes to stopping employment discrimination.

Senators Ford, Manendo and Woodhouse requested a roll call vote on Senator Woodhouse's motion.

Roll call vote by Senator Woodhouse's motion:

YEAS—9.

NAYS—Brower, Farley, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Lipparelli, Roberson, Settlemeyer—11.

EXCUSED—Smith.

The motion having failed to receive a majority, Mr. President declared it lost.

Remarks by Senators Brower and Ford.

SENATOR BROWER:

Thank you to my colleague from Senate District 5 for her enthusiastic endorsement of this important bill. In fact, the bill did pass unanimously out the Judiciary Committee with no amendments at all by Committee members. Senate Bill No. 167 expands Nevada's Equal Pay Law by requiring that a complaint alleging an unlawful employment practice be filed with the NERC within 300 days after any date in which a decision or practice resulting in discriminatory compensation is adopted. A person becomes subject to such a decision or practice or a person is affected by such a decision or practice resulting in discriminatory compensation, including wages, benefits or other compensation resulting in whole or in part from such a decision or a practice. The bill further requires that an employer, employment agency or labor organization is prohibited from discriminating against any employee, person or member with respect to employment for inquiring about, discussing or disclosing information about wages unless the person has access to other persons wages as part of his or essential job functions and discloses that information to someone who does not have access to that information. This is an important bill, Mr. President, for obvious reasons, I think. I urge its support by this Body.

SENATOR FORD:

Indeed this is a good bill. So were the amendments that were rejected by more than half of this Body. And, let us be clear these amendments were offered to the sponsors of the bill, frankly, who serves on the Committee, and they were not accepted. Ultimately, it came out of Committee unanimous without these amendments. But, again, let us be clear, every single amendment that was offered here, today, that provides extra benefits for women who have been discriminated against should have been a part of this bill. They were a part of a comparable bill that never got a hearing, and so, they were offered at this juncture to allow this opportunity to be approved. I wanted to make sure the record was clear in that regard.

Roll call on Senate Bill No. 167:

YEAS—20

NAYS—None

EXCUSED—Smith.

Senate Bill No. 167 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 174.

Bill read third time.

Remarks by Senator Hammond.

Senate Bill No. 174 excludes a person, other than one appointed by a declarant, from being a member of the executive board of a unit-owners association if: the person resides with, is married to, is a domestic partner of or is related within the third degree of consanguinity to a board member; the person stands to gain any personal profit or compensation from a matter before the board; or the person owns more than one unit in the association.

A person who owns 75 percent or more of the units in an association may serve on the board, regardless of the exclusions above, so long as doing so will not mean that two persons who meet any of the conditions described above and who serve on a board together will constitute a majority of the board membership. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 174:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 174 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senator Roberson moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 1:52 p.m.

SENATE IN SESSION

At 3:56 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Senate Bills Nos. 250, 273, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JAMES A. SETTELMAYER, *Chair*

Mr. President:

Your Committee on Education, to which were referred Senate Bills Nos. 432, 504, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BECKY HARRIS, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Senate Bill No. 401, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PETE GOICOCHEA, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which was referred Senate Bill No. 303, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOSEPH P. HARDY, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Senate Bill No. 329, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

GREG BROWER, *Chair*

Mr. President:

Your Committee on Transportation, to which was referred Senate Bill No. 502, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and re-refer to the Committee on Finance.

SCOTT HAMMOND, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hammond moved that Senate Bills Nos. 178, 388 be taken from the General File and placed on the Secretary's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 183.

Bill read third time.

Remarks by Senator Gustavson.

Senate Bill No. 183 revises the legislative intent regarding the regulation and licensing of motor carriers to provide fair and impartial regulation and promote safe service in motor transportation. The bill eliminates certain requirements in the application process for a motor carrier certificate of public convenience and necessity (CPCN) to reflect the legislative intent. In addition, Senate Bill No. 183 allows a person to intervene in a hearing on a CPCN application only if the person has actual or constructive knowledge that the applicant poses a threat to the physical safety of the traveling public. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 183:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 183 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 194.

Bill read third time.

Remarks by Senator Settelmeyer.

Senate Bill No. 194 allows a private company, public entity or utility to establish and administer a consolidated insurance program for industrial insurance on a construction project or a series of projects if the estimated total cost of the construction project is at least \$50 million. Any policy or contract of insurance required by a consolidated insurance program must be issued by an insurer who is rated A- or better by A.M. Best with a Financial Size Category of Class VII or larger, or the equivalent as determined by the Commissioner of Insurance. The measure requires the owner or primary contractor of a construction project to allow a contractor, employer or subcontractor who has an employee on the construction project to have access to the project site and to any documents relating to claims filed by or on behalf of their injured workers. Finally, this bill allows an administrator of claims for a consolidated insurance program to serve as the administrator of claims for the consolidated insurance program of more than one construction project. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 194:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 194 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 195.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 195 creates the Office of the Western Regional Higher Education Compact within the Office of the Governor. This bill is effective on July 1, 2015.

Roll call on Senate Bill No. 195:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 195 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 197.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 197 prohibits the filing, registering or recording of a fraudulent lien or other encumbrance against the property of a public officer, candidate for public office, mediator, public employee or participant in an official proceeding, or a member of the person's immediate family, and provides that any such lien filed against the real or personal property of any of the persons listed above is invalid.

A person committing such a crime is guilty of a category B felony, with enhanced penalties for a second or subsequent offense or for an offense that constitutes part of a pattern of such offenses. A victim may also bring civil action against the perpetrator for damages suffered, attorney fees and costs. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 197:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 197 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 229.

Bill read third time.

Remarks by Senators Gustavson and Manendo.

SENATOR GUSTAVSON:

Senate Bill No. 229 provides for the issuance of special license plates indicating support for the rights guaranteed by the Second Amendment to the *United States Constitution*. The fees generated by such special license plates, in addition to all other applicable registration and license fees and governmental services taxes, must be deposited with the State Treasurer and distributed to the Nevada Firearms Coalition or its successor on a quarterly basis. Such funds are to be used only to provide or pay for firearm training or firearm safety education. These special license plates must be approved by the Commission on Special License Plates, and after approval, will not be issued until one of the 30 design slots for special license plates becomes available. A surety bond must be posted with the Department of Motor Vehicles. This bill is effective on October 1, 2015.

SENATOR MANENDO:

I want to say thank you to the Sponsor of the bill for working with the Committee members to make sure the money generated from this license plate would go for educational purposes only and not for political purposes because that clearly was not your intent.

Roll call on Senate Bill No. 229:

YEAS—15.

NAYS—Ford, Parks, Segerblom, Spearman, Woodhouse—5.

EXCUSED—Smith.

Senate Bill No. 229 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 231.

Bill read third time.

The following amendment was proposed by Senator Hardy:

Amendment No. 574.

SUMMARY—Revises provisions relating to workers' compensation. (BDR 53-986)

AN ACT relating to workers' compensation; limiting the amount of a controlled substance that certain providers of health care may dispense to an injured employee; revising provisions related to the time that an insurer has to pay a bill submitted by a provider of health care; revising provisions relating to injured employees who were injured while intoxicated or under the influence of a controlled or prohibited substance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill revises various provisions of the Nevada Industrial Insurance Act which provides for the payment of compensation to employees who are injured or disabled as a result of an occupational injury or disease. (Chapters 616A-616D of NRS)

Section 1 of this bill sets forth that a provider of health care (not including a pharmacist or hospital) may dispense only an initial 15-day supply of a schedule II or III controlled substance to an injured employee. In addition, the provider of health care must include the original manufacturer's National Drug Code for the drug on all bills and reports submitted to the insurer. ~~[Section 1 also provides that an insurer that provides coverage for prescription drugs must provide coverage for any drug: (1) prescribed for a covered indication that is approved by the United States Food and Drug Administration for the indication; (2) recognized in a standard reference compendia for treatment of the indication; or (3) is substantially accepted for treatment for the indication in peer reviewed medical literature.]~~

Existing law provides a two-step process for an insurer to pay a bill submitted by a provider of health care. First, the insurer must approve or deny the bill within 30 days of receipt. Second, if the insurer approves the bill, they must pay the bill within 30 days of the approval. (NRS 616C.136) Section 2 of this bill consolidates these two steps and requires that an insurer pay or deny a bill within 45 days after receipt.

Existing law provides that compensation is not payable to an employee whose injury is proximately caused by the employee's intoxication or use of a

controlled substance. Existing law also provides a rebuttable presumption that an employee's intoxication or use of a controlled substance at the time of the injury is the proximate cause of the injury. (NRS 616C.230) Section 3 of this bill revises these provisions by replacing them with a requirement that the employee not receive compensation whenever an injury occurs to the employee while the employee is intoxicated or under the influence of a controlled or prohibited substance, unless the employee can prove by clear and convincing evidence that his or her intoxication or being under the influence of a controlled or prohibited substance was not the proximate cause of the injury. Further, section 3 provides that the employee is intoxicated or under the influence of a controlled or prohibited substance for the purposes of not receiving compensation whenever the employee meets or exceeds the limits for intoxication or use of a controlled or prohibited substance as set forth in NRS 484C.110, which prescribes such limits in the context of driving under the influence. In addition, section 3 provides that the results of any alcohol or drug test performed as a result of an injury must be made available to an insurer or employer upon request.

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

Section 1. Chapter 616C of NRS is hereby amended by adding thereto a new section to read as follows:

1. *With respect to drugs prescribed and dispensed directly to an injured employee by a provider of health care:*

(a) *The provider of health care may dispense an initial supply of a controlled substance which is listed in schedule II or III by the State Board of Pharmacy pursuant to NRS 453.146 to an injured employee. Any controlled substances prescribed to an injured employee beyond the initial supply must be filled by a pharmacy that is registered with the State Board of Pharmacy.*

(b) *The provider of health care shall include the original manufacturer's National Drug Code, as assigned by the United States Food and Drug Administration, on all bills and reports submitted to an insurer pursuant to this chapter.*

(c) *A repackaged National Drug Code must not be used and must not be considered an original manufacturer's National Drug Code for the purposes of this section.*

(d) *A provider of health care who provides care on an outpatient basis may not charge an insurer or seek reimbursement for dispensing a nonprescription drug to an injured employee.*

2. ~~An insurer who provides coverage for prescription drugs shall provide coverage for any drug prescribed to treat a covered medical condition if the drug:~~

~~—(a) Has been approved by the United States Food and Drug Administration for the treatment of at least one medical condition;~~

~~—(b) Is recognized in a standard reference compendia for treatment of the covered medical condition; or~~

~~(c) Is substantially accepted for treatment of the covered medical condition in peer reviewed medical literature.~~

~~3.]~~ As used in this section:

(a) "Initial supply" means a quantity of a controlled substance that when used as prescribed does not exceed a 15-day supply and that is provided on a one-time basis.

(b) "Provider of health care" has the meaning ascribed to it in NRS 629.031, but does not include a pharmacist or a hospital as defined in NRS 449.012.

Sec. 2. NRS 616C.136 is hereby amended to read as follows:

616C.136 1. Except as otherwise provided in this section, an insurer shall ~~approve or deny a bill for accident benefits received from a provider of health care within 30 calendar days after the insurer receives the bill. If the bill for accident benefits is approved, the insurer shall~~ pay ~~the~~ or deny a bill for accident benefits received from a provider of health care within ~~30~~ 45 calendar days after ~~it is approved.~~ the insurer or third-party administrator receives the bill. Except as otherwise provided in this section, if the ~~approved~~ bill for accident benefits is not paid within that period, the insurer shall pay interest to the provider of health care at a rate of interest equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date on which the payment was due, plus 6 percent. The interest must be calculated from ~~30~~ 45 calendar days after the date on which the bill is ~~approved~~ received until the date on which the bill is paid.

2. If an insurer needs additional information to determine whether to ~~approve~~ pay or deny a bill for accident benefits received from a provider of health care, the insurer shall notify the provider of health care of his or her request for the additional information within 20 calendar days after the insurer receives the bill. The insurer shall notify the provider of health care of all the specific reasons for the delay in ~~approving~~ paying or denying the bill for accident benefits. Upon the receipt of such a request, the provider of health care shall furnish the additional information to the insurer within 20 calendar days after receiving the request. If the provider of health care fails to furnish the additional information within that period, the provider of health care is not entitled to the payment of interest to which the provider of health care would otherwise be entitled for the late payment of the bill for accident benefits. The insurer shall ~~approve~~ pay or deny the bill for accident benefits within 20 calendar days after the insurer receives the additional information. ~~If the bill for accident benefits is approved, the insurer shall pay the bill within 20 calendar days after the insurer receives the additional information.~~ Except as otherwise provided in this subsection, if the ~~approved~~ bill for accident benefits is not paid within that period, the insurer shall pay interest to the provider of health care at the rate set forth in subsection 1. The interest must be calculated from 20 calendar days after the

date on which the insurer receives the additional information until the date on which the bill is paid.

3. An insurer shall not request a provider of health care to resubmit information that the provider of health care has previously provided to the insurer, unless the insurer provides a legitimate reason for the request and the purpose of the request is not to delay the payment of the accident benefits, harass the provider of health care or discourage the filing of claims.

4. An insurer shall not pay only a portion of a bill for accident benefits that ~~has been approved and~~ is fully payable.

5. The Administrator may require an insurer to provide evidence which demonstrates that the insurer has substantially complied with the requirements of this section, including, without limitation, payment within the time required of at least 95 percent of ~~approved~~ accident benefits. ~~for at least 90 percent of the total dollar amount of approved accident benefits.~~ If the Administrator determines that an insurer is not in substantial compliance with the requirements of this section, the Administrator may require the insurer to pay an administrative fine in an amount to be determined by the Administrator.

6. The payment of interest provided for in this section for ~~the~~ a late payment ~~of an approved claim~~ may be waived only if the payment was delayed because of an act of God or another cause beyond the control of the insurer.

7. Payments made by an insurer pursuant to this section are not an admission of liability for the accident benefits or any portion of the accident benefits.

Sec. 3. NRS 616C.230 is hereby amended to read as follows:

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

(a) Caused by the employee's willful intention to injure himself or herself.

(b) Caused by the employee's willful intention to injure another.

(c) ~~Proximately caused by the employee's~~ *That occurred while the employee was in a state of intoxication* ~~[If the employee was intoxicated at the time of his or her injury, intoxication must be presumed to be a proximate cause unless rebutted by evidence to the contrary.]~~, *unless the employee can prove by clear and convincing evidence that his or her state of intoxication was not the proximate cause of the injury. For the purposes of this paragraph, an employee is in a state of intoxication if the level of alcohol in the bloodstream of the employee meets or exceeds the limits set forth in subsection 1 of NRS 484C.110.*

(d) ~~Proximately caused by the employee's use~~ *That occurred while the employee was under the influence of a controlled or prohibited substance* ~~[If the employee had any]~~, *unless the employee can prove by clear and convincing evidence that his or her being under the influence of a controlled or prohibited substance was not the proximate cause of the injury. For the purposes of this paragraph, an employee is under the influence of a*

controlled or prohibited substance if the employee had an amount of a controlled or prohibited substance in his or her system at the time of his or her injury that was equal to or greater than the limits set forth in subsection 3 of NRS 484C.110 and for which the employee did not have a current and lawful prescription issued in the employee's name . ~~for that the employee was not using in accordance with the provisions of chapter 453A of NRS, the controlled substance must be presumed to be a proximate cause unless rebutted by evidence to the contrary.~~

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS 50.310, 50.315 or 50.320 is admissible to prove the existence of ~~any~~ *an impermissible quantity of alcohol or the existence, quantity or identity of [a] an impermissible controlled or prohibited substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.*

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled *or prohibited* substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

(c) The results of any testing for the use of alcohol or a controlled or prohibited substance, irrespective of the purpose for performing the test, must be made available to an insurer or employer upon request, to the extent that doing so does not conflict with federal law.

3. No compensation is payable for the death, disability or treatment of an employee if the employee's death is caused by, or insofar as the employee's disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his or her recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his or her recovery, the employee's compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

➡ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

6. *As used in this section, "prohibited substance" has the meaning ascribed to it in NRS 484C.080.*

Sec. 4. This act becomes effective upon passage and approval for the purposes of adopting any regulations or performing any preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2016, for all other purposes.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Settlemeyer.

SENATOR HARDY:

Senate Bill No. 231 revises various provisions governing workers' compensation. It provides that a health care provider may dispense only an initial 15-day supply of a schedule II or schedule III controlled substance to an injured employee. Any additional doses that are prescribed must be provided by a registered pharmacy. A health care provider must include the original manufacturer's National Drug Code for the drug on all bills and reports submitted to the insurer. The measure requires an insurer to pay or deny a health care provider's bill for accident benefits within 45 days of receipt. In addition, Senate Bill No. 231 removes the rebuttable presumption provisions concerning a workplace injury that occurs while an employee is under the influence of alcohol or drugs and replaces those provisions with a requirement that the employee not receive compensation unless he or she can prove by clear and convincing evidence that being intoxicated or under the influence of a controlled or prohibited substance was not the proximate cause of the injury. Finally, the results of any alcohol or drug test performed as a result of an injury must be made available to an insurer or employer upon request.

This bill is effective upon passage and approval for the purposes of adopting any regulations or performing any preparatory administrative tasks, and on January 1, 2016, for all other purposes.

SENATOR SETTELMAYER:

I appreciated the Senator from District 12 reaching out to the Committee after the bill passed trying to address an additional concern. He has notified me, way in advance, that this amendment was coming, and I appreciate and support that amendment to try to fix some of the concerns that some of our Committee members had on this particular bill.

Amendment adopted.

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

Senate Bill No. 246.

Bill read third time.

Remarks by Senator Settlemeyer.

Senate Bill No. 246 increases from 20,000 to 40,000 cases the quantity of spirits that a craft distillery may manufacture for export to another state in a calendar year. This bill allows a craft distillery to serve samples not to exceed four ounces per person, per day, and it increases the quantity of spirits that may be sold to a person at retail for off-premises consumption from two bottles of spirits per person, per month, to one case of spirits per month, not to exceed six cases in a year. This measure authorizes a craft distillery to donate and transport spirits manufactured at the craft distillery for charitable or nonprofit purposes or to transfer certain bulk spirits to another supplier. Such a charitable donation or bulk transfer is not included in the 10,000 cases per year that a craft distillery is permitted to sell and transport within the State. Finally, the bill creates a civil cause of action for a person damaged by existing law relating to the manufacturing, importing, wholesaling and retailing of alcoholic beverages. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 246:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 246 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 251.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 251 ratifies the Interstate Medical Licensure Compact. The Compact serves as a voluntary licensing option that would allow physicians and osteopathic physicians licensed in Nevada, who are seeking to practice in multiples states, the ability to apply for an expedited licensing option in all states participating in the Compact. The Compact regulates the licensure and discipline of physicians and osteopathic physicians holding reciprocal licenses through the Compact. This bill is effective on October 1, 2015, if at least six other states have ratified the Compact by that date. Otherwise, the bill is effective on the date after October 1, 2015, on which at least six other states have ratified the Compact.

Roll call on Senate Bill No. 251:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 251 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 264.

Bill read third time.

Remarks by Senator Lipparelli.

Senate Bill No. 264 clarifies that certain provisions of the Uniform Fraudulent Transfers Act, regarding time limits, that apply to actions concerning certain fraudulent transfers do not apply to a claim for relief with respect to a transfer of property to a spend thrift trust.

Roll call on Senate Bill No. 264:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 264 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 313.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 313 authorizes the governing body of a private school or a university school for profoundly gifted pupils to provide a program of distance education. It also revises provisions governing apportionments and allowances from the State Distributive School Account to include students who are enrolled full-time in such a program provided by a university school for profoundly gifted pupils. This bill is effective on July 1, 2015.

Roll call on Senate Bill No. 313:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 313 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 320.

Bill read third time.

Remarks by Senator Harris.

Senate Bill No. 320 requires that a disclosure statement, the text of which is included in the bill, be provided to, signed and dated by a purchaser of a time-share unit before the purchaser enters into a sales contract. The disclosure statement addresses the value of a time-share interest, resale of such an interest and restrictions that may be included in the governing documents for the time-share. This bill is effective on July 1, 2015.

Roll call on Senate Bill No. 320:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 320 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bill No. 324 be taken from the General File and re-referred to the Committee on Finance.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 327.

Bill read third time.

Remarks by Senator Farley.

Senate Bill No. 327 provides for the minimum number of attendants and qualifications for those attendants aboard an air ambulance. The measure revises the training requirements for a licensed physician, registered nurse or licensed physician assistant to be certified as an attendant. An emergency medical services registered nurse is authorized to perform certain procedures.

Roll call on Senate Bill No. 327:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 327 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 349.

Bill read third time.

Remarks by Senator Woodhouse.

Senate Bill No. 349 requires the Division of Mortgage Lending of the Department of Business and Industry to adopt a test for an initial license as a mortgage broker or mortgage agent who will not engage in activities as a residential mortgage loan originator so that the examination is germane to commercial mortgage lending.

This measure also provides that any mortgage servicer, mortgagee or beneficiary of a deed of trust who is in compliance with the Final Servicing Rules issued by the federal Consumer Financial Protection Bureau is deemed to be in compliance with certain requirements of Nevada law relating to the foreclosure of owner-occupied housing that is secured by a residential mortgage loan. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 349:

YEAS—9.

NAYS—Brower, Farley, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Lipparelli, Roberson, Settlemeyer—11.

EXCUSED—Smith.

Senate Bill No. 349 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 354.

Bill read third time.

Remarks by Senator Denis.

Senate Bill No. 354 allows a pedestrian traveling on a sidewalk who encounters an obstruction that makes the sidewalk impassable to proceed carefully on the highway immediately adjacent to the sidewalk for a short period. Such a pedestrian: 1) must walk or otherwise travel as far to the side of the highway near the sidewalk as possible; 2) may walk or travel in the direction in which he or she was traveling on the sidewalk, regardless of the direction of traffic; 3) may walk or travel in a bicycle lane if the area between the lane and the sidewalk is impassable; and 4) must return to the sidewalk as soon as practicable. The driver of a motor vehicle must yield the right-of-way to any pedestrian traveling in such circumstances.

This bill is effective upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out these provisions, and on January 1, 2016, for all other purposes.

Roll call on Senate Bill No. 354:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 354 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 381.

Bill read third time.

Remarks by Senator Ford.

Senate Bill No. 381 creates the Nevada Task Force on Financial Security, consisting of five voting members, to conduct a comprehensive examination during the 2015-2016 legislative interim of the financial security of individuals and families in Nevada, including, without limitation, their opportunities to build assets and reduce debt.

The bill specifies the membership of the Task Force as the Minority Leader of the Senate and the Majority Leader of the Assembly or their designees, plus three additional appointed members

that meet certain criteria specified in the bill, two appointed by the Minority Leader of the Senate and one appointed by the Majority Leader of the Assembly.

The bill sets forth certain required information that must be included in the study and specifies that the costs of the Task Force will be paid only from gifts, grants and donations received by the Task Force.

The Task Force is required to submit a report of its findings and recommendations to the Legislative Counsel Bureau on or before September 1, 2016.

This act becomes effective upon passage and approval for the purpose of appointing the voting members to the Nevada Task Force on Financial Security and on July 1, 2015, for all other purposes. This act expires by limitation on June 30, 2017.

Roll call on Senate Bill No. 381:

YEAS—9.

NAYS—Brower, Farley, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Lipparelli, Roberson, Settelmeyer—11.

EXCUSED—Smith.

Senate Bill No. 381 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 390.

Bill read third time.

Remarks by Senator Harris.

Senate Bill No. 390 authorizes preference for enrollment at a charter school to be offered to students attending a public school that: exceeds its intended enrollment capacity by more than 25 percent; or in the preceding school year, received one of the two lowest ratings under the statewide system of accountability for public schools.

If offered, these enrollment preferences must first be provided to students residing within two miles of the charter school, and then, to other such students applying for enrollment.

Additionally, each school district is required to post on its website a list of schools in the district exceeding their enrollment capacity by 25 percent or more. This bill is effective on July 1, 2015.

Roll call on Senate Bill No. 390:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 390 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 395.

Bill read third time.

Remarks by Senator Kihuen.

Senate Bill No. 395 authorizes a county whose population is 100,000 or more to provide a space outside each office and branch office of the county clerk in which a commercial wedding chapel, a licensed business that operates principally for the performance of weddings in the county or a church or religious organization may place informational brochures for display.

The bill also authorizes a board of county commissioners in a county whose population is 700,000 or more to adopt an ordinance imposing a fee of not more than \$14 on the issuance of a wedding license; the proceeds of which must be used to promote marriage tourism.

Finally, the measure provides for the division of any community property or liability that was omitted by the court from an initial divorce decree or judgement. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 395.

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 395 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 404.

Bill read third time.

Remarks by Senator Denis.

Senate Bill No. 404 requires the owner of a moped to register the vehicle with the Department of Motor Vehicles (DMV) before operating on State highways. A one-time \$33 registration fee is required, as is a nontransferable, nonrefundable government services tax. Upon registration, the DMV must issue a license plate distinct from a motorcycle license plate. Moped registration is effective until the owner transfers ownership or cancels the registration and surrenders the license plate to the DMV.

Roll call on Senate Bill No. 404:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 404 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 439.

Bill read third time.

The following amendment was proposed by Senator Ford:

Amendment No. 591.

SUMMARY—Provides for the permitting and regulation of transportation network companies. (BDR 58-633)

AN ACT relating to transportation services; providing for the regulation by the Public Utilities Commission of Nevada of transportation network companies; requiring the establishment of fees and annual assessments for a transportation network company; authorizing a transportation network company that holds a valid permit issued by the Commission to make its digital network or software application service available to one or more drivers to receive connections to passengers from the company; establishing requirements concerning the qualifications of, the provision of insurance for and the operation and maintenance of motor vehicles operated by drivers who provide transportation services; prohibiting a local government from imposing on a transportation network company or a driver for such a company any additional tax or fee or requirement as a condition of providing transportation services; providing that a transportation network company or driver who provides transportation services pursuant to a valid permit issued by the Commission is not subject to certain provisions of law governing

motor carriers; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the permitting by the Public Utilities Commission of Nevada of transportation network companies and the regulation by the Commission of the provision of transportation services. Section 5 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 to passengers. 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 provides that it is the purpose and policy of the Legislature in enacting this bill to ensure the safety, reliability and cost-effectiveness of the transportation services provided by drivers affiliated with transportation network companies in this State.

Section 8 of this bill prohibits any person from doing business in this State as a transportation network company unless the person holds a valid permit issued by the Commission pursuant to the provisions of this bill. Section 9 of this bill provides for the submission to the Commission of an application for a permit. Section 10 of this bill requires the Commission to issue a permit to an applicant upon a determination by the Commission that the applicant meets all the applicable requirements for the issuance of the permit. Section 10 further provides that a permit issued by the Commission authorizes a transportation network company to: (1) connect passengers to a driver who can provide transportation services through the use of a digital network or software application service; and (2) make its digital network or software application service available to one or more drivers to receive connections from the company. Additionally, section 10 provides that a permit issued by the Commission does not authorize a transportation network company to engage in any activity regulated pursuant to chapter 706 of NRS, relating to motor carriers. Section 11 of this bill requires the Commission to establish a fee for the issuance of a permit to operate a transportation network company. Section 11 also requires the payment of an annual assessment by each transportation network company in this State beginning in the year after the company receives a permit. Section 11 additionally requires the Commission to collect from a company a fee of 25 cents for each trip for which a driver provides transportation services using the company's digital network or software application service and to deposit this amount for credit to the State Highway Fund.

Section 14 of this bill authorizes a transportation network company to enter into agreements with one or more drivers to receive connections to potential passengers from the company. Section 14 establishes the minimum qualifications for drivers and requires a transportation network company to

conduct an investigation of the background of each driver, which must include a criminal background check, a search of a database containing information from the sex offender website maintained by each state and a review of the complete driving history of the driver. Further, section 14 sets forth the conditions for which a transportation network company must terminate an agreement with a driver.

Section 15 of this bill provides that a transportation network company may, on behalf of a driver, charge a fare for the provision of transportation services by the driver and places certain requirements on the company concerning the fares and the information which must be provided to passengers concerning the amount and the calculation of fares. Section 15 also requires the Commission to adopt regulations setting a maximum amount that may be charged for surge pricing.

Section 16 of this bill: (1) prohibits a transportation network company from allowing any driver who operates a motor vehicle that is not in compliance with all federal, state and local laws governing the operation and maintenance of a motor vehicle to be connected to potential passengers; and (2) requires annual inspections of each motor vehicle operated by a driver.

Sections 35-45 of this bill establish certain requirements concerning the provision of insurance for the payment of tort liabilities arising from the operation of a motor vehicle by a driver who provides transportation services.

Section 18 of this bill prohibits discrimination on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression by a transportation network company or driver. Section 19 of this bill requires a transportation network company to provide to passengers certain information relating to the identification of a driver. Section 20 of this bill requires a transportation network company to provide an electronic receipt to each passenger. Section 21 of this bill imposes on transportation network companies certain recordkeeping requirements. Section 22 of this bill imposes on transportation network companies certain reporting requirements.

Section 23 of this bill establishes certain requirements relating to the provision of transportation services by a driver. Section 23 also prohibits a driver from soliciting passengers or providing transportation services except to persons who have arranged for such transportation services through the digital network or software application service of a transportation network company. Section 24 of this bill prohibits a driver from consuming, using or being under the influence of any intoxicating liquor or controlled substance during any period when the driver is providing transportation services or is logged into the digital network or software application service of a transportation network company. With certain exceptions, section 25 of this bill prohibits a transportation network company from releasing the personally identifying information of passengers.

Section 26 of this bill provides for the investigation of complaints against a transportation network company or driver. Section 27 of this bill:

(1) authorizes the Commission to impose certain penalties for any violation of the provisions of this bill by a transportation network company or driver; and (2) provides that a person who violates any provision of this bill is not subject to a criminal penalty.

Section 28 of this bill provides that this bill does not exempt any person from any other laws governing the operation of a motor vehicle upon the highways of this State, except that a transportation network company or a driver who provides transportation services within the scope of a permit issued by the Commission is not subject to the provisions of existing law governing motor carriers or public utilities.

Section 29 of this bill prohibits a local government from: (1) imposing any tax or fee on a transportation network company, a driver who has entered into an agreement with such a company or a vehicle operated by such a driver or for transportation services provided by such a driver; (2) requiring a transportation network company or driver to obtain from the local government any certificate, license or permit to provide transportation services; or (3) imposing any other requirement on the operation of a motor vehicle by a transportation network company or driver which is not of general applicability. Section 29 does not prohibit a local government from requiring a transportation network company or driver to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government. Section 29 does not prohibit an airport from requiring a transportation network company or driver to obtain a permit or certification to operate at the airport, pay a fee to operate at the airport or comply with any other requirement to operate at the airport. Section 29 also states that this bill does not exempt any person from the requirement to obtain a state business license.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Commission" means the Public Utilities Commission of Nevada.*

Sec. 4. *"Driver" means a natural person who:*

1. *Operates a motor vehicle that is owned, leased or otherwise authorized for use by the person; and*

2. *Enters into an agreement with a transportation network company to receive connections to potential passengers and related services from a transportation network company in exchange for the payment of a fee to the transportation network company.*

Sec. 5. *"Transportation network company" or "company" means an entity that uses a digital network or software application service to connect a passenger to a driver who can provide transportation services to the passenger.*

Sec. 6. *"Transportation services" means the transportation by a driver of one or more passengers between points chosen by the passenger or passengers and prearranged through the use of the digital network or software application service of a transportation network company. The term includes only the period beginning when a driver accepts a request by a passenger for transportation through the digital network or software application service of a transportation network company and ending when the last such passenger fully disembarks from the motor vehicle operated by the driver.*

Sec. 7. *It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter to ensure the safety, reliability and cost-effectiveness of the transportation services provided by drivers affiliated with transportation network companies in this State.*

Sec. 7.3. *The provisions of this chapter do not apply to common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705.*

Sec. 7.5. *Nothing in this chapter shall be construed to deem a motor vehicle operated by a driver to provide transportation services to be a commercial motor vehicle.*

Sec. 7.7. *Except as otherwise provided in this chapter and the regulations adopted pursuant thereto or by a written contract between a transportation network company and a driver, a company shall not control, direct or manage a driver or the motor vehicle operated by a driver.*

Sec. 8. 1. *A transportation network company shall not engage in business in this State unless the company holds a valid permit issued by the Commission pursuant to this chapter.*

2. *A driver shall not provide transportation services unless the company with which the driver is affiliated holds a valid permit issued by the Commission pursuant to this chapter.*

Sec. 9. *A person who desires to operate a transportation network company in this State must submit to the Commission an application for the issuance of a permit to operate a transportation network company. The application must be in the form required by the Commission, must be accompanied by the fee required by section 11 of this act and must include such information as reasonably required by the Commission by regulation.*

Sec. 10. 1. *Upon receipt of a completed application and payment of the required fee and upon a determination by the Commission that an applicant meets the requirements for the issuance of a permit to operate a transportation network company, the Commission shall issue to the applicant*

within 120 days a permit to operate a transportation network company in this State.

2. In accordance with the provisions of this chapter, a permit issued pursuant to this section:

(a) Authorizes a transportation network company to connect one or more passengers through the use of a digital network or software application service to a driver who can provide transportation services.

(b) Authorizes a transportation network company to make its digital network or software application service available to 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.

(c) Does not authorize a transportation network company or any driver to engage in any activity otherwise regulated pursuant to chapter 706 of NRS.

Sec. 11. 1. The Commission shall charge and collect a fee in an amount established by the Commission by regulation from each applicant for a permit to operate a transportation network company in this State. The fee required by this subsection is not refundable. The Commission shall not issue a permit to operate a transportation network company in this State unless the applicant has paid the fee required by this subsection.

2. For each year after the year in which the Commission issues a permit to a transportation network company, the Commission shall levy and collect an annual assessment from the transportation network company at a rate determined by the Commission based on the gross operating revenue derived from the intrastate operations of the transportation network company in this State.

3. The annual assessment levied and collected by the Commission pursuant to subsection 2 must be used by the Commission for the regulation of transportation network companies.

4. The Commission shall charge and collect from each transportation network company a fee of 25 cents for each trip for which a driver provides transportation services to a passenger with whom the driver connected using the digital network or software application service of the company. All fees collected by the Commission pursuant to this subsection must be deposited with the State Treasurer for credit to the State Highway Fund.

Sec. 12. (Deleted by amendment.)

Sec. 13. A transportation network company shall appoint and keep in this State a registered agent as provided in NRS 14.020.

Sec. 14. 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.*

(6) Any other information required by the company or any regulations adopted by the Commission pursuant to section 30 of this act.

(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.

(c) The applicant provides proof that the motor vehicle operated by him or her is registered with the Department of Motor Vehicles.

(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 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, motor vehicle registration or automobile liability insurance information 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.

Sec. 15. 1. In accordance with the provisions of this chapter, a transportation network company which holds a valid permit issued by the Commission pursuant to this chapter may, on behalf of a driver, charge a fare for transportation services provided to a passenger by the driver.

2. If a fare is charged, the company must disclose the rates charged by the company and the method by which the amount of a fare is calculated:

(a) On an Internet website maintained by the company; or

(b) Within the digital network or software application service of the company.

3. If a fare is charged, the company must offer to each passenger the option to receive, before the passenger enters the motor vehicle of a driver, an estimate of the amount of the fare that will be charged to the passenger.

4. A transportation network company may accept payment of a fare only electronically. A transportation network company or a driver shall not solicit or accept cash as payment of a fare.

5. A transportation network company shall not impose any additional charge for a driver who provides transportation services to a person with a physical disability because of the disability.

6. The Commission may adopt regulations establishing a maximum fare that may be charged during an emergency, as defined in NRS 414.0345.

7. The Commission shall adopt regulations establishing a maximum fare that may be charged as a surge price. As used in this subsection, "surge

price" means a fare which is increased, as a result of high demand for transportation services, above the fare that is usually charged.

Sec. 16. 1. A transportation network company shall not allow a driver to be connected to potential passengers using the digital network or software application service of the company if the motor vehicle operated by the driver to provide transportation services:

(a) Is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle.

(b) Has less than four doors.

(c) Is designed to carry more than eight passengers, including the driver.

(d) Is a farm tractor, mobile home, recreational vehicle, semitractor, semitrailer, trailer, bus or tow car.

2. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services to ensure that the vehicle complies with the provisions of subsection 1 and any regulations adopted by the Commission before allowing the driver to use the motor vehicle to provide transportation services and not less than once each year thereafter.

Sec. 17. (Deleted by amendment.)

Sec. 18. 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 the passenger to an alternative provider or means of transportation that is wheelchair accessible, if available.

Sec. 19. For each instance in which a driver provides transportation services to a passenger, the transportation network company which connected the passenger to the driver shall provide to the passenger, before the passenger enters the motor vehicle of a driver, a photograph of the driver who will provide the transportation services and the license plate number of the motor vehicle operated by the driver. The information required by this section must be provided to the passenger:

1. On an Internet website maintained by the company; or

2. Within the digital network or software application service of the company.

Sec. 20. A transportation network company which connected a passenger to a driver shall, within a reasonable period following the

provision of transportation services by the driver to the passenger, transmit to the passenger an electronic receipt, which must include, without limitation:

- 1. A description of the point of origin and the destination of the transportation services;*
- 2. The total time for which transportation services were provided;*
- 3. The total distance traveled; and*
- 4. An itemization of the fare, if any, charged for the transportation services.*

Sec. 21. 1. A transportation network company shall maintain the following records relating to the business of the company for a period of at least 3 years after the date on which the record is created:

- (a) Trip records;*
- (b) Driver records and vehicle inspection records;*
- (c) Records of each complaint and the resolution of each complaint; and*
- (d) Records of each accident or other incident that involved a driver and was reported to the transportation network company.*

2. Each transportation network company shall make its records available for inspection by the Commission and the Regulatory Operations Staff of the Commission upon request to investigate complaints, promote public safety and ensure compliance with the provisions of this chapter.

Sec. 22. 1. Each transportation network company shall:

- (a) Keep uniform and detailed accounts of all business transacted in this State and provide such accounts to the Commission upon request; and*
- (b) On or before May 15 of each year, provide an annual report to the Commission regarding all business conducted by the company in this State during the preceding calendar year.*

2. The Commission shall adopt regulations setting forth the form and contents of the information required to be provided pursuant to subsection 1.

3. If the Commission determines that a transportation network company has failed to include information in its accounts or report required pursuant to subsection 1, the Commission shall notify the company to provide such information. A company which receives a notice pursuant to this subsection shall provide the specified information within 15 days after receipt of such a notice.

4. All information required to be provided pursuant to this section must be signed by an officer or agent of, or other person authorized by, the transportation network company under oath.

Sec. 23. 1. A driver shall not solicit or accept a passenger or provide transportation services to any person unless the person has arranged for the transportation services through the digital network or software application service of the transportation network company.

2. With respect to a passenger's destination, a driver shall not:

- (a) Deceive or attempt to deceive any passenger who rides or desires to ride in the driver's motor vehicle.*

(b) Convey or attempt to convey any passenger to a destination other than the one directed by the passenger.

(c) Take a longer route to the passenger's destination than is necessary, unless specifically requested to do so by the passenger.

(d) Fail to comply with the reasonable and lawful requests of the passenger as to speed of travel and route to be taken.

3. A driver shall not, at the time the driver picks up a passenger, refuse or neglect to provide transportation services to any orderly passenger unless the driver can demonstrate to the satisfaction of the Commission that:

(a) The driver has good reason to fear for the driver's personal safety; or

(b) The driver is prohibited by law or regulation from carrying the person requesting transportation services.

Sec. 24. 1. A driver is prohibited from consuming, using or being under the influence of any intoxicating liquor or controlled substance during any period in which the driver is providing transportation services on behalf of the transportation network company and any period in which the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not providing transportation services.

2. Each transportation network company shall:

(a) Provide notice of the provisions of subsection 1:

(1) On an Internet website maintained by the company; or

(2) Within the digital network or software application service of the company; and

(b) Provide for the submission to the company of a complaint by a passenger who reasonably believes that a driver is operating a motor vehicle in violation of the provisions of subsection 1.

3. Upon receipt of a complaint submitted by a passenger who reasonably believes that a driver is operating a motor vehicle in violation of the provisions of subsection 1, a transportation network company shall immediately suspend the access of the driver to the digital network or software application service of the company and conduct an investigation of the complaint. The company shall not allow the driver to access the digital network or software application service of the company or provide transportation services on behalf of the company until after the investigation is concluded.

4. If a transportation network company determines, pursuant to an investigation conducted pursuant to subsection 3, that a driver has violated the provisions of subsection 1, the company shall terminate the agreement entered into with the driver and shall not allow the driver to access the digital network or software application service of the company.

5. Each transportation network company shall maintain a record of each complaint described in subsection 3 and received by the company for a period of not less than 3 years after the date on which the complaint is received. The record must include, without limitation, the name of the driver,

the date on which the complaint was received, a summary of the investigation conducted by the company and the results of the investigation.

Sec. 25. 1. Except as otherwise provided in this section, a transportation network company shall not disclose to any person the personally identifiable information of a passenger who received services from the company unless:

- (a) The disclosure is otherwise required by law;*
- (b) The company determines that disclosure is required to protect or defend the terms of use of the services or to investigate violations of those terms of use; or*
- (c) The passenger consents to the disclosure.*

2. A transportation network company may disclose to a driver the name and telephone number of a passenger for the purposes of facilitating correct identification of the passenger and facilitating communication between the driver and the passenger.

Sec. 26. 1. Each transportation network company shall:

(a) Provide notice of the contact information of the Division of Consumer Complaint Resolution of the Commission on an Internet website maintained by the company or within the digital network or software application service of the company; and

(b) Create a system to receive and address complaints from consumers which is available during normal business hours in this State.

2. The Division of Consumer Complaint Resolution of the Commission shall accept, promptly investigate and attempt to resolve each complaint submitted to the Division by a person who alleges that a transportation network company or driver has violated the provisions of this chapter.

3. The Commission shall adopt regulations to establish procedures for investigating a complaint, holding a hearing and imposing disciplinary action, including, without limitation, the imposition of the penalties described in section 27 of this act, for a violation of this chapter.

Sec. 27. 1. If the Commission determines that a transportation network company or driver has violated the terms of a permit issued pursuant to this chapter or any provision of this chapter or any regulations adopted pursuant thereto, the Commission may, depending on whether the violation was committed by the company, the driver, or both:

- (a) Suspend or revoke the permit issued to the transportation network company;*
- (b) Impose against the transportation network company an administrative fine in an amount not to exceed \$100,000 per violation;*
- (c) Prohibit a person from operating as a driver; or*
- (d) Impose any combination of the penalties provided in paragraphs (a), (b) and (c).*

2. To determine the amount of an administrative fine imposed pursuant to paragraph (b) or (d) of subsection 1, the Commission shall consider:

- (a) The size of the transportation network company;*

- (b) *The severity of the violation;*
- (c) *Any good faith efforts by the transportation network company to remedy the violation;*
- (d) *The history of previous violations by the transportation network company; and*
- (e) *Any other factor that the Commission determines to be relevant.*

3. *Notwithstanding the provisions of NRS 193.170, a person who violates any provision of sections 2 to 30, inclusive, of this act is not subject to any criminal penalty for such a violation.*

Sec. 28. 1. *Except as otherwise provided in subsection 2, the provisions of this chapter do not exempt any person from any law governing the operation of a motor vehicle upon the highways of this State.*

2. *A transportation network company which holds a valid permit issued by the Commission pursuant to this chapter, a driver who has entered into an agreement with such a company and a vehicle operated by such a driver are exempt from:*

- (a) *The provisions of chapter 706 of NRS; and*
- (b) *The provisions of chapter 704 relating to public utilities,*
 ➔ *to the extent that the services provided by the company or driver are within the scope of the permit.*

Sec. 29. 1. *Except as otherwise provided in subsection 2, a local governmental entity shall not:*

(a) *Impose any tax or fee on a transportation network company operating within the scope of a valid permit issued by the Commission pursuant to this chapter, a driver who has entered into an agreement with such a company or a vehicle operated by such a driver or for transportation services provided by such a driver.*

(b) *Require a transportation network company operating within the scope of a valid permit issued by the Commission pursuant to this chapter to obtain from the local government any certificate, license or permit to operate within that scope or require a driver who has entered into an agreement with such a company to obtain from the local government any certificate, license or permit to provide transportation services.*

(c) *Impose any other requirement upon a transportation network company or a driver which is not of general applicability to all persons who operate a motor vehicle within the jurisdiction of the local government.*

2. *Nothing in this section:*

(a) *Prohibits a local governmental entity from requiring a transportation network company or driver to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government.*

(b) *Prohibits an airport or its governing body from requiring a transportation network company or a driver to:*

- (1) *Obtain a permit or certification to operate at the airport;*

(2) *Pay a fee to operate at the airport; or*

(3) *Comply with any other requirement to operate at the airport.*

(c) *Exempts a vehicle operated by a driver from any tax imposed pursuant to NRS 354.705, 371.043 or 371.045.*

3. *The provisions of this chapter do not exempt any person from the requirement to obtain a state business license issued pursuant to chapter 76 of NRS.*

Sec. 30. *The Commission shall adopt such regulations as are necessary to carry out the provisions of this chapter.*

Sec. 31. NRS 703.150 is hereby amended to read as follows:

703.150 The Commission shall supervise and regulate the operation and maintenance of public utilities and other persons named and defined in chapters 704, 704A and 708 of NRS *and sections 2 to 30, inclusive, of this act* pursuant to the provisions of those chapters.

Sec. 32. NRS 703.164 is hereby amended to read as follows:

703.164 1. The Commission may employ, or retain on a contract basis, legal counsel who shall:

(a) Except as otherwise provided in subsection 2, be counsel and attorney for the Commission in all actions, proceedings and hearings.

(b) Prosecute in the name of the Commission all civil actions for the enforcement of NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705 and 708 of NRS *and sections 2 to 30, inclusive, of this act* and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Commission in the performance of its duties and the enforcement of NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705 and 708 of NRS ~~[-]~~ *and sections 2 to 30, inclusive, of this act.*

2. Each district attorney shall:

(a) Prosecute any violation of chapter 704, 704A, 705, 708 or 711 of NRS for which a criminal penalty is provided and which occurs in the district attorney's county.

(b) Aid in any investigation, prosecution, hearing or trial held under the provisions of chapter 704, 704A, 705, 708 or 711 of NRS and, at the request of the Commission or its legal counsel, act as counsel and attorney for the Commission.

3. The Attorney General shall, if the district attorney fails or refuses to do so, prosecute all violations of the laws of this state by public utilities under the jurisdiction of the Commission and their officers, agents and employees.

4. The Attorney General is not precluded from appearing in or moving to intervene in any action and representing the interest of the State of Nevada in any action in which the Commission is a party and is represented by independent counsel.

Sec. 33. NRS 703.380 is hereby amended to read as follows:

703.380 1. Unless another administrative fine is specifically provided, a person, including, without limitation, a public utility, alternative seller,

provider of discretionary natural gas service, provider of new electric resources or holder of any certificate of registration, license or permit issued by the Commission, or any officer, agent or employee of a public utility, alternative seller, provider of discretionary natural gas service, provider of new electric resources or holder of any certificate of registration, license or permit issued by the Commission who:

(a) Violates any applicable provision of this chapter or chapter 704, 704B, 705 or 708 of NRS, *or sections 2 to 30, inclusive, of this act*, including, without limitation, the failure to pay any applicable tax, fee or assessment;

(b) Violates any rule or regulation of the Commission; or

(c) Fails, neglects or refuses to obey any order of the Commission or any order of a court requiring compliance with an order of the Commission,

↪ is liable for an administrative fine, to be assessed by the Commission after notice and the opportunity for a hearing, in an amount not to exceed \$1,000 per day for each day of the violation and not to exceed \$100,000 for any related series of violations.

2. In determining the amount of the administrative fine, the Commission shall consider the appropriateness of the fine to the size of the business of the person charged, the gravity of the violation, the good faith of the person charged in attempting to achieve compliance after notification of a violation and any repeated violations committed by the person charged.

3. An administrative fine assessed pursuant to this section is not a cost of service of a public utility and may not be included in any new application by a public utility for a rate adjustment or rate increase.

4. All money collected by the Commission as an administrative fine pursuant to this section must be deposited in the State General Fund.

5. The Commission may bring an appropriate action in its own name for the collection of any administrative fine that is assessed pursuant to this section. A court shall award costs and reasonable attorney's fees to the prevailing party in an action brought pursuant to this subsection.

6. The administrative fine prescribed by this section is in addition to any other remedies, other than a monetary fine, provided by law, including, without limitation, the authority of the Commission to revoke a certificate of public convenience and necessity, license or permit pursuant to NRS 703.377.

Sec. 34. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 35 to 45, inclusive, of this act.

Sec. 35. *As used in sections 35 to 45, inclusive, of this act, the words and terms defined in sections 36 to 39, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 36. *"Driver" has the meaning ascribed to it in section 4 of this act.*

Sec. 37. *"Transportation network company" has the meaning ascribed to it in section 5 of this act.*

Sec. 38. *"Transportation network company insurance" means a policy of insurance that includes coverage specifically for the use of a vehicle by a driver pursuant to sections 35 to 45, inclusive, of this act.*

Sec. 39. *"Transportation services" has the meaning ascribed to it in section 6 of this act.*

Sec. 40. *The provisions of sections 35 to 45, inclusive, of this act do not apply to a person who is regulated pursuant to chapter 704 or 706 of NRS.*

Sec. 41. *Before allowing a natural person to be connected to a potential passenger using the digital network or software application service of a transportation network company to provide transportation services as a driver, a transportation network company shall, in writing:*

1. *Disclose the insurance coverage and limits of liability that the transportation network company provides for a driver while the driver is providing transportation services; and*

2. *Notify the person that his or her insurance for the operation of a motor vehicle required pursuant to NRS 485.185 may not provide coverage for the use of a motor vehicle to provide transportation services.*

Sec. 42. 1. *Every transportation network company or driver shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375:*

(a) *In an amount of not less than \$1,500,000 for bodily injury to or death of one or more persons and injury to or destruction of property of others in any one accident that occurs while the driver is providing transportation services;*

(b) *In an amount of not less than \$50,000 for bodily injury to or death of one person in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;*

(c) *Subject to the minimum amount for one person required by paragraph (b), in an amount of not less than \$100,000 for bodily injury to or death of two or more persons in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services; and*

(d) *In an amount of not less than \$25,000 for injury to or destruction of property of others in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services,*

↪ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. The transportation network company insurance required by subsection 1 may be provided through one or a combination of insurance policies provided by the transportation network company or the driver, or both.

3. Every transportation network company shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, which meets the requirements of subsection 1 as primary insurance if the insurance provided by the driver:

(a) Lapses; or

(b) Fails to meet the requirements of subsection 1.

4. Notwithstanding the provisions of NRS 485.185 and 485.186 which require the owner or operator of a motor vehicle to provide insurance, transportation network company insurance shall be deemed to satisfy the requirements of NRS 485.185 or 485.186, as appropriate, regardless of whether the insurance is provided by the transportation network company or the driver, or both, if the transportation network company insurance otherwise satisfies the requirements of NRS 485.185 or 485.186, as appropriate.

5. In addition to the coverage required pursuant to subsection 1, a policy of transportation network company insurance may include additional coverage, including, without limitation, coverage for medical payments, coverage for uninsured or underinsured motorists, comprehensive coverage and collision coverage.

6. An insurer who provides transportation network company insurance shall not require a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, to deny a claim before the transportation network company insurance provides coverage for a claim.

7. An insurer who provides transportation network company insurance has a duty to defend and indemnify the driver and the transportation network company.

8. A transportation network company that provides transportation network company insurance for a motor vehicle is not deemed to be the owner of the motor vehicle.

Sec. 43. 1. A policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, is not required to include transportation network company insurance. An insurer providing a policy which excludes transportation network company insurance does not have a duty to defend or indemnify a driver for any claim

arising during any period in which 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.

2. An insurer who provides a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, may include transportation network company insurance in such a policy. An insurer may charge an additional premium for the inclusion of transportation network company insurance in such a policy.

3. An insurer who:

(a) Defends or indemnifies a driver for a claim arising during any period in which 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

(b) Excludes transportation network company insurance from the policy of insurance for the operation of a motor vehicle provided to the driver,

→ has the right of contribution against other insurers who provide coverage to the driver to satisfy the coverage required by section 42 of this act at the time of the loss.

Sec. 44. In any investigation relating to tort liability arising from the operation of a motor vehicle, each transportation network company and driver, and each insurer providing transportation network company insurance to a transportation network company or driver, who is involved in the underlying incident shall cooperate with any other party to the incident and any other insurer involved in the investigation and share information, including, without limitation:

1. The date and time of an accident involving a driver.

2. The dates and times that the driver involved in an accident logged into the digital network or software application service of the transportation network company for a period of 12 hours immediately preceding and 12 hours immediately following the accident.

3. The dates and times that the driver involved in an accident logged out of the digital network or software application service of the transportation network company for a period of 12 hours immediately preceding and 12 hours immediately following the accident.

4. A clear description of the coverage, exclusions and limits provided under any policy of transportation network company insurance which applies.

Sec. 45. 1. A driver shall carry proof of coverage under a policy 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.

2. A driver shall provide proof of coverage under a policy of transportation network company insurance and disclose whether he or she

was 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 at the time of an accident upon request to a law enforcement officer and to any party with whom the driver is involved in an accident.

Sec. 46. This act becomes effective:

1. 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

2. On July 1, 2015, for all other purposes.

Senator Ford moved the adoption of the amendment.

Motion failed.

The following amendment was proposed by Senator Ford:

Amendment No. 592.

SUMMARY—Provides for the permitting and regulation of transportation network companies. (BDR 58-633)

AN ACT relating to transportation services; providing for the regulation by the Public Utilities Commission of Nevada of transportation network companies; requiring the establishment of fees and annual assessments for a transportation network company; authorizing a transportation network company that holds a valid permit issued by the Commission to make its digital network or software application service available to one or more drivers to receive connections to passengers from the company; establishing requirements concerning the qualifications of, the provision of insurance for and the operation and maintenance of motor vehicles operated by drivers who provide transportation services; prohibiting a local government from imposing on a transportation network company or a driver for such a company any additional tax or fee or requirement as a condition of providing transportation services; providing that a transportation network company or driver who provides transportation services pursuant to a valid permit issued by the Commission is not subject to certain provisions of law governing motor carriers; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the permitting by the Public Utilities Commission of Nevada of transportation network companies and the regulation by the Commission of the provision of transportation services. Section 5 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 to passengers. 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 provides that it is the purpose and policy of the

Legislature in enacting this bill to ensure the safety, reliability and cost-effectiveness of the transportation services provided by drivers affiliated with transportation network companies in this State.

Section 8 of this bill prohibits any person from doing business in this State as a transportation network company unless the person holds a valid permit issued by the Commission pursuant to the provisions of this bill. Section 9 of this bill provides for the submission to the Commission of an application for a permit. Section 10 of this bill requires the Commission to issue a permit to an applicant upon a determination by the Commission that the applicant meets all the applicable requirements for the issuance of the permit. Section 10 further provides that a permit issued by the Commission authorizes a transportation network company to: (1) connect passengers to a driver who can provide transportation services through the use of a digital network or software application service; and (2) make its digital network or software application service available to one or more drivers to receive connections from the company. Additionally, section 10 provides that a permit issued by the Commission does not authorize a transportation network company to engage in any activity regulated pursuant to chapter 706 of NRS, relating to motor carriers. Section 11 of this bill requires the Commission to establish a fee for the issuance of a permit to operate a transportation network company. Section 11 also requires the payment of an annual assessment by each transportation network company in this State beginning in the year after the company receives a permit. Section 11 additionally requires the Commission to collect from a company a fee of 25 cents for each trip for which a driver provides transportation services using the company's digital network or software application service and to deposit this amount for credit to the State Highway Fund.

Section 14 of this bill authorizes a transportation network company to enter into agreements with one or more drivers to receive connections to potential passengers from the company. Section 14 establishes the minimum qualifications for drivers and requires a transportation network company to conduct an investigation of the background of each driver, which must include a criminal background check ~~[, a search of a database containing information from the sex offender website maintained by each state]~~ and a review of the complete driving history of the driver. Further, section 14 sets forth the conditions for which a transportation network company must terminate an agreement with a driver.

Section 15 of this bill provides that a transportation network company may, on behalf of a driver, charge a fare for the provision of transportation services by the driver and places certain requirements on the company concerning the fares and the information which must be provided to passengers concerning the amount and the calculation of fares.

Section 16 of this bill: (1) prohibits a transportation network company from allowing any driver who operates a motor vehicle that is not in compliance with all federal, state and local laws governing the operation and

maintenance of a motor vehicle to be connected to potential passengers; and (2) requires annual inspections of each motor vehicle operated by a driver.

Sections 35-45 of this bill establish certain requirements concerning the provision of insurance for the payment of tort liabilities arising from the operation of a motor vehicle by a driver who provides transportation services.

Section 18 of this bill prohibits discrimination on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression by a transportation network company or driver. Section 19 of this bill requires a transportation network company to provide to passengers certain information relating to the identification of a driver. Section 20 of this bill requires a transportation network company to provide an electronic receipt to each passenger. Section 21 of this bill imposes on transportation network companies certain recordkeeping requirements. Section 22 of this bill imposes on transportation network companies certain reporting requirements.

Section 23 of this bill establishes certain requirements relating to the provision of transportation services by a driver. Section 23 also prohibits a driver from soliciting passengers or providing transportation services except to persons who have arranged for such transportation services through the digital network or software application service of a transportation network company. Section 24 of this bill prohibits a driver from consuming, using or being under the influence of any intoxicating liquor or controlled substance during any period when the driver is providing transportation services or is logged into the digital network or software application service of a transportation network company. With certain exceptions, section 25 of this bill prohibits a transportation network company from releasing the personally identifying information of passengers.

Section 26 of this bill provides for the investigation of complaints against a transportation network company or driver. Section 27 of this bill: (1) authorizes the Commission to impose certain penalties for any violation of the provisions of this bill by a transportation network company or driver; and (2) provides that a person who violates any provision of this bill is not subject to a criminal penalty.

Section 28 of this bill provides that this bill does not exempt any person from any other laws governing the operation of a motor vehicle upon the highways of this State, except that a transportation network company or a driver who provides transportation services within the scope of a permit issued by the Commission is not subject to the provisions of existing law governing motor carriers or public utilities.

Section 29 of this bill prohibits a local government from: (1) imposing any tax or fee on a transportation network company, a driver who has entered into an agreement with such a company or a vehicle operated by such a driver or for transportation services provided by such a driver; (2) requiring a transportation network company or driver to obtain from the local government any certificate, license or permit to provide transportation

services; or (3) imposing any other requirement on the operation of a motor vehicle by a transportation network company or driver which is not of general applicability. Section 29 does not prohibit a local government from requiring a transportation network company or driver to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government. Section 29 does not prohibit an airport from requiring a transportation network company or driver to obtain a permit or certification to operate at the airport, pay a fee to operate at the airport or comply with any other requirement to operate at the airport. Section 29 also states that this bill does not exempt any person from the requirement to obtain a state business license.

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Commission" means the Public Utilities Commission of Nevada.*

Sec. 4. *"Driver" means a natural person who:*

1. Operates a motor vehicle that is owned, leased or otherwise authorized for use by the person; and

2. Enters into an agreement with a transportation network company to receive connections to potential passengers and related services from a transportation network company in exchange for the payment of a fee to the transportation network company.

Sec. 5. *"Transportation network company" or "company" means an entity that uses a digital network or software application service to connect a passenger to a driver who can provide transportation services to the passenger.*

Sec. 6. *"Transportation services" means the transportation by a driver of one or more passengers between points chosen by the passenger or passengers and prearranged through the use of the digital network or software application service of a transportation network company. The term includes only the period beginning when a driver accepts a request by a passenger for transportation through the digital network or software application service of a transportation network company and ending when the last such passenger fully disembarks from the motor vehicle operated by the driver.*

Sec. 7. *It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter to ensure the safety, reliability and cost-effectiveness of the transportation services provided by drivers affiliated with transportation network companies in this State.*

Sec. 7.3. *The provisions of this chapter do not apply to common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705.*

Sec. 7.5. *Nothing in this chapter shall be construed to deem a motor vehicle operated by a driver to provide transportation services to be a commercial motor vehicle.*

Sec. 7.7. *Except as otherwise provided in this chapter and the regulations adopted pursuant thereto or by a written contract between a transportation network company and a driver, a company shall not control, direct or manage a driver or the motor vehicle operated by a driver.*

Sec. 8. 1. *A transportation network company shall not engage in business in this State unless the company holds a valid permit issued by the Commission pursuant to this chapter.*

2. *A driver shall not provide transportation services unless the company with which the driver is affiliated holds a valid permit issued by the Commission pursuant to this chapter.*

Sec. 9. *A person who desires to operate a transportation network company in this State must submit to the Commission an application for the issuance of a permit to operate a transportation network company. The application must be in the form required by the Commission, must be accompanied by the fee required by section 11 of this act and must include such information as reasonably required by the Commission by regulation.*

Sec. 10. 1. *Upon receipt of a completed application and payment of the required fee and upon a determination by the Commission that an applicant meets the requirements for the issuance of a permit to operate a transportation network company, the Commission shall issue to the applicant within 120 days a permit to operate a transportation network company in this State.*

2. *In accordance with the provisions of this chapter, a permit issued pursuant to this section:*

(a) *Authorizes a transportation network company to connect one or more passengers through the use of a digital network or software application service to a driver who can provide transportation services.*

(b) *Authorizes a transportation network company to make its digital network or software application service available to 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.*

(c) *Does not authorize a transportation network company or any driver to engage in any activity otherwise regulated pursuant to chapter 706 of NRS.*

Sec. 11. 1. *The Commission shall charge and collect a fee in an amount established by the Commission by regulation from each applicant for a permit to operate a transportation network company in this State. The fee required by this subsection is not refundable. The Commission shall not issue*

a permit to operate a transportation network company in this State unless the applicant has paid the fee required by this subsection.

2. For each year after the year in which the Commission issues a permit to a transportation network company, the Commission shall levy and collect an annual assessment from the transportation network company at a rate determined by the Commission based on the gross operating revenue derived from the intrastate operations of the transportation network company in this State.

3. The annual assessment levied and collected by the Commission pursuant to subsection 2 must be used by the Commission for the regulation of transportation network companies.

4. The Commission shall charge and collect from each transportation network company a fee of 25 cents for each trip for which a driver provides transportation services to a passenger with whom the driver connected using the digital network or software application service of the company. All fees collected by the Commission pursuant to this subsection must be deposited with the State Treasurer for credit to the State Highway Fund.

Sec. 12. (Deleted by amendment.)

Sec. 13. A transportation network company shall appoint and keep in this State a registered agent as provided in NRS 14.020.

Sec. 14. 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.

(6) Any other information required by the company or any regulations adopted by the Commission pursuant to section 30 of this act.

(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 ~~the~~

~~(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.] , submission to the company or third party, as applicable, of a complete set of the fingerprints of the applicant and written permission authorizing the company or third party, as applicable, to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

(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.

(c) The applicant provides proof that the motor vehicle operated by him or her is registered with the Department of Motor Vehicles.

(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 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, motor vehicle registration or automobile liability insurance information 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.

Sec. 15. 1. *In accordance with the provisions of this chapter, a transportation network company which holds a valid permit issued by the Commission pursuant to this chapter may, on behalf of a driver, charge a fare for transportation services provided to a passenger by the driver.*

2. *If a fare is charged, the company must disclose the rates charged by the company and the method by which the amount of a fare is calculated:*

(a) On an Internet website maintained by the company; or

(b) Within the digital network or software application service of the company.

3. *If a fare is charged, the company must offer to each passenger the option to receive, before the passenger enters the motor vehicle of a driver, an estimate of the amount of the fare that will be charged to the passenger.*

4. *A transportation network company may accept payment of a fare only electronically. A transportation network company or a driver shall not solicit or accept cash as payment of a fare.*

5. *A transportation network company shall not impose any additional charge for a driver who provides transportation services to a person with a physical disability because of the disability.*

6. *The Commission may adopt regulations establishing a maximum fare that may be charged during an emergency, as defined in NRS 414.0345.*

Sec. 16. 1. *A transportation network company shall not allow a driver to be connected to potential passengers using the digital network or software application service of the company if the motor vehicle operated by the driver to provide transportation services:*

(a) Is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle.

(b) Has less than four doors.

(c) Is designed to carry more than eight passengers, including the driver.

(d) Is a farm tractor, mobile home, recreational vehicle, semitractor, semitrailer, trailer, bus or tow car.

2. *A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services to ensure that the vehicle complies with the provisions of subsection 1 and any regulations adopted by the Commission before allowing the driver to use the motor vehicle to provide transportation services and not less than once each year thereafter.*

Sec. 17. (Deleted by amendment.)

Sec. 18. 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 the passenger to an alternative provider or means of transportation that is wheelchair accessible, if available.*

Sec. 19. *For each instance in which a driver provides transportation services to a passenger, the transportation network company which connected the passenger to the driver shall provide to the passenger, before the passenger enters the motor vehicle of a driver, a photograph of the driver who will provide the transportation services and the license plate number of the motor vehicle operated by the driver. The information required by this section must be provided to the passenger:*

1. *On an Internet website maintained by the company; or*
2. *Within the digital network or software application service of the company.*

Sec. 20. *A transportation network company which connected a passenger to a driver shall, within a reasonable period following the provision of transportation services by the driver to the passenger, transmit to the passenger an electronic receipt, which must include, without limitation:*

1. *A description of the point of origin and the destination of the transportation services;*
2. *The total time for which transportation services were provided;*
3. *The total distance traveled; and*
4. *An itemization of the fare, if any, charged for the transportation services.*

Sec. 21. 1. *A transportation network company shall maintain the following records relating to the business of the company for a period of at least 3 years after the date on which the record is created:*

(a) Trip records;
(b) Driver records and vehicle inspection records;
(c) Records of each complaint and the resolution of each complaint; and
(d) Records of each accident or other incident that involved a driver and was reported to the transportation network company.

2. Each transportation network company shall make its records available for inspection by the Commission and the Regulatory Operations Staff of the Commission upon request to investigate complaints, promote public safety and ensure compliance with the provisions of this chapter.

Sec. 22. 1. Each transportation network company shall:

(a) Keep uniform and detailed accounts of all business transacted in this State and provide such accounts to the Commission upon request; and
(b) On or before May 15 of each year, provide an annual report to the Commission regarding all business conducted by the company in this State during the preceding calendar year.

2. The Commission shall adopt regulations setting forth the form and contents of the information required to be provided pursuant to subsection 1.

3. If the Commission determines that a transportation network company has failed to include information in its accounts or report required pursuant to subsection 1, the Commission shall notify the company to provide such information. A company which receives a notice pursuant to this subsection shall provide the specified information within 15 days after receipt of such a notice.

4. All information required to be provided pursuant to this section must be signed by an officer or agent of, or other person authorized by, the transportation network company under oath.

Sec. 23. 1. A driver shall not solicit or accept a passenger or provide transportation services to any person unless the person has arranged for the transportation services through the digital network or software application service of the transportation network company.

2. With respect to a passenger's destination, a driver shall not:

(a) Deceive or attempt to deceive any passenger who rides or desires to ride in the driver's motor vehicle.

(b) Convey or attempt to convey any passenger to a destination other than the one directed by the passenger.

(c) Take a longer route to the passenger's destination than is necessary, unless specifically requested to do so by the passenger.

(d) Fail to comply with the reasonable and lawful requests of the passenger as to speed of travel and route to be taken.

3. A driver shall not, at the time the driver picks up a passenger, refuse or neglect to provide transportation services to any orderly passenger unless the driver can demonstrate to the satisfaction of the Commission that:

(a) The driver has good reason to fear for the driver's personal safety; or

(b) The driver is prohibited by law or regulation from carrying the person requesting transportation services.

Sec. 24. 1. *A driver is prohibited from consuming, using or being under the influence of any intoxicating liquor or controlled substance during any period in which the driver is providing transportation services on behalf of the transportation network company and any period in which the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not providing transportation services.*

2. *Each transportation network company shall:*

(a) *Provide notice of the provisions of subsection 1:*

(1) *On an Internet website maintained by the company; or*

(2) *Within the digital network or software application service of the company; and*

(b) *Provide for the submission to the company of a complaint by a passenger who reasonably believes that a driver is operating a motor vehicle in violation of the provisions of subsection 1.*

3. *Upon receipt of a complaint submitted by a passenger who reasonably believes that a driver is operating a motor vehicle in violation of the provisions of subsection 1, a transportation network company shall immediately suspend the access of the driver to the digital network or software application service of the company and conduct an investigation of the complaint. The company shall not allow the driver to access the digital network or software application service of the company or provide transportation services on behalf of the company until after the investigation is concluded.*

4. *If a transportation network company determines, pursuant to an investigation conducted pursuant to subsection 3, that a driver has violated the provisions of subsection 1, the company shall terminate the agreement entered into with the driver and shall not allow the driver to access the digital network or software application service of the company.*

5. *Each transportation network company shall maintain a record of each complaint described in subsection 3 and received by the company for a period of not less than 3 years after the date on which the complaint is received. The record must include, without limitation, the name of the driver, the date on which the complaint was received, a summary of the investigation conducted by the company and the results of the investigation.*

Sec. 25. 1. *Except as otherwise provided in this section, a transportation network company shall not disclose to any person the personally identifiable information of a passenger who received services from the company unless:*

(a) *The disclosure is otherwise required by law;*

(b) *The company determines that disclosure is required to protect or defend the terms of use of the services or to investigate violations of those terms of use; or*

(c) *The passenger consents to the disclosure.*

2. *A transportation network company may disclose to a driver the name and telephone number of a passenger for the purposes of facilitating correct identification of the passenger and facilitating communication between the driver and the passenger.*

Sec. 26. 1. Each transportation network company shall:

(a) Provide notice of the contact information of the Division of Consumer Complaint Resolution of the Commission on an Internet website maintained by the company or within the digital network or software application service of the company; and

(b) Create a system to receive and address complaints from consumers which is available during normal business hours in this State.

2. The Division of Consumer Complaint Resolution of the Commission shall accept, promptly investigate and attempt to resolve each complaint submitted to the Division by a person who alleges that a transportation network company or driver has violated the provisions of this chapter.

3. The Commission shall adopt regulations to establish procedures for investigating a complaint, holding a hearing and imposing disciplinary action, including, without limitation, the imposition of the penalties described in section 27 of this act, for a violation of this chapter.

Sec. 27. 1. If the Commission determines that a transportation network company or driver has violated the terms of a permit issued pursuant to this chapter or any provision of this chapter or any regulations adopted pursuant thereto, the Commission may, depending on whether the violation was committed by the company, the driver, or both:

(a) Suspend or revoke the permit issued to the transportation network company;

(b) Impose against the transportation network company an administrative fine in an amount not to exceed \$100,000 per violation;

(c) Prohibit a person from operating as a driver; or

(d) Impose any combination of the penalties provided in paragraphs (a), (b) and (c).

2. To determine the amount of an administrative fine imposed pursuant to paragraph (b) or (d) of subsection 1, the Commission shall consider:

(a) The size of the transportation network company;

(b) The severity of the violation;

(c) Any good faith efforts by the transportation network company to remedy the violation;

(d) The history of previous violations by the transportation network company; and

(e) Any other factor that the Commission determines to be relevant.

3. Notwithstanding the provisions of NRS 193.170, a person who violates any provision of sections 2 to 30, inclusive, of this act is not subject to any criminal penalty for such a violation.

Sec. 28. 1. *Except as otherwise provided in subsection 2, the provisions of this chapter do not exempt any person from any law governing the operation of a motor vehicle upon the highways of this State.*

2. *A transportation network company which holds a valid permit issued by the Commission pursuant to this chapter, a driver who has entered into an agreement with such a company and a vehicle operated by such a driver are exempt from:*

- (a) The provisions of chapter 706 of NRS; and*
 - (b) The provisions of chapter 704 relating to public utilities,*
- ➡ *to the extent that the services provided by the company or driver are within the scope of the permit.*

Sec. 29. 1. *Except as otherwise provided in subsection 2, a local governmental entity shall not:*

(a) Impose any tax or fee on a transportation network company operating within the scope of a valid permit issued by the Commission pursuant to this chapter, a driver who has entered into an agreement with such a company or a vehicle operated by such a driver or for transportation services provided by such a driver.

(b) Require a transportation network company operating within the scope of a valid permit issued by the Commission pursuant to this chapter to obtain from the local government any certificate, license or permit to operate within that scope or require a driver who has entered into an agreement with such a company to obtain from the local government any certificate, license or permit to provide transportation services.

(c) Impose any other requirement upon a transportation network company or a driver which is not of general applicability to all persons who operate a motor vehicle within the jurisdiction of the local government.

2. *Nothing in this section:*

(a) Prohibits a local governmental entity from requiring a transportation network company or driver to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government.

(b) Prohibits an airport or its governing body from requiring a transportation network company or a driver to:

- (1) Obtain a permit or certification to operate at the airport;*
- (2) Pay a fee to operate at the airport; or*
- (3) Comply with any other requirement to operate at the airport.*

(c) Exempts a vehicle operated by a driver from any tax imposed pursuant to NRS 354.705, 371.043 or 371.045.

3. *The provisions of this chapter do not exempt any person from the requirement to obtain a state business license issued pursuant to chapter 76 of NRS.*

Sec. 30. *The Commission shall adopt such regulations as are necessary to carry out the provisions of this chapter.*

Sec. 31. NRS 703.150 is hereby amended to read as follows:

703.150 The Commission shall supervise and regulate the operation and maintenance of public utilities and other persons named and defined in chapters 704, 704A and 708 of NRS *and sections 2 to 30, inclusive, of this act* pursuant to the provisions of those chapters.

Sec. 32. NRS 703.164 is hereby amended to read as follows:

703.164 1. The Commission may employ, or retain on a contract basis, legal counsel who shall:

(a) Except as otherwise provided in subsection 2, be counsel and attorney for the Commission in all actions, proceedings and hearings.

(b) Prosecute in the name of the Commission all civil actions for the enforcement of NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705 and 708 of NRS *and sections 2 to 30, inclusive, of this act* and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Commission in the performance of its duties and the enforcement of NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705 and 708 of NRS ~~[-]~~ *and sections 2 to 30, inclusive, of this act*.

2. Each district attorney shall:

(a) Prosecute any violation of chapter 704, 704A, 705, 708 or 711 of NRS for which a criminal penalty is provided and which occurs in the district attorney's county.

(b) Aid in any investigation, prosecution, hearing or trial held under the provisions of chapter 704, 704A, 705, 708 or 711 of NRS and, at the request of the Commission or its legal counsel, act as counsel and attorney for the Commission.

3. The Attorney General shall, if the district attorney fails or refuses to do so, prosecute all violations of the laws of this state by public utilities under the jurisdiction of the Commission and their officers, agents and employees.

4. The Attorney General is not precluded from appearing in or moving to intervene in any action and representing the interest of the State of Nevada in any action in which the Commission is a party and is represented by independent counsel.

Sec. 33. NRS 703.380 is hereby amended to read as follows:

703.380 1. Unless another administrative fine is specifically provided, a person, including, without limitation, a public utility, alternative seller, provider of discretionary natural gas service, provider of new electric resources or holder of any certificate of registration, license or permit issued by the Commission, or any officer, agent or employee of a public utility, alternative seller, provider of discretionary natural gas service, provider of new electric resources or holder of any certificate of registration, license or permit issued by the Commission who:

(a) Violates any applicable provision of this chapter or chapter 704, 704B, 705 or 708 of NRS, *or sections 2 to 30, inclusive, of this act*, including, without limitation, the failure to pay any applicable tax, fee or assessment;

(b) Violates any rule or regulation of the Commission; or
(c) Fails, neglects or refuses to obey any order of the Commission or any order of a court requiring compliance with an order of the Commission,
➡ is liable for an administrative fine, to be assessed by the Commission after notice and the opportunity for a hearing, in an amount not to exceed \$1,000 per day for each day of the violation and not to exceed \$100,000 for any related series of violations.

2. In determining the amount of the administrative fine, the Commission shall consider the appropriateness of the fine to the size of the business of the person charged, the gravity of the violation, the good faith of the person charged in attempting to achieve compliance after notification of a violation and any repeated violations committed by the person charged.

3. An administrative fine assessed pursuant to this section is not a cost of service of a public utility and may not be included in any new application by a public utility for a rate adjustment or rate increase.

4. All money collected by the Commission as an administrative fine pursuant to this section must be deposited in the State General Fund.

5. The Commission may bring an appropriate action in its own name for the collection of any administrative fine that is assessed pursuant to this section. A court shall award costs and reasonable attorney's fees to the prevailing party in an action brought pursuant to this subsection.

6. The administrative fine prescribed by this section is in addition to any other remedies, other than a monetary fine, provided by law, including, without limitation, the authority of the Commission to revoke a certificate of public convenience and necessity, license or permit pursuant to NRS 703.377.

Sec. 34. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 35 to 45, inclusive, of this act.

Sec. 35. *As used in sections 35 to 45, inclusive, of this act, the words and terms defined in sections 36 to 39, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 36. *"Driver" has the meaning ascribed to it in section 4 of this act.*

Sec. 37. *"Transportation network company" has the meaning ascribed to it in section 5 of this act.*

Sec. 38. *"Transportation network company insurance" means a policy of insurance that includes coverage specifically for the use of a vehicle by a driver pursuant to sections 35 to 45, inclusive, of this act.*

Sec. 39. *"Transportation services" has the meaning ascribed to it in section 6 of this act.*

Sec. 40. *The provisions of sections 35 to 45, inclusive, of this act do not apply to a person who is regulated pursuant to chapter 704 or 706 of NRS.*

Sec. 41. *Before allowing a natural person to be connected to a potential passenger using the digital network or software application service of a transportation network company to provide transportation services as a driver, a transportation network company shall, in writing:*

1. Disclose the insurance coverage and limits of liability that the transportation network company provides for a driver while the driver is providing transportation services; and

2. Notify the person that his or her insurance for the operation of a motor vehicle required pursuant to NRS 485.185 may not provide coverage for the use of a motor vehicle to provide transportation services.

Sec. 42. 1. Every transportation network company or driver shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375:

(a) In an amount of not less than \$1,500,000 for bodily injury to or death of one or more persons and injury to or destruction of property of others in any one accident that occurs while the driver is providing transportation services;

(b) In an amount of not less than \$50,000 for bodily injury to or death of one person in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;

(c) Subject to the minimum amount for one person required by paragraph (b), in an amount of not less than \$100,000 for bodily injury to or death of two or more persons in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services; and

(d) In an amount of not less than \$25,000 for injury to or destruction of property of others in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services,

➤ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. The transportation network company insurance required by subsection 1 may be provided through one or a combination of insurance policies provided by the transportation network company or the driver, or both.

3. Every transportation network company shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed

pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, which meets the requirements of subsection 1 as primary insurance if the insurance provided by the driver:

(a) Lapses; or

(b) Fails to meet the requirements of subsection 1.

4. Notwithstanding the provisions of NRS 485.185 and 485.186 which require the owner or operator of a motor vehicle to provide insurance, transportation network company insurance shall be deemed to satisfy the requirements of NRS 485.185 or 485.186, as appropriate, regardless of whether the insurance is provided by the transportation network company or the driver, or both, if the transportation network company insurance otherwise satisfies the requirements of NRS 485.185 or 485.186, as appropriate.

5. In addition to the coverage required pursuant to subsection 1, a policy of transportation network company insurance may include additional coverage, including, without limitation, coverage for medical payments, coverage for uninsured or underinsured motorists, comprehensive coverage and collision coverage.

6. An insurer who provides transportation network company insurance shall not require a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, to deny a claim before the transportation network company insurance provides coverage for a claim.

7. An insurer who provides transportation network company insurance has a duty to defend and indemnify the driver and the transportation network company.

8. A transportation network company that provides transportation network company insurance for a motor vehicle is not deemed to be the owner of the motor vehicle.

Sec. 43. 1. A policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, is not required to include transportation network company insurance. An insurer providing a policy which excludes transportation network company insurance does not have a duty to defend or indemnify a driver for any claim arising during any period in which 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.

2. An insurer who provides a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, may include transportation network company insurance in such a policy. An insurer may charge an additional premium for the inclusion of transportation network company insurance in such a policy.

3. An insurer who:

(a) *Defends or indemnifies a driver for a claim arising during any period in which 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*

(b) *Excludes transportation network company insurance from the policy of insurance for the operation of a motor vehicle provided to the driver,*
➔ *has the right of contribution against other insurers who provide coverage to the driver to satisfy the coverage required by section 42 of this act at the time of the loss.*

Sec. 44. *In any investigation relating to tort liability arising from the operation of a motor vehicle, each transportation network company and driver, and each insurer providing transportation network company insurance to a transportation network company or driver, who is involved in the underlying incident shall cooperate with any other party to the incident and any other insurer involved in the investigation and share information, including, without limitation:*

1. *The date and time of an accident involving a driver.*
2. *The dates and times that the driver involved in an accident logged into the digital network or software application service of the transportation network company for a period of 12 hours immediately preceding and 12 hours immediately following the accident.*
3. *The dates and times that the driver involved in an accident logged out of the digital network or software application service of the transportation network company for a period of 12 hours immediately preceding and 12 hours immediately following the accident.*
4. *A clear description of the coverage, exclusions and limits provided under any policy of transportation network company insurance which applies.*

Sec. 45. 1. *A driver shall carry proof of coverage under a policy 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.*

2. *A driver shall provide proof of coverage under a policy of transportation network company insurance and disclose whether he or she was 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 at the time of an accident upon request to a law enforcement officer and to any party with whom the driver is involved in an accident.*

Sec. 46. *This act becomes effective:*

1. *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*
2. *On July 1, 2015, for all other purposes.*

Senator Ford moved the adoption of the amendment.

Motion failed.

Senator Atkinson moved that the bill be taken from the General File and placed on the Secretary's desk.

Senators Atkinson, Kihuen and Manendo requested a roll call vote on Senator Atkinson's motion.

Roll call on Senator Atkinson's motion.

YEAS—10.

NAYS—Brower, Farley, Goicoechea, Gustavson, Hammond, Hardy, Harris, Kieckhefer, Lipparelli, Roberson, Settelmeyer—11.

The motion having failed to receive a majority, Mr. President declared it lost.

Remarks by Senators Settelmeyer, Atkinson, Manendo, Hardy, Spearman, Ford, Denis, Smith and Kieckhefer.

SENATOR SETTELMAYER:

Senate Bill No. 439 provides for the permitting and regulation by the Public Utilities Commission of Nevada of transportation network companies, also known as TNCs, which are entities that use a digital network or software application service to connect passengers to drivers who can provide transportation services to those passengers. This measure establishes the minimum requirements for TNC drivers; requires a TNC to perform a background check of each driver; and establishes the requirements of insurance for the operation and maintenance of motor vehicles operated by TNC drivers.

The Commission must collect from a TNC a fee of 25 cents per trip for which a driver provides transportation services and deposit this amount for credit to the State Highway Fund. This is the only state in the Union that has this 25-cent per trip highway-fund requirement.

The measure does not exempt any person from the requirement to obtain a State business license. In addition, the bill does not prohibit an airport from requiring that a TNC or driver obtain a permit or certification to operate at the airport, pay a fee to operate at the airport or comply with any other requirement to operate at the airport. A TNC or a driver who provides transportation services within the scope of a permit issued by the Commission is not subject to the provisions of existing law governing motor carriers or public utilities.

This bill is effective upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks, and on July 1, 2015, for all other purposes.

To me, this bill is important in the respect that I look at what is our job here. I am worried sometimes with legislation that we are becoming prison guards of the past. We are sitting here looking at people from a tower, as a prison guard, when our people in that prison are at home on house arrest.

The technology has changed. No one, in my opinion, should have the authority to preserve the status quo and to stifle technology. That is what we are looking at here; a technological change. It is a change of kind, not a change of degree. Just as when people were sitting at home reading by candles—imagine the day they came out with the light bulb! We would be sitting here arguing on behalf of those companies to preserve things. I have problems with that theory.

We all remember these old things, when our kids have no ideas what they are: Funk and Wagnall's encyclopedia. Now, let us face it, it is Wikipedia. In that respect, I think it is wrong of us to consider the concept of preserving the status quo as stifling this technology. The people and the citizens of Nevada have a thirst for technology. They are looking for this. They are looking for the opportunity to use this technology. But, in my opinion, it needs regulation. That is why I was supportive when the Senator from District 4 came forth and said let us regulate them, but let us also make sure they also pay into the Highway Fund. I appreciated that amendment. They will be required to have \$1.5 million of insurance rather than just the \$250,000 surety bond and 7-year background checks. I urge you to vote yes on this legislation.

SENATOR ATKINSON:

I have much respect for the Senator from District 17. He worked with me on this bill. I thought we could have something good come out of it. Out of respect for my colleague and our Minority Leader, who asked that we take some time to consider an amendment of his, I felt makes the bill a little stronger. As my colleague from District 15 indicated, as someone who was not on another committee, the Minority Leader does not sit on this Committee. He suggested a few friendly changes and took some time to work with both sides on the issue. I thought they got us to a better place. The majority did not want to consider this, and I have informed the Chair, out of respect for my leader, who I thought should have been given some consideration on a bill of this magnitude.

This is a huge change in policy, we all recognize that. If it is going to be dealt with disrespectfully, and I believe our leaders should be dealt with respectfully, he should have been considered and his voice should have been considered. For those reasons, I will be voting no, and I encourage my colleagues join me in doing the same. We asked for this bill to be put at the bottom of General File or rolled so we can discuss it. We were told absolutely no, so my vote is absolutely no. Thank you, Mr. President.

SENATOR MANENDO:

This is a huge public policy debate and decision. Mostly, it affects southern Nevada. We have decades and decades of policy in place. I know this bill needs to move fast and swift for whatever reason. The amendments our Democratic Leader had were reasonable. They should have been passed. Fingerprinting is important. Our public safety is important. We should have drug testing of our drivers. It is fundamental. Providing public safety and reliable transportation for Nevada's millions and millions of tourists should not be second fiddle. Taxi cabs and limo companies in Nevada are required by law to test all applicants who wish to drive in Nevada. They also perform post-crash drug testing. Drivers are subject to random drug testing per our regulations and 30 percent of all applicants fail prehire drug tests. If we do not require any other company that comes into Nevada to do mandatory drug testing, those applicants will easily become drivers that are picking up your mother, your grandmother or other family members. This is something we should be willing to do if we care about the health and safety of the people. These drivers are transporting our tourists, our constituents and our loved ones. I urge a no vote until we have further discussion on this bill. I also believe there is a fiscal note on this bill.

SENATOR HARDY:

I rise in support of the bill I recognize the transportation network companies are, in reality, an app that makes wheels go around and so could be construed as transportation companies. I am not sure there are any absolutes in this Body. I am not sure we have to dig in our heels as much as we have to ensure safety and appropriate competition and convenience. My district obviously is far flung, although, I did see a taxi coming out of Boulder City about two months ago.

One of the things we have been struggling with is we have been caught between two good things. The taxi industry has done a yeoman's job in making sure when our tourists come in they get to the Strip, they get to the Convention Center and they get to and from the airport. They are to be commended for their quality, safety and their ability to move people. I think we have a hole in our service that is going to be filled by someone who has found not only a niche, but a huge opportunity particularly in southern Nevada. I was torn between "which one" to vote for or against, but I do not look at this as a competition for my vote but rather what can we do that will merge and marry the attitude of how do we get people to and from in a way that is safe and fosters competition. And, speaking of competition, knowing we are going to vote on a transportation network company or companies coming, we have fettered the taxis. I think we deserve to have that discussion in this Body. I appreciate the people who have worked with me, who have lobbied and who have helped. I appreciate the Chair of Commerce, Labor and Energy and the diligence he has done. I appreciate the opposition, because yesterday, I was there too. This is a process we are going through, and it is a good process. I hope we can keep cool heads.

SENATOR SPEARMAN:

When the bill came out of Committee and was voted upon, I gave a contingent vote of yes, provided there were some things I felt needed to happen that would strengthen all the avenues

for public safety and provide some parity. I am disappointed the amendments provided by our Leader were voted down. That is extremely disappointing because those amendments spoke directly to the concerns I had. I have spoken to people on both sides, and they know exactly how I feel so this will come as no surprise.

SENATOR FORD:

My apologies on the amendments, I did not do a proper job. I will be voting no and let me explain why. The amendments attempted to address concerns I had about the bill. The first proposed amendment would have required background checks be conducted by the FBI. Other entities who would be engaged in this new area use private enterprises to conduct background checks, and I was insistent that as a matter of public safety, and in view of headlines you have seen, we utilize the exact same background check process we use to hire the teachers who educate our children. That was an amendment no one on the other side would have been receptive to, and it was futile at that juncture.

The second proposed amendment also was a consumer protection amendment that was rejected out of hand. It, ultimately, would have protected against the dynamic pricing approach many take, which is a surge in pricing. It would have required the regulating entity to put a limit and a cap on those types of pricings. That too was rejected out of hand. As indicated, we requested this bill be put on the Secretary's desk or rolled to the next day or sent to the bottom of the General File so we could continue talking about it, but those entreaties were rejected out of hand. I think, as a matter of public safety, it is not appropriate at this juncture for us to support a bill that runs the risk of putting not only our citizens and our constituents in harm's way, but also the tourists who visit our cities. Our biggest industry is tourism, and if we allow one bad headline to come out about the way the background checks were done, we will have repercussions that will reverberate throughout our State. Ultimately, I cannot support this bill. I urge my colleagues to reject this bill as well, and then, we can potentially talk, going forward, about ways to amend this. Thank you.

SENATOR DENIS:

I would like to share a different view, and I might be the only one in the Chamber who feels this way. Having an intimate knowledge of the Public Utilities Commission, which does a great job, I do not think that is the appropriate place to do this. I know many years ago they had transportation as part of the PUC and then it went to the TSA, and they have handled it since then. I have heard folks who think we need something new, something different. My opinion is, if there is an issue with the way we do the other transportation things, then let us deal with those. I do not know that has been seriously considered as part of this bill. I am not happy with that part of it at this point so I will not be supporting it.

SENATOR SMITH:

I have a question. With the size of the fiscal note, why is this bill not being re-referred to Finance?

SENATOR KIECKHEFER:

The bill does have a fiscal note directly related to the PUC. It is not unfunded. The revenue is being generated by the bill to go to it, so it does not have a negative impact. There are budgetary implications in the bill. There are positions associated with the PUC as well as expenditure categories. I spoke with both Assembly Chair of Ways and Means, and we agreed to work on this jointly moving forward if they decided to process the policy. I spoke with our fiscal staff, and they indicated there are instances in the past where this has been done. Ironically, when the PUC stopped overseeing transportation companies originally, it was done in a similar method. That was back in 1997, and as recently as last session, when there were amendment put on the medical marijuana bill at the end, and IFC, ultimately, had to decide and give authority for that. It is not the usual course of action, but it is also not unprecedented.

SENATOR SMITH:

We did hear the medical marijuana bill in Finance and even though the revenue exceeds the expenses, we still normally vet those expenses in Committee. I am not comfortable with us not sending it to the money committee to look at.

Roll call on Senate Bill No. 439:

YEAS—11.

NAYS—Atkinson, Denis, Ford, Kihuen, Manendo, Parks, Segerblom, Smith, Spearman, Woodhouse—10.

Senate Bill No. 439 having failed to receive a two-thirds majority, Mr. President declared it lost.

Senate Bill No. 442.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 442 requires a court to remove an arbitrator who fails to disclose to the involved parties any facts a reasonable person would consider likely to affect the arbitrator's impartiality in the proceeding, if an award has not yet been made. The bill also prohibits the consolidation of separate arbitration proceedings or other claims unless expressly agreed to by all parties. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 442:

YEAS—21.

NAYS—None.

Senate Bill No. 442 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 444.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 444 defines, in relation to Strategic Lawsuits Against Public Participation, or SLAPP lawsuits, an issue of "public concern" as any topic that concerns the general public beyond a mere curiosity or general interest, and provides that any cause of action arising out of communication in furtherance of the right to petition or the right to free speech in direct connection with an issue of public concern is subject to a special motion to dismiss.

The bill also sets forth timelines and other requirements concerning such a motion, including conditions under which such a motion will be denied, when discovery must be allowed and when appeals can be made. If a court finds that a motion to dismiss has been filed in bad faith, the court must award the plaintiff reasonable attorney's fees and costs. Finally, the bill deletes from statute additional compensatory awards relating to the dismissal of these claims. The bill's provisions apply only to an action commenced on or after October 1, 2015. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 444:

YEAS—21.

NAYS—None.

Senate Bill No. 444 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 445.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 445 requires the Nevada Gaming Commission to adopt regulations governing the operation by a licensed race book or sports pool operator of a global risk management system

through the use of communications technology between and among various jurisdictions. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 445:

YEAS—21.

NAYS—None.

Senate Bill No. 445 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 446.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 446 establishes a framework for the ratification of certain corporate actions; clarifies the ability to establish various powers, designations, limitations and restrictions for classes and series of stock; provides that stockholder meetings may be held remotely; revises incorporation language across *Nevada Revised Statutes* for consistency; eliminates the provision of effective dates for the formation of limited-liability companies and limited partnerships; and aligns the effect of a conversion with that of a merger. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 446:

YEAS—21.

NAYS—None.

Senate Bill No. 446 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 464.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 464 exempts a person under 21 years of age from criminal liability for possession or consumption of alcohol if the person requests emergency medical assistance for himself, herself or another person.

The exemption applies, however, only if the person making the request: reasonably believes that the person for who emergency medical assistance is requested is under 21 years of age; reasonably believes the person needs such assistance; is the first person to request emergency medical assistance for the person; remains with the person requiring such assistance; and cooperates with providers of emergency medical assistance, health care providers and law enforcement.

The bill also prohibits the sale, purchase, possession or use of powdered alcohol and makes a violation of these provisions a misdemeanor. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 464:

YEAS—21.

NAYS—None.

Senate Bill No. 464 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 477.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 477 authorizes a governing body of any county or incorporated city to adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in a new residential dwelling unit that has an area of livable space of 5,000 square feet or more. On or after July 1, 2015, such a governing body may adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in a new residential dwelling unit that has an area of livable space of less than 5,000 square feet only if the governing body conducts an independent cost-benefit analysis of the proposed requirement to install an automatic fire sprinkler system and makes certain findings at a public hearing.

The bill does not prohibit: (1) a local government from enforcing an agreement for the development of land which requires the installation of an automatic fire sprinkler system in a residential dwelling unit; or (2) a person from installing an automatic fire sprinkler system in any residential dwelling unit. The bill further provides that such a governing body may require the installation of an automatic fire sprinkler system in such a residence without conducting the cost-benefit analysis and making the findings otherwise required if, with regard to any particular new residential dwelling unit, the governing body determines that the unique characteristics or location of the residence would cause a delay in firefighter response time.

Finally, the bill provides, with exceptions, for the continued enforcement of any building code, ordinance, regulation or rule relating to the installation of an automatic fire sprinkler system that was adopted by a governing body before January 1, 2015.

This measure is effective upon passage and approval.

Roll call on Senate Bill No. 477:

YEAS—13.

NAYS—Atkinson, Denis, Ford, Kihuen, Manendo, Smith, Spearman, Woodhouse—8.

Senate Bill No. 477 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Joint Resolution No. 17.

Resolution read third time.

Remarks by Senator Brower.

Senate Joint Resolution No. 17 proposes to amend the *Nevada Constitution* by eliminating existing victim's rights provisions found in Article 1, section 8, and replacing them with an expanded set of provisions in the form of a victim's bill of rights.

If approved in identical form during the 2017 Session of the Legislature, the proposal will be submitted to the voters for final approval or disapproval at the 2018 General Election.

Roll call on Senate Joint Resolution No. 17:

YEAS—15.

NAYS—Atkinson, Ford, Parks, Segerblom, Spearman, Woodhouse—6.

Senate Joint Resolution No. 17 having received a constitutional majority, Mr. President declared it passed, as amended.

Resolution ordered transmitted to the Assembly.

Assembly Bill No. 78.

Bill read third time.

The following amendment was proposed by Senator Gustavson:

Amendment No. 583.

SUMMARY—Makes various changes relating to wildlife. (BDR 45-362)

AN ACT relating to wildlife; revising the process by which the Board of Wildlife Commissioners establishes certain policies and adopts certain regulations; revising provisions governing programs for the management and control of predatory wildlife; ~~revising provisions relating to the fees charged to an applicant for an elk tag;~~ revising certain provisions governing county advisory boards to manage wildlife; revising the membership of the State Predatory Animal and Rodent Committee; ~~making various other changes relating to wildlife;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Board of Wildlife Commissioners to establish policies for the management of wildlife in this State and to establish policies and adopt regulations necessary to the preservation, protection, management and restoration of wildlife and its habitat. (NRS 501.105, 501.181) Sections 1 and 1.2 of this bill require the Commission, in establishing such policies and adopting such regulations, to first consider the recommendations of the Department of Wildlife, the county advisory boards to manage wildlife and other persons who present their views at an open meeting of the Commission.

Existing law establishes a county advisory board to manage wildlife in each of the counties of this State. (NRS 501.260) Sections 1.4-1.6 of this bill make various changes relating to those boards.

~~Existing law sets forth the fees to be charged by the Department of Wildlife to a hunter who applies for an elk tag. In addition to a fee for the tag itself, the Department is required to charge a fee for processing the application of not more than \$15, of which \$5 must be used for the prevention and mitigation of damage caused by elk or game mammals not native to this State. (NRS 502.250) Section 3 of this bill revises those provisions so that the fee for processing the application is fixed at \$10 and the fee to cover costs of prevention and mitigation is increased to not more than \$10, as provided by regulation of the Board of Wildlife Commissioners. Sections 1.2 and 2 of this bill make conforming changes.~~

Existing law ~~also~~ provides that in addition to any fee charged and collected for a game tag, a fee of \$3 must be charged for processing each application for a game tag, the revenue from which must be deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund and used by the Department for costs related to certain programs, management activities and research relating to wildlife. (NRS 502.253) Section 4 of this bill revises the provisions governing the use of this money. Section 4 also requires the Commission to consider the recommendations of the State Predatory Animal and Rodent Committee, the county advisory boards to manage wildlife and other persons who present their views at an open meeting before approving certain programs, activities and research.

Existing law creates and governs the State Predatory Animal and Rodent Committee. (NRS 567.010-567.090) Section 5 of this bill adds two new members to the Committee and establishes their qualifications. Section 8 of

this bill requires the Chair to designate the two additional members described in section 5 of this bill as soon as practicable after the effective date of this bill. Sections 6 and 7 of this bill make various changes relating to the meetings of the Committee.

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

Section 1. NRS 501.105 is hereby amended to read as follows:

501.105 The Commission shall establish policies and adopt regulations necessary to the preservation, protection, management and restoration of wildlife and its habitat. *In establishing such policies and adopting such regulations, the Commission must first consider the recommendations of the Department, the county advisory boards to manage wildlife and other persons who present their views at an open meeting of the Commission.*

Sec. 1.2. NRS 501.181 is hereby amended to read as follows:

501.181 The Commission shall:

1. Establish broad policies for:

(a) The protection, propagation, restoration, transplanting, introduction and management of wildlife in this State.

(b) The promotion of the safety of persons using or property used in the operation of vessels on the waters of this State.

(c) The promotion of uniformity of laws relating to policy matters.

2. Guide the Department in its administration and enforcement of the provisions of this title and of chapter 488 of NRS by the establishment of such policies.

3. Establish policies for areas of interest including:

(a) The management of big and small game mammals, upland and migratory game birds, fur-bearing mammals, game fish, and protected and unprotected mammals, birds, fish, reptiles and amphibians.

(b) The *management and control of predatory wildlife*. ~~[depredations.]~~

(c) The acquisition of lands, water rights and easements and other property for the management, propagation, protection and restoration of wildlife.

(d) The entry, access to, and occupancy and use of such property, including leases of grazing rights, sales of agricultural products and requests by the Director to the State Land Registrar for the sale of timber if the sale does not interfere with the use of the property on which the timber is located for wildlife management or for hunting or fishing thereon.

(e) The control of nonresident hunters.

(f) The introduction, transplanting or exporting of wildlife.

(g) Cooperation with federal, state and local agencies on wildlife and boating programs.

(h) The revocation of licenses issued pursuant to this title to any person who is convicted of a violation of any provision of this title or any regulation adopted pursuant thereto.

4. Establish regulations necessary to carry out the provisions of this title and of chapter 488 of NRS, including:

(a) Seasons for hunting game mammals and game birds, for hunting or trapping fur-bearing mammals and for fishing, the daily and possession limits, the manner and means of taking wildlife, including, but not limited to, the sex, size or other physical differentiation for each species, and, when necessary for management purposes, the emergency closing or extending of a season, reducing or increasing of the bag or possession limits on a species, or the closing of any area to hunting, fishing or trapping. ~~[The] If, in establishing any regulations [must be established after first considering] pursuant to this subsection, the Commission rejects the recommendations of [the Department, the] a county advisory [boards] board to manage wildlife [and others who wish to present their views at an open meeting.] with regard to the length of seasons for fishing, hunting and trapping or the bag or possession limits applicable within the respective county, the Commission shall provide to the county advisory board to manage wildlife a written explanation of the Commission's decision to reject the recommendations.~~ Any regulations relating to the closure of a season must be based upon scientific data concerning the management of wildlife. The data upon which the regulations are based must be collected or developed by the Department.

(b) The manner of using, attaching, filling out, punching, inspecting, validating or reporting tags.

(c) The delineation of game management units embracing contiguous territory located in more than one county, irrespective of county boundary lines.

(d) The number of licenses issued for big game and, if necessary, other game species.

5. Adopt regulations requiring the Department to make public, before official delivery, its proposed responses to any requests by federal agencies for its comment on drafts of statements concerning the environmental effect of proposed actions or regulations affecting public lands.

6. Adopt regulations:

(a) Governing the provisions of the permit required by NRS 502.390 and for the issuance, renewal and revocation of such a permit.

(b) Establishing the method for determining the amount of an assessment, and the time and manner of payment, necessary for the collection of the assessment required by NRS 502.390.

7. Designate those portions of wildlife management areas for big game mammals that are of special concern for the regulation of the importation, possession and propagation of alternative livestock pursuant to NRS 576.129.

8. Adopt regulations governing the trapping of fur-bearing mammals in a residential area of a county whose population is 100,000 or more.

9. *In establishing any policy or adopting any regulations pursuant to this section, first consider the recommendations of the Department, the county advisory boards to manage wildlife and other persons who present their views at an open meeting of the Commission.*

Sec. 1.4. NRS 501.290 is hereby amended to read as follows:

501.290 The board shall meet before ~~[those meetings]~~ *each meeting* of the Commission ~~[at which seasons, bag limits or hours are to be established]~~ and at such other times as the chair may call or the Commission may request.

Sec. 1.5. NRS 501.297 is hereby amended to read as follows:

501.297 The boards shall solicit and evaluate local opinion and advise the Commission on matters relating to the management of wildlife . ~~[within their respective counties.]~~

Sec. 1.6. NRS 501.303 is hereby amended to read as follows:

501.303 1. The boards shall submit recommendations for *the management of wildlife and* setting seasons for fishing, hunting and trapping, which must be considered by the Commission in its deliberation on and establishment of regulations . ~~[covering open or closed seasons, bag limits, hours and other regulations or policies.]~~

2. The chair or vice chair, or members of the board appointed by them:

(a) Shall attend the meetings of the Commission ; ~~[at which seasons are set or bag limits, hours or other regulations and policies are established;]~~ and

(b) Are entitled to receive such travel and per diem expenses as are allowed by law.

Sec. 1.8. ~~[NRS 501.356 is hereby amended to read as follows:]~~

~~501.356 1. Money received by the Department from:~~

~~(a) The sale of licenses;~~

~~(b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;~~

~~(c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;~~

~~(d) Appropriations made by the Legislature; and~~

~~(e) All other sources, including, without limitation, the Federal Government, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575, the Wildlife Trust Fund pursuant to NRS 501.3585, the Energy Planning and Conservation Account created by NRS 701.630 or the Account for the Recovery of Costs created by NRS 701.640;~~

~~must be deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund.~~

~~2. The interest and income earned on the money in the Wildlife Fund Account, after deducting any applicable charges, must be credited to the Account.~~

~~3. Except as otherwise provided in subsection 4 and NRS 503.597, the Department may use money in the Wildlife Fund Account only to carry out the provisions of this title and chapter 488 of NRS and as provided in NRS 365.535, and the money must not be diverted to any other use.~~

~~4. Except as otherwise provided in NRS 502.250 and 504.155, all fees for the sale or issuance of stamps, tags, permits and licenses that are required to be deposited in the Wildlife Fund Account pursuant to the provisions of~~

~~this title and any matching money received by the Department from any source must be accounted for separately and must be used:~~

- ~~— (a) Only for the management of wildlife; and~~
- ~~— (b) If the fee is for the sale or issuance of a license, permit or tag other than a tag specified in subsection 5 [or 6], 7 or 8 of NRS 502.250, under the guidance of the Commission pursuant to subsection 2 of NRS 501.181.]~~
(Deleted by amendment.)

Sec. 2. ~~[NRS 502.142 is hereby amended to read as follows:~~

~~502.142 1. The Commission shall adopt regulations to establish a program pursuant to which the Department will issue special incentive elk tags. The regulations must:~~

~~— (a) Set forth the application and annual review processes for the issuance of special incentive elk tags.~~

~~— (b) Require that an application for a special incentive elk tag must be accompanied by:~~

~~— (1) The fee charged for an elk tag pursuant to subsection 1 of NRS 502.250; and~~

~~— (2) Any administrative fee charged in connection with the issuance of an elk tag pursuant to this chapter [.], including, without limitation, the fees charged pursuant to subsections 4 and 6 of NRS 502.250.~~

~~— (c) Provide for the issuance of a special incentive elk tag only to a person who:~~

~~— (1) Lawfully owns, leases or manages private land within an actual elk use area; and~~

~~— (2) If that private land blocks reasonable access to adjacent public land, provides reasonable access through the private land to allow a person or hunting party possessing a valid elk tag to hunt elk on the adjacent public land.~~

~~— (d) Establish criteria for the issuance of special incentive elk tags based upon:~~

~~— (1) The number of elk using private land controlled by the applicant;~~

~~— (2) The number of days the elk use private lands of the applicant in a calendar year;~~

~~— (3) The total number of elk; and~~

~~— (4) Limiting the number of special incentive elk tags issued in each calendar year to not more than one half of the bull elk tags issued in that calendar year;~~

~~— within the actual elk use area in the unit or units of the management area or areas in which the private land is located.~~

~~— (e) Provide that special incentive elk tags are valid for both sexes of elk.~~

~~— (f) Prohibit a person who has, within a particular calendar year, applied for or received compensation pursuant to NRS 504.165 as reimbursement for damage caused by elk to private land from applying, within the same calendar year, for a special incentive elk tag for the same private land.~~

- ~~— (g) Allow a group of owners, lessees and managers of private land to qualify for a special incentive elk tag for their combined lands.~~
- ~~— (h) Ensure that the issuance of special incentive elk tags will not result in the number of bull elk tags issued in any year being reduced to a number below the quota for bull elk tags established by the Commission for 1997.~~
- ~~— (i) Provide that a person to whom a special incentive elk tag is issued by the Commission pursuant to this section may:~~
 - ~~— (1) If the person holds a valid hunting license issued by this State, use the special incentive elk tag himself or herself; or~~
 - ~~— (2) Sell the special incentive elk tag to another person who holds a valid hunting license issued by this State at any price upon which the parties mutually agree.~~
- ~~— (j) Require that a person who is issued a special incentive elk tag must hunt:~~
 - ~~— (1) During the open season for elk.~~
 - ~~— (2) In the unit or units within the management area or areas in which the private land is located.~~
- ~~— (k) Provide for the appointment of an arbitration panel to resolve disputes between persons who apply for special incentive elk tags and the Department regarding the issuance of such tags.~~
- ~~— 2. As used in this section, "actual elk use area" means an area in which elk live, as identified and designated by the Department.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 502.250 is hereby amended to read as follows:~~

~~502.250 1. The amount of the fee that must be charged for the following tags is:~~

~~Resident deer tag.....~~	~~\$30~~
~~Resident antelope tag.....~~	~~60~~
~~Resident elk tag.....~~	~~120~~
~~Resident bighorn sheep tag.....~~	~~120~~
~~Resident mountain goat tag.....~~	~~120~~
~~Resident mountain lion tag.....~~	~~25~~
~~Nonresident deer tag.....~~	~~240~~
~~Nonresident antelope tag.....~~	~~300~~
~~Nonresident antlered elk tag.....~~	~~1,200~~
~~Nonresident antlerless elk tag.....~~	~~500~~
~~Nonresident bighorn sheep tag.....~~	~~1,200~~
~~Nonresident mountain goat tag.....~~	~~1,200~~
~~Nonresident mountain lion tag.....~~	~~100~~

~~2. The amount of the fee for other resident or nonresident big game tags must not exceed the highest fee for a resident or nonresident big game tag established pursuant to this section.~~

~~3. The amount of the fee for a tag determined to be necessary by the Commission for other species pursuant to NRS 502.130 must not exceed the~~

~~highest fee for a resident or nonresident tag established pursuant to this section.~~

~~—4. A fee not to exceed \$10 may be charged for processing an application for a game species or permit other than an application for [an elk. A fee of not less than \$5 but not more than \$15 must be charged for processing an application for an elk, \$5 of which] a Silver State Tag. Any fee collected pursuant to this subsection must be deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund. [and used for the prevention and mitigation of damage caused by elk or game mammals not native to this State.]~~

~~—5. A fee of not less than \$15 and not more than \$50 must be charged for processing an application for a Silver State Tag.~~

~~—[5.] Any fee collected pursuant to this subsection must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in the State General Fund.~~

~~—6. If an application is for an elk, in addition to the fee for the elk tag required by subsection 1 and the fee for processing an application required by subsection 4 or 5, a fee of not less than \$5 and not more than \$10, as provided by regulation of the Commission, must be charged. Any fee collected pursuant to this subsection must be deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund and used pursuant to NRS 504.155 for the prevention and mitigation of damage caused by elk or game mammals not native to this State.~~

~~—7. The Commission may accept sealed bids for, or award through an auction or a Silver State Tag Drawing, or any combination thereof, not more than 15 big game tags and not more than 5 wild turkey tags each year. To reimburse the Department for the cost of managing wildlife and administering and conducting the bid, auction or Silver State Tag Drawing, not more than 18 percent of the total amount of money received from the bid, auction or Silver State Tag Drawing may be deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund. Any amount of money received from the bid, auction or Silver State Tag Drawing that is not so deposited must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in the State General Fund in accordance with the provisions of NRS 501.3575.~~

~~—[6.] 8. The Commission may by regulation establish an additional drawing for big game tags, which may be entitled the Partnership in Wildlife Drawing. To reimburse the Department for the cost of managing wildlife and administering and conducting the drawing, not more than 18 percent of the total amount of money received from the drawing may be deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund. Except as otherwise provided by regulations adopted by the Commission pursuant to subsection [7,] 9, the money received by the Department from applicants in the drawing who are not awarded big game~~

~~tags must be deposited with the State Treasurer for credit to the Wildlife Heritage Trust Account in accordance with the provisions of NRS 501.3575.~~

~~— [7.] 9. The Commission may adopt regulations which authorize the return of all or a portion of any fee collected from a person pursuant to the provisions of this section. (Deleted by amendment.)~~

Sec. 4. NRS 502.253 is hereby amended to read as follows:

502.253 1. In addition to any fee charged and collected pursuant to NRS 502.250, a fee of \$3 must be charged for processing each application for a game tag, the revenue from which must be accounted for separately, deposited with the State Treasurer for credit to the Wildlife Fund Account in the State General Fund and used by the Department for costs related to:

(a) ~~[Programs]~~ *Developing and implementing an annual program* for the management and control of ~~[injuriously]~~ predatory wildlife;

(b) Wildlife management activities relating to the protection of nonpredatory game animals ~~[;]~~ *and* sensitive wildlife species ; and ~~[related wildlife habitat;]~~

(c) Conducting research ~~[; as needed;]~~ *necessary* to determine successful techniques for managing and controlling predatory ~~[wildlife, including studies necessary to ensure effective programs for the management and control of injurious predatory wildlife; and]~~

~~— (d) Programs for the education of the general public concerning the management and control of predatory] wildlife.~~

2. The Department of Wildlife is hereby authorized to expend a portion of the money collected pursuant to subsection 1 to enable the State Department of Agriculture to develop and carry out the programs described in subsection 1.

3. Any program developed or wildlife management activity or research conducted pursuant to this section ~~[must be developed or conducted under the guidance of]~~ *may be implemented or conducted only if the program, activity or research is approved by the Commission pursuant to subsection 4 and is in accordance with the policies adopted by the Commission pursuant to [subsection 2 of]* NRS 501.181.

4. *The Commission:*

(a) *In approving any program developed or wildlife management activity or research conducted pursuant to this section, shall first consider the recommendations of the State Predatory Animal and Rodent Committee created by NRS 567.020, the county advisory boards to manage wildlife and other persons who present their views at an open meeting of the Commission.*

(b) *Shall not approve any program for the management and control of predatory wildlife developed pursuant to this section that provides for the expenditure of less than 80 percent of the amount of money collected pursuant to subsection 1 in the immediately preceding fiscal year for the purposes of lethal management and control of predatory wildlife.*

5. The money in the Wildlife Fund Account remains in the Account and does not revert to the State General Fund at the end of any fiscal year.

Sec. 5. NRS 567.030 is hereby amended to read as follows:

567.030 The Committee consists of ~~[five]~~ *the following seven members* ~~[]~~:

1. Two members ~~[must be]~~ designated by the State Board of Agriculture from among its members, one of which must be the appointee for range or semirange sheep production.

2. One member ~~[must be]~~ designated by the Board of Wildlife Commissioners from among its members.

3. One member ~~[must be]~~ designated by the State Board of Health from among its members.

4. One member ~~[must be]~~ designated by the Nevada Farm Bureau Federation from among its members.

5. *One member designated by the Chair of the Committee from among the persons who make application to the Committee who:*

(a) Must have been issued a license to hunt, trap or fish in this State in at least 3 of the 5 years immediately preceding the date on which he or she is designated as a member; and

(b) Must not have been convicted of any violation of the provisions of this title or any regulations adopted pursuant thereto or any federal law or regulation or any law or regulation of any other state relating to hunting, trapping or fishing in the 5 years immediately preceding the date on which he or she is designated as a member.

6. *One member designated by the Chair of the Committee from among the persons who make application to the Committee who:*

(a) Must hold a license as a master guide issued pursuant to NRS 504.390; and

(b) Must not have been convicted of any violation of the provisions of this title or any regulations adopted pursuant thereto or any federal law or regulation or any law or regulation of any other state relating to hunting, trapping or fishing in the 5 years immediately preceding the date on which he or she is designated as a member.

Sec. 6. NRS 567.040 is hereby amended to read as follows:

567.040 1. ~~[Upon and following its organization]~~ *At the first meeting of each year, the Committee shall select its own Chair ~~[]~~ and Vice Chair from among its members. A member may not serve as the Chair or Vice Chair for more than two consecutive terms.*

2. *Upon the selection of the Chair at the first meeting of each year, the Chair shall designate the members described in subsections 5 and 6 of NRS 567.030.*

3. The Secretary of the State Board of Agriculture shall serve as Secretary of the Committee.

Sec. 7. NRS 567.070 is hereby amended to read as follows:

567.070 The Committee's Secretary shall call the first meeting of the Committee *each year* following the designation of ~~[its]~~ *the members* ~~[as provided]~~ *described in subsections 1 to 4, inclusive, of NRS 567.030.*

Sec. 8. Notwithstanding the amendatory provisions of subsection 2 of section 6 of this act, the Chair of the State Predatory Animal and Rodent Committee shall, as soon as practicable after the effective date of this act, designate the members of the Committee described in subsections 5 and 6 of NRS 567.030, as amended by section 5 of this act, each to serve a term that expires on the date of the first meeting of the Committee that occurs on or after January 1, 2017.

Sec. 9. This act becomes effective upon passage and approval.

Senator Gustavson moved the adoption of the amendment

Remarks by Senator Gustavson.

Assembly Bill No. 78 authorizes any person, firm, company, association or corporation claiming overvaluation or excessive valuation of its property that is centrally assessed by the Department of Taxation to file an appeal of that assessment directly to the State Board of Equalization without first filing an appeal to the County Board of Equalization.

The direct appeal to the State Board of Equalization must be filed by January 15, which corresponds with the date an appeal must be submitted to the County Board of Equalization under current law. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. This act becomes effective on July 1, 2015.

Amendment adopted.

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

Senator Roberson moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 5:00 p.m.

SENATE IN SESSION

At 5:01 p.m.

President Hutchison presiding.

Quorum present.

Senate Bill No. 75.

Bill read third time.

Remarks by Senator Hammond.

The term "school days" is less open to interpretation and, thus, easier to count. A school will be able to count a fixed number of school days that will apply to the entire student body, whereas "instructional days" could be interpreted as applying differently to each student, for each class they are enrolled in.

Roll call on Senate Bill No. 75:

YEAS—21.

NAYS—None.

Senate Bill No. 75 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Senate Bill No. 252 be taken from the General File and placed at the bottom of the General File for the next legislative day.

Motion carried.

Senator Roberson moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 5:06 p.m.

SENATE IN SESSION

At 5:11 p.m.

President Hutchison presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

The Sergeant at Arms announced that Assemblywomen Shelton and Swank were at the bar of the Senate. Assemblywoman Shelton invited the Senate to meet in Joint Session with the Assembly to hear Chief Justice James W. Hardesty.

The President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 5:11 p.m.

IN JOINT SESSION

At 5:18 p.m.

President Hutchison presiding.

The Secretary of the Senate called the Senate roll.

All present.

The Chief Clerk of the Assembly called the Assembly roll.

All present except Assemblywoman Woodbury who was excused.

Mr. President appointed a Committee on Escort consisting of Senator Brower and Assemblywoman Titus to wait upon the Honorable James W. Hardesty, Chief Justice of the Nevada Supreme Court, and escort him to the Assembly Chamber.

Chief Justice Hardesty delivered his message as follows:

MESSAGE TO THE LEGISLATURE OF NEVADA
SEVENTY-EIGHTH SESSION, 2015

Governor Sandoval, Lieutenant Governor Hutchison, Speaker Hambrick, Senator Roberson, Senator Ford, Assemblywoman Kirkpatrick, distinguished members of the Senate and the Assembly, honorable Constitutional Officers, and honored guests. Thank you once again for the honor of speaking to the Nevada Legislature on behalf of my colleagues and friends in the State judicial system.

A week ago Monday, Senator Dean Heller began his remarks by noting that he was speaking just before the men's national championship basketball game. As you all know, today is tax day, the day the Titanic sank and the day President Lincoln died. At first blush, I would trade days with the Senator—until I remembered that on April 15, 1947, Jackie Robinson became the first African-American player in Major League Baseball history when he stepped onto Ebbets Field to compete for the Brooklyn Dodgers. I could not help but notice the historical coincidence of President Lincoln's death and Jackie Robinson's entrance into Major League Baseball as its first African-American player. So, I am honored to speak to you this day.

I have another reason to be proud to speak to you this day. Earlier this afternoon, I enjoyed one of the unique privileges in life that is visited upon a Chief Justice. It was my great honor to swear in my Senator from District 13, Senator Debbie Smith, so I can report to this Legislature that your Legislature is now complete. She is now with all of us.

I would like to introduce my friends and colleagues on the Nevada Supreme Court: Associate Chief Justice Ron Parraguirre, Justice Mike Douglas, Justice Mike Cherry, Justice Kris Pickering, Justice Mark Gibbons and Justice Nancy Saitta. It is my privilege to serve with these distinguished jurists, and I thank them for their support during my service as Chief Justice. I would also like to recognize and thank the Clerk of the Supreme Court, Tracie Lindeman; the Clerk of the new Court of Appeals, Tom Harris; our legal counsel, Phaedra Kalicki; the Reporter of Decisions, Brandee Mooneyhan; the Supreme Court's extraordinary legal staff; the Director of the Administrative Office of the Courts, Robin Sweet; and the dedicated, hardworking staff of the Administrative Office of the Courts.

I am also privileged to speak on behalf of our 3 Court of Appeals Judges, 82 district court judges, 67 justices of the peace, 30 municipal court judges and the nearly 2,000 court employees throughout the state. A number of judges have joined us tonight; it would probably take quite a bit of time to introduce all of them, but I want to thank them for coming and offering their support for the Judicial Branch of government. I would particularly like to introduce and have you recognize the Chief Judges of the Second and Eighth Judicial Districts, Washoe and Clark, Chief Judge David Hardy and Chief Judge David Barker.

Nevada's judicial officers and court employees are committed to the administration of fair and impartial justice in criminal, civil, family, and juvenile disputes according to the rule of law. In fulfilling our constitutional duties, we are mindful of the importance of providing timely access to the court system and resolving cases as efficiently as budgets and caseloads will permit. I am proud to serve with all of these dedicated public servants, and I offer my profound thanks to all of them for their service to all Nevadans.

My purpose this evening is to discuss the state of the Judicial Branch of Nevada's government. In doing so, I would like to share with you some of the many accomplishments of Nevada's courts and offer a vision for the future of Nevada's Judiciary.

As you know, the resolution of disputes represents the core function of the court system. As Mark Twain commented in 1868, "The Judges have the *Constitution* for their guidance; they have no right to any politics save the politics of rigid right and justice when they are sitting in judgment upon the great matters that come before them." Of course, a few years later, Twain would say with a wry wit, "Always do right. This will gratify some people and astonish the rest."

In today's environment, though, what is the right role for Nevada's Judiciary? Over the years, and more so in recent times, the responsibilities of the judiciary have increased in ways we could not have imagined just two decades ago. Not only do our citizens and the State turn to the courts to resolve criminal, civil, family and juvenile cases, they also seek the courts' assistance to resolve many of society's social issues as well.

To paraphrase the former Chief Judge for the state of New York, whether we like it or not, the state courts of this Country are in the eye of the storm. We have become the emergency room for society's worst ailments—substance abuse, family violence, mental illness, mortgage foreclosures, and so much more. This reality has forced the courts to approach cases with innovation and collaboration with all involved, and these pressures underscore the need for a public judicial system that is timely, responsive, and efficient in its management of a case while treating each person with respect and dignity.

I can tell all of you that I have been looking forward to this evening for a long time. For the first time in 44 years, the Nevada Supreme Court and the Nevada Legislature are not engaged in

a discussion about the need for a Court of Appeals. Tonight, thanks to the Legislature, our distinguished Governor, and the people of the State of Nevada, I can report that last November, Nevadans voted to amend the *Nevada Constitution* to create a Court of Appeals. No doubt, the active participation of past and present members of the Nevada Legislature was a major factor in the educational effort to adopt Question 1. You helped make history for Nevada's judicial system, and I can tell you from the bottom of our hearts, the Supreme Court would like to take this opportunity to thank each of you for your support.

In the 60 days following the election, the Supreme Court enacted rules to govern the jurisdiction and transfer of cases to the Court of Appeals. The Judicial Selection Commission and the Governor appointed the new judges in record time, and the Board of Examiners and the Interim Finance Committee implemented the budget to fund the Court of Appeals. By January 5, 2015, the Supreme Court's staff set up offices, installed computers, established internal procedures and completed many other tasks needed to start a brand new court. I want to thank and recognize our Clerk, Tracie Lindeman; Reporter of Decisions, Brandee Mooneyhan; legal counsel, Phaedra Kalicki and Sarah Moore; clerk Amanda Ingersoll; and IT personnel, Brian Pettijohn, Ted Xie, Fred Aker, Kathryn Burns, Karen Peterson, Jeff Sabo, and Alyssa Bland for the many hours they devoted during the Thanksgiving and Christmas holidays to assist the Court with the numerous rule drafts, install the case management system and implement the various procedures necessary to convert the dream of a court of appeals into a reality. I also want to thank and recognize the members of the Administrative Office of the Courts staff—John McCormick, Hans Jessup, Vale Trujillo, Myrna Byrd, and Deborah Crews—for their help in setting up offices north and south that made the Court of Appeals fully functional by January 5, 2015, as contemplated in the constitutional amendment.

As with any endeavor, the success of the Court of Appeals will ultimately depend on the judges who serve. Allow me to introduce the inaugural Chief Judge of the Court of Appeals, Chief Michael Gibbons. And for all of the things that this Legislature might fix, perhaps you could begin with Southwest Airlines, for I had wished to introduce to you as well Judge Abby Silver and Judge Jerome Tao. These three judges were nominated by the Judicial Selection Commission from 36 highly qualified applicants and selected by the Governor. They have committed their intellect, hard work and talent to the success of the Court of Appeals and the contribution it can make to Nevada's judicial system and Nevada law.

As you know, the Supreme Court has always maintained that a Court of Appeals would improve justice in our State by reducing the Supreme Court's caseload, shortening the time to decide appellate cases, increasing the number of published opinions on Nevada law, and operating within a fiscally responsible framework. From what I have witnessed during the first three and a half months of operation, I can state with confidence that the Supreme Court and the Court of Appeals have a very bright future.

Consider as 2015 began, the Supreme Court faced a pending caseload of 1,819 cases. As of March 31, 2015, 300 cases have been assigned to the Court of Appeals under the rules adopted by the Supreme Court. In the first three months, the Court of Appeals has decided 166 cases, conducted its first oral arguments in 4 cases, and published its first opinion. With the continued work of my colleagues on existing cases and the contributing work of the Court of Appeals, the Supreme Court saw its first significant drop in pending cases in years to 1,568 cases. And one more point: of the \$444,250 in funding provided by the Legislature to operate the Court of Appeals for the first six months, we currently project a reversion or return to the State General Fund of over \$56,000, or 12.6 percent of our original budget. Before beginning my presentation today, I was advised that through today, the Court of Appeals has had an additional 27 cases assigned to it and they have decided, as of today, 221 cases.

I believe the Court of Appeals is one of many examples of the Nevada Judiciary's achievements, and I would like to update you on a few others. In 2001, the Supreme Court created the business court in the Second and Eighth Judicial Districts. Patterned loosely after Delaware's Chancery Court, the business courts in Nevada are designed to resolve the most complex, lengthy and expensive business disputes in a timely, cost-efficient manner. Prior to establishing Nevada's business court system, these cases lacked case management and in most instances took more than four years to complete. A lot of progress has been made in the business court experience since then. As of the end of the fiscal year, there were 91 pending cases in

Washoe County's District Court and 508 in Clark County's. I was impressed, as I believe you will be, to learn that the average time to disposition today for business court cases in Clark County is 23 months, and that takes into account cases like the Harmon tower dispute. In the Second Judicial District Court, the business court judges have reduced the average time to disposition in the last two years from 16 months to 10 months. These statistics make Nevada very competitive with Delaware and other states that have business courts in their system and send a clear message to local businesses and those outside Nevada's borders that Nevada's judicial system is fully prepared to address the legal needs of Nevada's businesses in a timely, cost-effective way. I would like to thank and recognize Eighth Judicial District Court Judges Elizabeth Gonzalez, Mark Denton, Nancy Allf, Kathleen Delaney and Susan Scann and Second Judicial District Court Judges Patrick Flanagan and Scott Freeman for their extraordinary work in making our business courts the success we envisioned 14 years ago. As a result of the creation of the Court of Appeals, I believe the Supreme Court can complete the business court plan by publishing more opinions, expanding our jurisprudence on business law.

In 2009, the Supreme Court presented, and the Legislature approved, a business plan to add ten district court judges, with new courtrooms, facilities and technology expenses paid by an increase in filing fees. Under this plan, seven civil jurisdiction judges and two family court judges were added in Clark County, and one general jurisdiction judge was added in Washoe County. This was a bold move at the time as the recession was becoming more realistic and the State's budget was in real trouble. But, consider that in 2009, the number of cases filed per district court judge in Clark County was 2,422, and the average time to resolve a case exceeded three and one-half years. In Washoe County, the number of cases filed per district court judge was 1,597, and a new general jurisdiction judge had not been added to that district in 20 years. Today, the number of cases filed per district judge in Clark County is 1,846, and the average time for closure in all civil cases is 14.7 months. The two additional family court judges provided the opportunity to add judicial resources to cases involving the abuse and neglect of children. In Washoe County, the number of cases filed per district judge is 1,370, and the average time to resolution is under one year.

The funds generated by the Supreme Court's business plan fully paid for all eight new courtrooms in Clark County and the courtroom in Washoe County without any cost to the general funds of the counties or the State. Since then, Clark County's District Court has utilized these funds to, among other items, upgrade its audiovisual systems, create a disaster recovery project to protect its old and new e-filing records, and archive over 4 million pages of court files. The Washoe District Court was able to renovate its probate-commissioners' courtroom, and in Elko, Judge Nancy Porter, with the support of her colleague Judge Al Kacin, led a collaborative effort with Elko Municipal Court Judge Simons and the Elko County Sheriff and Commissioners to establish, for the first time, a security system for the courthouse, including the installation of video equipment inside and out. They also replaced an audiovisual system in the small courtroom in the jail. In Carson City, the District Court constructed a new specialty courtroom, a new juvenile courtroom, and provided computers and technology to that court's clerks and staff at no cost to Carson City or the State. To quote District Court Judge Todd Russell, "None of this would have been possible without the business plan proposed by the Supreme Court and enacted by the Legislature."

Nevada's drug courts and other specialty courts continue the incredible journey that began in 1992 when Nevada launched the Nation's fifth drug court. It is a journey that saves lives, families and the futures of unborn children. It is also a journey that reduces recidivism and the need for more prisons and jails. The Legislature's continued support of these courts has enabled dedicated specialty court judges and staff to achieve successes that no one thought possible. Over the past three years, the 41 drug, mental health and DUI courts throughout the State served an average of 3,800 clients per year and witnessed an average of 1,470 graduates per year. This past fiscal year, 74 drug-free babies were born to participants in these and other specialty courts; that is 74 babies who now have a chance to grow up without the limitations imposed on them prenatally by drug-addicted mothers.

But, the success of these and many of the specialty courts in Nevada is now in jeopardy. As some of you know from my presentation to the subcommittee hearing the Supreme Court's budget, the funding for specialty courts in Nevada depends largely on a share of administrative

assessments paid on traffic citations. This funding source has always been a bit unstable, but it has never declined to the extent we have witnessed in the last six months. As a result, the specialty court programs in Nevada face a shortfall in their budgets of 15 percent, or decline in revenue of just over \$1.4 million. The impact to the budgets is already being felt this fiscal year, resulting in the delay of assistance to or exclusion of participants in programs in Clark County and the six counties that make up the Western Regional Drug Court program. The consequences are clear. Our State will see increases in jail and prison costs as a result. Therefore, I would urge this Legislature to follow the unanimous recommendation of your Advisory Commission on the Administration of Justice as well as the Governor's recommended budget and restore the shortfall in funding and add \$3 million of new revenue to expand the capabilities of Nevada's specialty courts to save lives and reduce jail and prison costs in the process.

As part of this discussion, I thought you would be interested in an update on the success of the felony DUI court program. This specialty court deals with serious and chronic DUI offenders who have failed to appreciate their actions after prior jail or prison terms. The DUI court has been remarkably successful in breaking the destructive cycle of these offenders. Last year 290 clients graduated from felony DUI court. While not all courts have this same experience, I wanted to share the results of the DUI court in Elko supervised by Judge Nancy Porter. Since 2010, not one graduate of that program has recidivated. As you know, the Legislature added funding for DUI courts during the 2013 Session, but that funding sunsets on June 30, 2015. I urge you to terminate the sunset and allow this funding source to continue to help mitigate the reductions in all of the specialty court budgets I have mentioned tonight.

I also want to mention the Foreclosure Mediation Program. In 2009, with the consent of the lending industry, the Legislature asked the Supreme Court to supervise a new program that would create a platform for loan mediation and mitigate the effects of the growing number of foreclosures. The program has been funded not by the General Fund, but by fees paid by lenders when seeking relief from a default. There can be little question, from the statistics we have provided to this Legislature and to previous Legislatures, that the program has helped thousands of Nevadans remain in their homes or work out arrangements with lenders to reduce the impact of a foreclosure. As we have noted in budget hearings, though, the continuation of this program is a policy decision for this Legislature and not the Court. While the Court has offered some options for your consideration, it is up to the Legislature to decide what to do next. But, regardless, tonight, I would like to recognize and thank someone who has been with the program from the beginning, Verise Campbell, the Director of the Foreclosure Mediation Program for the Supreme Court. Her service has been extraordinary, and we thank her for all that she has done for the many citizens of Nevada who have been helped.

These initiatives are a few of the many achievements of the Judicial Branch over the past few years. All of them illustrate the dedication of the judges and court employees who work very hard every day to make the courts responsive to the needs of Nevada's citizens.

As we look to the future, I see a lengthy agenda for Nevada's judicial system. I would like to highlight just a few items that I consider to be on that list. First, we must continue our efforts to make the public judicial system responsive to the needs of people in civil cases and family cases. Access to justice in Nevada cannot be a goal; it must be a reality. Families and children in crisis and unrepresented litigants have every right to expect their judicial system to work equally for them. Too often, parties turn away from the public judicial system because it is just too expensive and takes too long. This issue is not unique to Nevada. For the past two years, a committee of the Conference of Chief Justices, on which I have the privilege of serving, has been studying two fundamental reasons for cost and delay in the public judicial system: case management by judges and the rules of civil procedure, particularly those relating to discovery that add cost and time to an already challenging process. The committee's report is due this summer, and this fall I will ask all courts in Nevada to study and implement the committee's recommendations that are relevant to our State.

Second, I urge the Legislature to pass Assembly Bill 435, a measure that creates a new judicial district in Nevada consisting of Pershing, Lander and Mineral Counties. For the past 45 days, Judge Jim Shirley, who is here this evening; Judge Michael Montero and the county commissioners in each of those counties and Humboldt County have studied the benefits of this realignment, and all have voted to support this effort. This out-of-the-box plan helps smooth out

caseloads in the Fifth Judicial District, Nye County and Esmeralda; the Sixth Judicial District, Humboldt and Pershing; and the new Eleventh Judicial District, Pershing, Lander and Mineral. It reduces travel time for judges serving in these districts,; significantly postpones the need for additional judges, particularly in the Fifth Judicial District in Nye County, and increases the availability of judicial resources for all parties at little or no fiscal impact to the counties or the State.

Third, we must study and adopt evidence-based risk assessment in setting pretrial release conditions of those accused of a crime. Pretrial judicial decisions about the release or detention of a defendant have a significant impact on thousands of defendants and add great financial stress to publicly funded jails holding defendants who are unable to meet conditions of release. As our jails swell, particularly in Clark County, it is time for Nevada's judges to follow the lead of the District of Columbia, Kentucky, New York, Arizona and the Conference of State Court Administrators and adopt pretrial release assessment tools that better assess whether a defendant will fail to appear or will present a risk of safety to others. As the Conference report notes, "Imposing conditions on a defendant that are appropriate for that individual following a valid pretrial assessment substantially reduces pretrial detention without impairing the judicial process or threatening public safety."

I am proud to report that 33 of Nevada's limited jurisdiction judges and nine of our district court judges have already agreed to join me in the study of this issue. Several of the county commissions have also agreed to participate in this process. I hope this Legislature will adopt Senate Bill 452 requiring the use of pretrial risk assessment tools according to rules approved by the Supreme Court. Doing so will add Nevada to the list of states leading the country in the use of evidenced-based decisions in pretrial releases for those accused of a crime.

The last issue I will mention is that of judicial education. Over the past four years, we have witnessed a dramatic change in the make-up of the district court bench in Nevada. Today, 38 of the 82 district court judges in Nevada have joined the bench since 2010. These judges bring new energy, innovation and creativity to Nevada's judicial system. Their addition provides many opportunities including, in my view, a reexamination of our approach to judicial education. You might be interested to know that it has been 16 years since district court judges attended mandatory education on cases involving the death penalty, and not since 2007, have the judges been required to attend classes on domestic violence. While many of our judges obtain education on these and other areas of the law on their own, we do not have an organized system for mandatory judicial education. No matter what you may think, the work of a judge is very difficult, and I assure you, the perspective of a judge is much different than that of an experienced litigator or advocate. Anyone who has served as a judge will tell you that it takes considerable training, education, work and time to develop a sense of confidence in the art of judging. If we are to do our best for the people that appear in Nevada's courtrooms, we must become and stay conversant in core legal and judicial subjects. I want to collaborate on the development of required subjects with varied curriculum that must be attended or taught by all judges, both old and new. With the help of the National Judicial College, the Boyd School of Law and our own resources, we can build a foundation for future judicial excellence.

As you may have witnessed, I am excited about the future of Nevada's judicial system. I cannot think of a better time to practice law in our State. We have a top-20 law school, an active State Bar, a new Court of Appeals and judges and court employees who are motivated, enthusiastic, innovative and engaged working every day to make our public judicial system the best that it can be. But as Justice Breyer noted in his book *Making Our Democracy Work*, we cannot take the public's confidence in the courts for granted, nor the Legislature's either. I agree and believe that Nevada's courts will continue to earn the public's trust and confidence if we adhere to the rule of law, are proactive in the management of our cases, creative in our efforts to provide access to the courts, sensitive to the needs of people who come before us, innovative in our resolution of disputes, accountable for our behavior and decisions and fiscally responsible and transparent in all that we do.

Again, I want to thank you on behalf of the Judiciary for the opportunity to visit with you this evening.

Senator Roberson moved that the Senate and Assembly in Joint Session extend a vote of thanks to Chief Justice Hardesty for his timely, able and constructive message.

Motion carried.

The Committee on Escort escorted Chief Justice Hardesty to the bar of the Assembly.

Assemblyman Sprinkle moved that the Joint Session be dissolved.

Motion carried.

Joint Session dissolved at 5:56 p.m.

SENATE IN SESSION

At 6:24 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which was referred Senate Bill No. 241, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PETE GOICOECHEA, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 241.

Bill read second time.

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

Amendment No. 469.

SUMMARY—Revises provisions relating to collective bargaining. (BDR 23-1030)

AN ACT relating to collective bargaining; authorizing, under certain circumstances, a local government employer to provide paid leave to an employee for time spent in providing services to an employee organization; reducing the amount of time within which the Local Government Employee-Management Relations Board must conduct a hearing relating to certain complaints; providing that a collective bargaining agreement between a local government employer and a recognized employee organization expires for certain purposes at the end of the term stated in the agreement; excluding certain school administrators from membership in a bargaining unit for the purposes of collective bargaining; revising various provisions relating to negotiations between a school district and an employee organization representing teachers or educational support personnel; providing that certain principals are employed at will; requiring certain postprobationary school administrators to apply for reappointment to their administrative positions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes various changes relating to collective bargaining. Section 1 of this bill authorizes, under certain circumstances, a local government employer to provide leave to an employee for time spent by the employee in performing duties or providing services for an employee organization. Section 1.2 of this bill makes a conforming change.

Existing law requires the Local Government Employee-Management Relations Board to conduct a hearing within 180 days after deciding to hear a complaint arising out of the interpretation of, or performance under, the provisions of law relating to collective bargaining. (NRS 288.110) Section 1.1 of this bill reduces that time to not later than 45 days if a complaint alleges that a local government employer or an employee organization has refused to bargain collectively in good faith unless the parties agree to waive the requirement.

Section 1.3 of this bill is directed to "evergreen" language in a collective bargaining agreement, pursuant to which the agreement remains in effect beyond the end of its stated term until a successor agreement becomes effective. Notwithstanding any such provision, section 1.3 provides that upon the end of the term stated in a collective bargaining agreement, and until a successor agreement becomes effective, a local government employer shall not, with limited exceptions, increase any compensation or monetary benefits paid to or on behalf of employees in the affected bargaining unit.

Existing law generally requires a local government employer to engage in collective bargaining with the recognized employee organization, if any, for each bargaining unit among its employees. (NRS 288.150) Existing law also requires employees in certain supervisory and administrative positions, including certain school administrators, to be members of a different bargaining unit from the employees they supervise and entirely excludes certain other employees from membership in a bargaining unit. (NRS 288.140, 288.170) Section ~~1.1~~ 1.4 of this bill excludes school administrators whose annual salary, adjusted for inflation, is greater than \$120,000 from membership in a bargaining unit, with the result that such administrators may not engage in collective bargaining with their employer. Sections 2, 3 and 4 of this bill make conforming changes.

Existing law requires an employee organization that desires to negotiate to give written notice of that desire to the local government employer. If the subject of negotiation requires the budgeting of money by the local government employer, the notice must be given by the employee organization on or before February 1. (NRS 288.180) Section 1.5 of this bill provides that if an employee organization represents teachers or educational support personnel and desires to negotiate, it must give written notice on or before January 1.

If, after four sessions of negotiation between a school district and an employee organization representing teachers and educational support personnel, the parties fail to reach an agreement, existing law provides that

either party may submit the issues to an arbitrator. (NRS 288.217) Section 1.6 of this bill requires that the parties have eight sessions of negotiation before the issues are submitted to an arbitrator. Section 1.6 also requires the parties to: (1) select an arbitrator not later than 330 days before the end of the term stated in the existing collective bargaining agreement; and (2) schedule a hearing of not less than 3 consecutive business days.

Existing law authorizes any controversy concerning a prohibited practice relating to collective bargaining to be submitted to the Local Government Employee-Management Relations Board. (NRS 288.110, 288.280) Section 1.7 of this bill requires the Board to conduct a hearing not later than 45 days after the Board decides to hear the complaint unless the parties agree to waive the requirement.

Section 1.9 of this bill provides that during the first 3 years of employment by a school district, a principal is employed at-will. Section 1.9 also provides that if a principal completes the 3-year probationary period, the principal again becomes an at-will employee if, in 2 consecutive school years: (1) the rating of the school to which the principal is assigned pursuant to the statewide system of accountability for public schools is reduced by one or more levels; and (2) fifty percent or more of the teachers assigned to the school request a transfer to another school. Section 1.9 further provides that such a principal is subject to immediate dismissal by the board of trustees of the school district on recommendation of the superintendent of the school district.

Section 1.95 of this bill provides that a postprobationary administrator, other than an administrator who is excluded from a bargaining unit or a principal, must apply to the superintendent of the school district for reappointment to his or her administrative position every 5 years.

Sections 3.5-4.8 of this bill make changes to conform with sections 1.9 and 1.95.

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

Section 1. Chapter 288 of NRS is hereby amended by adding thereto a new section to read as follows:

A local government employer may agree to provide leave to any of its employees for time spent by the employee in performing duties or providing services for an employee organization if the full cost of such leave is paid or reimbursed by the employee organization or is offset by the value of concessions made by the employee organization in the negotiation of an agreement with the local government employer pursuant to this chapter.

Sec. 1.1. NRS 288.110 is hereby amended to read as follows:

288.110 1. The Board may make rules governing:

- (a) Proceedings before it;
- (b) Procedures for fact-finding;
- (c) The recognition of employee organizations; and
- (d) The determination of bargaining units.

2. The Board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer, local government employee or employee organization. ~~[The]~~ Except as otherwise provided in this subsection and NRS 288.280, the Board shall conduct a hearing within 180 days after it decides to hear a complaint. If a complaint alleges a violation of paragraph (e) of subsection 1 of NRS 288.270 or paragraph (b) of subsection 2 of that section, the Board shall conduct a hearing not later than 45 days after it decides to hear the complaint, unless the parties agree to waive this requirement. The Board, after a hearing, if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which the party has been deprived by that action. The Board shall issue its decision within 120 days after the hearing on the complaint is completed.

3. Any party aggrieved by the failure of any person to obey an order of the Board issued pursuant to subsection 2, or the Board at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The Board may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

5. The Board may decide without a hearing a contested matter:

- (a) In which all of the legal issues have been previously decided by the Board, if it adopts its previous decision or decisions as precedent; or
- (b) Upon agreement of all the parties.

6. The Board may award reasonable costs, which may include attorneys' fees, to the prevailing party.

Sec. 1.2. 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 ~~[+]~~ consistent with the provisions of this chapter.
- (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 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. 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. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 1.3. NRS 288.155 is hereby amended to read as follows:

288.155 ~~[Agreements entered into between local government employers and employee organizations pursuant to this chapter may]~~

1. A collective bargaining agreement:

(a) May extend beyond the term of office of any member or officer of the local government employer.

(b) Expires for the purposes of this section at the end of the term stated in the agreement, notwithstanding any provision of the agreement that it remain in effect, in whole or in part, after the end of that term until a successor agreement becomes effective.

2. Except as otherwise provided in subsection 3 and notwithstanding any provision of the collective bargaining agreement to the contrary, upon the expiration of a collective bargaining agreement, if no successor agreement is effective and until a successor agreement becomes effective, a local government employer shall not pay to or on behalf of any employee in the affected bargaining unit any compensation or monetary benefits in any amount greater than the amount in effect as of the expiration of the collective bargaining agreement.

3. The provisions of subsection 2 do not prohibit a local government employer from paying:

(a) An increase in compensation or monetary benefits during the first quarter of the next ensuing fiscal year of the local government employer after the expiration of a collective bargaining agreement; or

(b) An increase in the employer's portion of the matching contribution rate for employees and employers in accordance with an adjustment in the rate of contributions pursuant to NRS 286.450.

~~[Section 1.]~~ *Sec. 1.4.* NRS 288.170 is hereby amended to read as follows:

288.170 1. Each local government employer which has recognized one or more employee organizations shall determine, after consultation with the recognized organization or organizations, which group or groups of its employees constitute an appropriate unit or units for negotiating. The primary criterion for that determination must be the community of interest among the employees concerned.

2. ~~A school administrator *f*, including, without limitation, a principal, assistant principal, or other school administrator below the rank of superintendent, associate superintendent or assistant superintendent shall not be a member of the same bargaining unit with public school teachers unless the school district employs fewer than five principals but may join with other officials of the same specified ranks to negotiate as a separate *f* whose annual salary, adjusted for inflation as provided in this subsection, is greater than \$120,000 must be excluded from any bargaining unit. The annual salary provided in this subsection must be adjusted on July 1 of each year for the period beginning that day and ending on June 30 of the following year in a rounded dollar amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On April 1 of each year, the Commissioner shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amount to take effect on July 1 of that year and notify each school district of the adjusted amount.~~

3. A head of a department of a local government, an administrative employee or a supervisory employee must not be a member of the same bargaining unit as the employees under the direction of that department head, administrative employee or supervisory employee. Any dispute between the parties as to whether an employee is a supervisor must be submitted to the Board. An employee organization which is negotiating on behalf of two or more bargaining units consisting of firefighters or police officers, as defined in NRS 288.215, may select members of the units to negotiate jointly on behalf of each other, even if one of the units consists of supervisory employees and the other unit does not.

4. Confidential employees of the local government employer must be excluded from any bargaining unit but are entitled to participate in any plan to provide benefits for a group that is administered by the bargaining unit of which they would otherwise be a member.

5. If any employee organization is aggrieved by the determination of a bargaining unit, it may appeal to the Board. Subject to judicial review, the decision of the Board is binding upon the local government employer and employee organizations involved. The Board shall apply the same criterion as specified in subsection 1.

6. As used in this section:

(a) "Confidential employee" means an employee who is involved in the decisions of management affecting collective bargaining.

(b) "Supervisory employee" means a supervisory employee described in paragraph (a) of subsection 1 of NRS 288.075.

Sec. 1.5. NRS 288.180 is hereby amended to read as follows:

288.180 1. Whenever an employee organization desires to negotiate concerning any matter which is subject to negotiation pursuant to this chapter, it shall give written notice of that desire to the local government employer. ~~It~~ *Except as otherwise provided in this subsection, if* the subject of negotiation requires the budgeting of money by the local government employer, the employee organization shall give notice on or before February 1. *If an employee organization representing teachers or educational support personnel desires to negotiate concerning any matter which is subject to negotiation pursuant to this chapter, it shall give the notice required by this subsection on or before January 1.*

2. Following the notification provided for in subsection 1, the employee organization or the local government employer may request reasonable information concerning any subject matter included in the scope of mandatory bargaining which it deems necessary for and relevant to the negotiations. The information requested must be furnished without unnecessary delay. The information must be accurate, and must be presented in a form responsive to the request and in the format in which the records containing it are ordinarily kept. If the employee organization requests financial information concerning a metropolitan police department, the local government employers which form that department shall furnish the information to the employee organization.

3. The parties shall promptly commence negotiations. As the first step, the parties shall discuss the procedures to be followed if they are unable to agree on one or more issues.

4. This section does not preclude, but this chapter does not require, informal discussion between an employee organization and a local government employer of any matter which is not subject to negotiation or contract under this chapter. Any such informal discussion is exempt from all requirements of notice or time schedule.

Sec. 1.6. NRS 288.217 is hereby amended to read as follows:

288.217 1. The provisions of this section govern negotiations between school districts and employee organizations representing teachers and educational support personnel.

2. *Not later than 330 days before the end of the term stated in their collective bargaining agreement, the parties shall select an arbitrator in the manner provided in subsection 2 of NRS 288.200 to conduct a hearing in the event that an impasse is declared pursuant to subsection 3. The parties and the arbitrator shall schedule a hearing of not less than 3 consecutive business days, to begin not later than June 10 immediately preceding the end of the term stated in the collective bargaining agreement or 60 days before the end of that term, whichever is earlier. As a condition of his or her selection, the arbitrator must agree to render a decision, if the hearing is*

held, within the time required by subsection 9. If the arbitrator fails or refuses to agree to any of the conditions stated in this subsection, the parties shall immediately proceed to select another arbitrator in the manner provided in subsection 2 of NRS 288.200 until an arbitrator is selected who agrees to those conditions.

3. If the parties to a negotiation pursuant to this section have failed to reach an agreement after at least ~~four~~ eight 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~~ the arbitrator ~~[-]~~ selected pursuant to subsection 2. 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.]~~ 4. The arbitrator shall, ~~[within 30 days after the arbitrator is selected, and after 7 days' written notice is given to the parties,]~~ pursuant to subsection 2, hold a hearing to receive information concerning the dispute. The hearing must be held in the county in which the school district is located and the arbitrator shall arrange for a full and complete record of the hearing.

~~[4.]~~ 5. The parties to the dispute shall each pay one-half of the costs of the arbitration.

~~[5.]~~ 6. A determination of the financial ability of a school district must be based on:

(a) All existing available revenues as established by the school district and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the school district to provide an education to the children residing within the district.

(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.]~~ 7. 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.]~~ 8. If the parties do not enter into negotiations or do not agree within ~~[30]~~ 7 days after the hearing held pursuant to subsection ~~[3.]~~ 4, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

~~[8.]~~ 9. 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.]~~ 10. 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.]~~ 11. Within 45 days after the receipt of the decision from the arbitrator, the board of trustees of the school district 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.]~~ 3;

(b) The statement of the arbitrator pursuant to subsection ~~[9.]~~ 10; 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.]~~ 12. The superintendent of the school district shall report to the board of trustees 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.]~~ 13. 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. 1.7. NRS 288.280 is hereby amended to read as follows:

288.280 Any controversy concerning prohibited practices may be submitted to the Board in the same manner and with the same effect as provided in NRS 288.110, except that an alleged failure to provide information as provided by NRS 288.180 ~~[shall]~~ must be heard and determined by the Board as soon as possible after the complaint is filed with the Board ~~[.]~~ and, in any case, not later than 45 days after the Board decides to hear the complaint, unless the parties agree to waive this requirement.

Sec. 1.8. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.9 and 1.95 of this act.

Sec. 1.9. 1. During the first 3 years of his or her employment by a school district in the position of principal, a principal is employed at-will in that position. A principal who is reassigned pursuant to this subsection is entitled to a written statement of the reason for the reassignment. If the principal was previously employed by the school district in another position and is reassigned pursuant to this section, the principal is entitled to be

assigned to his or her former position at the rate of compensation provided for that position.

2. A principal who completes the probationary period provided by NRS 391.3197 in the position of principal is again employed at-will if, in each of 2 consecutive school years:

(a) The rating of the school to which the principal is assigned, as determined by the Department pursuant to the statewide system of accountability for public schools, is reduced by one or more levels; and

(b) Fifty percent or more of the teachers assigned to the school request a transfer to another school.

3. If the events described in paragraphs (a) and (b) of subsection 2 occur with respect to a school for any school year, the school district shall conduct a survey of the teachers assigned to the school to evaluate conditions at the school and the reasons given by teachers who requested a transfer to another school. The results of the survey do not affect the employment status of the principal of the school.

4. A principal described in subsection 2 is subject to immediate dismissal by the board of trustees of the school district on recommendation of the superintendent and is entitled, on dismissal, to a written statement of the reasons for dismissal.

Sec. 1.95. 1. Each postprobationary administrator employed by a school district, except an administrator excluded from any bargaining unit pursuant to NRS 288.170 or a principal, must apply to the superintendent for reappointment to his or her administrative position every 5 years.

2. If an administrator is not reappointed to his or her administrative position pursuant to this section and was previously employed by the school district in another position, the administrator is entitled to be assigned to his or her former position at the rate of compensation provided for that position.

Sec. 2. NRS 391.166 is hereby amended to read as follows:

391.166 1. There is hereby created the Grant Fund for Incentives for Licensed Educational Personnel to be administered by the Department. The Department may accept gifts and grants from any source for deposit in the Grant Fund.

2. The board of trustees of each school district shall establish a program of incentive pay for licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level which must be designed to attract and retain those employees. The program must be negotiated pursuant to chapter 288 of NRS, *insofar as the provisions of that chapter apply to those employees*, and must include, without limitation, the attraction and retention of:

(a) Licensed teachers, school psychologists, school librarians, school counselors and administrators employed at the school level who have been employed in that category of position for at least 5 years in this State or another state and who are employed in schools which are at-risk, as determined by the Department pursuant to subsection 8; and

(b) Teachers who hold a license or endorsement in the field of mathematics, science, special education, English as a second language or other area of need within the school district, as determined by the Superintendent of Public Instruction.

3. A program of incentive pay established by a school district must specify the type of financial incentives offered to the licensed educational personnel. Money available for the program must not be used to negotiate the salaries of individual employees who participate in the program.

4. If the board of trustees of a school district wishes to receive a grant of money from the Grant Fund, the board of trustees shall submit to the Department an application on a form prescribed by the Department. The application must include a description of the program of incentive pay established by the school district.

5. The Superintendent of Public Instruction shall compile a list of the financial incentives recommended by each school district that submitted an application. On or before December 1 of each year, the Superintendent shall submit the list to the Interim Finance Committee for its approval of the recommended incentives.

6. After approval of the list of incentives by the Interim Finance Committee pursuant to subsection 5 and within the limits of money available in the Grant Fund, the Department shall provide grants of money to each school district that submits an application pursuant to subsection 4 based upon the amount of money that is necessary to carry out each program. If an insufficient amount of money is available to pay for each program submitted to the Department, the amount of money available must be distributed pro rata based upon the number of licensed employees who are estimated to be eligible to participate in the program in each school district that submitted an application.

7. An individual employee may not receive as a financial incentive pursuant to a program an amount of money that is more than \$3,500 per year.

8. The Department shall, in consultation with representatives appointed by the Nevada Association of School Superintendents and the Nevada Association of School Boards, develop a formula for identifying at-risk schools for purposes of this section. The formula must be developed on or before July 1 of each year and include, without limitation, the following factors:

(a) The percentage of pupils who are eligible for free or reduced-price lunches pursuant to 42 U.S.C. §§ 1751 et seq.;

(b) The transiency rate of pupils;

(c) The percentage of pupils who are limited English proficient;

(d) The percentage of pupils who have individualized education programs; and

(e) The percentage of pupils who drop out of high school before graduation.

9. The board of trustees of each school district that receives a grant of money pursuant to this section shall evaluate the effectiveness of the program for which the grant was awarded. The evaluation must include, without limitation, an evaluation of whether the program is effective in recruiting and retaining the personnel as set forth in subsection 2. On or before December 1 of each year, the board of trustees shall submit a report of its evaluation to the:

- (a) Governor;
- (b) State Board;
- (c) Interim Finance Committee;
- (d) If the report is submitted in an even-numbered year, Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature; and
- (e) Legislative Committee on Education.

Sec. 3. NRS 391.168 is hereby amended to read as follows:

391.168 1. The board of trustees of each school district shall:

- (a) Establish a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators which must be negotiated pursuant to chapter 288 of NRS ~~[-]~~, *insofar as the provisions of that chapter apply to those employees*; and
- (b) Commencing with the 2015-2016 school year, implement the program established pursuant to paragraph (a).

2. The program of performance pay and enhanced compensation established by a school district pursuant to subsection 1 must have as its primary focus the improvement in the academic achievement of pupils and must give appropriate consideration to implementation in at-risk schools. In addition, the program may include, without limitation, the following components:

- (a) Career leadership advancement options to maximize the retention of teachers in the classroom and the retention of administrators;
- (b) Professional development;
- (c) Group incentives; and
- (d) Multiple assessments of individual teachers and administrators, with primary emphasis on individual pupil improvement and growth in academic achievement, including, without limitation, portfolios of instruction, leadership and professional growth, and other appropriate measures of teacher and administrator performance which must be considered.

Sec. 3.3. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, and sections 1.9 and 1.95 of this act unless the context otherwise requires:

- 1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.
- 2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, and sections 1.9 and 1.95 of this act is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, except an act forbidden by NRS 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment. The term does not include a person who is deemed to be a probationary employee pursuant to NRS 391.3129.

6. "Probationary employee" means:

(a) An administrator or a teacher who is employed for the period set forth in NRS 391.3197; and

(b) A person who is deemed to be a probationary employee pursuant to NRS 391.3129.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

Sec. 3.5. NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, do not apply to:

(a) Substitute teachers; or

(b) Adult education teachers.

2. The admonition, demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3194, inclusive, do not apply to:

(a) A probationary teacher. The policy for evaluations prescribed in NRS 391.3125 and 391.3128 applies to a probationary teacher.

(b) A principal described in subsection 1 of section 1.9 of this act with respect to his or her employment as a principal.

(c) A principal who is employed at-will pursuant to subsection 2 of section 1.9 of this act.

(d) An administrator described in subsection 2 of section 1.95 of this act.

(e) A new employee who is employed as a probationary administrator primarily to provide administrative services at the school level and not primarily to provide direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal. ~~[The]~~

↳ Insofar as it is consistent with the provisions of sections 1.9 and 1.95 of this act, the policy for evaluations prescribed in NRS 391.3127 and 391.3128 applies to ~~[such a probationary]~~ any administrator ~~[.]~~ described in this subsection.

3. The admonition, demotion and suspension provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a postprobationary teacher who is employed as a probationary administrator primarily to provide administrative services at the school level and not primarily to provide direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal, with respect to his or her employment in the administrative position. The policy for evaluations prescribed in NRS 391.3127 and 391.3128 applies to such a probationary administrator.

4. The provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.

5. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, for demotion, suspension or dismissal apply to them.

Sec. 4. NRS 391.3116 is hereby amended to read as follows:

391.3116 Excluding the provisions of NRS 391.3129, and sections 1.9 and 1.95 of this act, the provisions of NRS 391.311 to 391.3197, inclusive, do not apply to a teacher ~~[, administrator,]~~ or other licensed employee who has entered into a contract with the board negotiated pursuant to chapter 288 of NRS if the contract contains separate provisions relating to the board's right to dismiss or refuse to reemploy the employee . ~~[or demote an administrator.]~~

Sec. 4.2. NRS 391.3127 is hereby amended to read as follows:

391.3127 Except as otherwise provided in sections 1.9 and 1.95 of this act:

1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must provide for the evaluation of those administrators who provide primarily administrative services at the school level and who do not provide primarily direct instructional services to pupils, regardless of whether such an administrator is licensed as a teacher or administrator, including, without limitation, a principal and a vice principal. The policy must comply with the statewide performance evaluation system established by the State Board pursuant to NRS 391.465. The policy must set forth a means according to which an administrator's overall performance is determined to be highly effective, effective, minimally effective or ineffective. Except as otherwise provided in subsection 8, the policy must require that pupil achievement data, as prescribed by the State Board pursuant to NRS 391.465, account for at least 50 percent of the evaluation. The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

2. The person charged with the evaluation of an administrator pursuant to this section shall hold a conference with the administrator before and after each scheduled observation of the administrator during the school year.

3. A probationary administrator must be evaluated three times during each school year of his or her probationary employment. Each evaluation must include at least one scheduled observation of the probationary administrator during the school year as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

4. If a postprobationary administrator receives an evaluation designating his or her overall performance as minimally effective or ineffective, the postprobationary administrator must be evaluated three times in the immediately succeeding school year in accordance with the observation schedule set forth in subsection 3. If a postprobationary administrator is evaluated three times in a school year and he or she receives an evaluation designating his or her overall performance as minimally effective or ineffective on the first or second evaluation, or both evaluations, the postprobationary administrator may request that the third evaluation be conducted by another administrator. If a postprobationary administrator requests that his or her third evaluation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary administrator from a list of three candidates submitted by the superintendent.

5. If a postprobationary administrator receives an evaluation designating his or her overall performance as effective, the postprobationary administrator must be evaluated one time in the immediately succeeding school year. The evaluation must include at least two scheduled observations as follows:

(a) The first scheduled observation must occur within 80 days after the first day of instruction of the school year; and

(b) The second scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

6. If a postprobationary administrator receives an evaluation designating his or her overall performance as highly effective, the postprobationary administrator must be evaluated one time in the immediately succeeding school year. The evaluation must include at least one scheduled observation which must occur within 120 days after the first day of instruction of the school year.

7. The evaluation of an administrator pursuant to this section must comply with the regulations of the State Board adopted pursuant to NRS 391.465, which must include, without limitation:

(a) An evaluation of the instructional leadership practices of the administrator at the school;

(b) An evaluation of the professional responsibilities of the administrator to support learning and promote the effectiveness of the school community;

(c) Except as otherwise provided in subsection 8, an evaluation of the performance of pupils enrolled in the school;

(d) An evaluation of whether the administrator employs practices and strategies to involve and engage the parents and families of pupils enrolled in the school;

(e) Recommendations for improvements in the performance of the administrator; and

(f) A description of the action that will be taken to assist the administrator in the areas of instructional leadership practice, professional responsibilities and the performance of pupils.

8. The evaluation of a probationary administrator in his or her initial year of probationary employment must not include an evaluation of the performance of pupils enrolled in the school. This subsection does not apply to a postprobationary employee who is deemed to be a probationary employee pursuant to NRS 391.3129.

9. Each probationary administrator is subject to the provisions of NRS 391.3128 and 391.3197.

10. Before a superintendent transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if

the transfer or reassignment is to a position of lower rank, responsibility or pay, the superintendent shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent. The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

Sec. 4.4. NRS 391.3129 is hereby amended to read as follows:

391.3129 ~~[A]~~ Except as otherwise provided in section 1.9 of this act, a postprobationary employee who receives an evaluation designating his or her overall performance as:

1. If evaluated pursuant to NRS 391.3125 or 391.3127, as applicable:
 - (a) Minimally effective;
 - (b) Ineffective; or
 - (c) Minimally effective during 1 year of the 2-year consecutive period and ineffective during the other year of the period; or
2. If evaluated pursuant to any other system of evaluation, any designation which indicates that the overall performance of the employee is below average,
 - ➡ for 2 consecutive school years shall be deemed to be a probationary employee for the purposes of NRS 391.311 to 391.3197, inclusive, and must serve an additional probationary period in accordance with the provisions of NRS 391.3197.

Sec. 4.6. NRS 391.317 is hereby amended to read as follows:

391.317 Except as otherwise provided in sections 1.9 and 1.95 of this act:

1. At least 15 days before recommending to a board that it demote, dismiss or not reemploy a postprobationary employee, the superintendent shall give written notice to the employee, by registered or certified mail, of the superintendent's intention to make the recommendation.
2. The notice must:
 - (a) Inform the licensed employee of the grounds for the recommendation.
 - (b) Inform the employee that, if a written request therefor is directed to the superintendent within 10 days after receipt of the notice, the employee is entitled to a hearing before a hearing officer pursuant to NRS 391.315 to 391.3194, inclusive, or if a dismissal of the employee will occur before the completion of the current school year or if the employee is deemed to be a probationary employee pursuant to NRS 391.3129 and dismissal of the employee will occur before the completion of the current school year, the employee may request an expedited hearing pursuant to subsection 3.
 - (c) Refer to chapter 391 of NRS.
3. If a postprobationary employee or an employee who is deemed to be a probationary employee pursuant to NRS 391.3129 receives notice that he or

she will be dismissed before the completion of the current school year, the employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization. If the employee elects to proceed under the expedited procedures, the provisions of NRS 391.3161, 391.3192 and 391.3193 do not apply.

Sec. 4.8. NRS 391.3197 is hereby amended to read as follows:

391.3197 Except as otherwise provided in section 1.9 of this act:

1. A probationary employee is employed on a contract basis for three 1-year periods and has no right to employment after any of the three probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first, second and third school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify the probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing on or before May 10 of the first, second or third year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in the first, second and third years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment pursuant to this subsection constitutes rejection of the contract.

3. A probationary employee who:

- (a) Completes a 3-year probationary period;
 - (b) Receives a designation of "highly effective" or "effective" on each of his or her performance evaluations for 2 consecutive school years; and
 - (c) Receives a notice of reemployment from the school district in the third year of the employee's probationary period,
- ➡ is entitled to be a postprobationary employee in the ensuing year of employment.

4. If a probationary employee is notified that the employee will not be reemployed for the school year following the 3-year probationary period, his

or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.

5. A new employee who is employed as an administrator to provide primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, or a postprobationary teacher who is employed as an administrator to provide those administrative services shall be deemed to be a probationary employee for the purposes of this section and must serve a 3-year probationary period as an administrator in accordance with the provisions of this section. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after any year of his or her probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

→ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

6. An administrator who has completed his or her probationary period pursuant to subsection 5 and is thereafter promoted to the position of principal must serve an additional probationary period of ~~1 year~~ 2 years in the position of principal. If an administrator is promoted to the position of principal before completion of his or her probationary period pursuant to subsection 5, the administrator must serve the remainder of his or her probationary period pursuant to subsection 5 or an additional probationary period of ~~1 year~~ 2 years in the position of principal, whichever is longer. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the probationary period or additional probationary period, as applicable, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

7. If a probationary employee receives notice that he or she will be dismissed before the completion of the current school year, the probationary employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization.

Sec. 5. Insofar as they conflict with the provisions of such an agreement, the amendatory provisions of this act do not apply during the current term of

any contract of employment or collective bargaining agreement entered into before the effective date of this act, but do apply to any extension or renewal of such an agreement and to any ~~collective bargaining~~ agreement entered into on or after the effective date of this act. For the purposes of this section, the term of ~~a collective bargaining~~ an agreement ends on the date provided in the agreement, notwithstanding any provision of the agreement that it remains in effect, in whole or in part, after that date until a successor agreement becomes effective.

Sec. 6. This act becomes effective upon passage and approval.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Amendment No. 469 to Senate Bill No. 241 does four things: 1) narrows the scope of the provisions that exclude school administrators from membership in any bargaining unit to only those school administrators whose annual salary, adjusted for inflation, as provided, is greater than \$120,000; 2) authorizes, under certain circumstances, a local government employer to provide paid leave to an employee for time spent in providing services to an employee organization; 3) provides that a collective bargaining agreement between a local government employer and a recognized employee organization expires for certain purposes at the end of the term stated in the agreement; and 4) revises various provisions relating to negotiations between a school district and an employee organization representing teachers or educational support personnel.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 250.

Bill read second time.

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

Amendment No. 459.

SUMMARY—Revises provisions relating to policies of health insurance. (BDR 57-687)

AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to ~~apply a prorated daily cost sharing rate~~ provide coverage for certain prescriptions dispensed for a supply of less than 30 days; prohibiting certain policies of health insurance and health care plans from ~~denying coverage for those prescriptions and from~~ prorating any pharmacy dispensing fees for those prescriptions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain public and private policies of insurance and health care plans to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, in certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its

employees. (NRS 608.1555) Sections 1, 3, 4, 6, 7, 10 and 11 of this bill require that certain public and private policies of insurance and health care plans must authorize certain prescriptions to be divided into more than one dispensing for the purpose of synchronizing a patient's multiple prescriptions ~~[, without any increased out of pocket expense to the patient.]~~ Sections 1, 3, 4, 6, 7, 10 and 11 prohibit these policies and plans from denying a claim for such a prescription that is otherwise covered. Finally, sections 1, 3, 4, 6, 7, 10 and 11 prohibit these policies and plans from prorating the pharmacy dispensing fees for such prescriptions.

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

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An insurer who offers or issues a policy of health insurance which provides coverage for prescription drugs:*

(a) *Must authorize coverage for and may apply a ~~prorated daily cost sharing rate~~ copayment and deductible to a prescription that is dispensed by a pharmacy for less than a 30-day supply if, for the purpose of synchronizing the insured's chronic medications:*

(1) *The prescriber or pharmacist determines that filling or refilling the prescription in that manner is in the best interest of the insured; ~~for~~ and*

(2) *The insured requests less than a 30-day supply.*

(b) *May not deny coverage for a prescription described in paragraph (a) which is otherwise approved for coverage by the insurer.*

(c) *May not prorate any pharmacy dispensing fees for a prescription described in paragraph (a).*

2. *A policy subject to the provisions of this chapter which provides coverage for prescription drugs and that is delivered, issued for delivery or renewed on or after January 1, ~~2016,~~ 2017, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the policy or renewal which is in conflict with this section is void.*

3. *The provisions of this section do not apply to unit-of-use packaging for which synchronization is not practicable or to a controlled substance.*

4. *As used in this section:*

(a) *"Chronic medication" means any drug that is prescribed to treat any disease or other condition which is determined to be permanent, persistent or lasting indefinitely.*

(b) ~~["Prorated daily cost sharing rate"]~~ *"Synchronization" means ~~for an apportionment of the insured's out of pocket cost for medications, including, without limitation, copayment, deductible or coinsurance, by which the insured's out of pocket cost for a quantity of medication is the same regardless of the number of fills and refills required to dispense that quantity~~ the alignment of the dispensing of multiple medications by a single*

contracted pharmacy for the purpose of improving a patient's adherence to a prescribed course of medication.

(c) "Unit-of-use packaging" means medication that is prepackaged by the manufacturer in blister packs, compliance packs, course-of-therapy packs or any other packaging which is designed and intended to be dispensed directly to the patient without modification by the dispensing pharmacy, except for the addition of a prescription label.

Sec. 2. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[]~~, and section 1 of this act.

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer who offers or issues a policy of group health insurance which provides coverage for prescription drugs:

(a) Must authorize coverage for and may apply a ~~prorated daily cost sharing rate~~ copayment and deductible to a prescription that is dispensed by a pharmacy for less than a 30-day supply if, for the purpose of synchronizing the insured's chronic medications:

(1) The prescriber or pharmacist determines that filling or refilling the prescription in that manner is in the best interest of the insured; ~~for~~ and

(2) The insured requests less than a 30-day supply.

(b) May not deny coverage for a prescription described in paragraph (a) which is otherwise approved for coverage by the insurer.

(c) May not prorate any pharmacy dispensing fees for a prescription described in paragraph (a).

2. A policy subject to the provisions of this chapter which provides coverage for prescription drugs and that is delivered, issued for delivery or renewed on or after January 1, ~~2016,~~ 2017, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the policy or renewal which is in conflict with this section is void.

3. The provisions of this section do not apply to unit-of-use packaging for which synchronization is not practicable or to a controlled substance.

4. As used in this section:

(a) "Chronic medication" means any drug that is prescribed to treat any disease or other condition which is determined to be permanent, persistent or lasting indefinitely.

(b) ~~["Prorated daily cost sharing rate"]~~ "Synchronization" means ~~an apportionment of the insured's out of pocket cost for medications, including, without limitation, copayment, deductible or coinsurance, by which the~~

~~insured's out of pocket cost for a quantity of medication is the same regardless of the number of fills and refills required to dispense that quantity~~ the alignment of the dispensing of multiple medications by a single contracted pharmacy for the purpose of improving a patient's adherence to a prescribed course of medication.

(c) "Unit-of-use packaging" means medication that is prepackaged by the manufacturer in blister packs, compliance packs, course-of-therapy packs or any other packaging which is designed and intended to be dispensed directly to the patient without modification by the dispensing pharmacy, except for the addition of a prescription label.

Sec. 4. Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A carrier who offers or issues a health benefit plan which provides coverage for prescription drugs:

(a) ~~Must authorize coverage for and may apply a prorated daily cost sharing rate~~ copayment and deductible to a prescription that is dispensed by a pharmacy for less than a 30-day supply if, for the purpose of synchronizing the insured's chronic medications:

(1) The prescriber or pharmacist determines that filling or refilling the prescription in that manner is in the best interest of the insured; ~~for~~ and

(2) The insured requests less than a 30-day supply.

(b) May not deny coverage for a prescription described in paragraph (a) which is otherwise approved for coverage by the carrier.

(c) May not prorate any pharmacy dispensing fees for a prescription described in paragraph (a).

2. A health benefit plan subject to the provisions of this chapter which provides coverage for prescription drugs and that is delivered, issued for delivery or renewed on or after January 1, ~~2016,~~ 2017, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the health benefit plan or renewal which is in conflict with this section is void.

3. The provisions of this section do not apply to unit-of-use packaging for which synchronization is not practicable or to a controlled substance.

4. As used in this section:

(a) "Chronic medication" means any drug that is prescribed to treat any disease or other condition which is determined to be permanent, persistent or lasting indefinitely.

(b) ~~["Prorated daily cost sharing rate"]~~ "Synchronization" means ~~an apportionment of the insured's out of pocket cost for medications, including, without limitation, copayment, deductible or coinsurance, by which the insured's out of pocket cost for a quantity of medication is the same regardless of the number of fills and refills required to dispense that quantity~~ the alignment of the dispensing of multiple medications by a single contracted pharmacy for the purpose of improving a patient's adherence to a prescribed course of medication.

(c) "Unit-of-use packaging" means medication that is prepackaged by the manufacturer in blister packs, compliance packs, course-of-therapy packs or any other packaging which is designed and intended to be dispensed directly to the patient without modification by the dispensing pharmacy, except for the addition of a prescription label.

Sec. 5. NRS 689C.425 is hereby amended to read as follows:

689C.425 A voluntary purchasing group and any contract issued to such a group pursuant to NRS 689C.360 to 689C.600, inclusive, are subject to the provisions of NRS 689C.015 to 689C.355, inclusive, and section 4 of this act to the extent applicable and not in conflict with the express provisions of NRS 687B.408 and 689C.360 to 689C.600, inclusive.

Sec. 6. Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A hospital or medical services corporation who offers or issues a policy of health insurance which provides coverage for prescription drugs:

(a) Must authorize coverage for and may apply a ~~prorated daily cost sharing rate~~ copayment and deductible to a prescription that is dispensed by a pharmacy for less than a 30-day supply if, for the purpose of synchronizing the insured's chronic medications:

(1) The prescriber or pharmacist determines that filling or refilling the prescription in that manner is in the best interest of the insured; ~~for~~ and

(2) The insured requests less than a 30-day supply.

(b) May not deny coverage for a prescription described in paragraph (a) which is otherwise approved for coverage by the hospital or medical services corporation.

(c) May not prorate any pharmacy dispensing fees for a prescription described in paragraph (a).

2. A policy of health insurance subject to the provisions of this chapter which provides coverage for prescription drugs and that is delivered, issued for delivery or renewed on or after January 1, ~~2016~~ 2017, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the policy of health insurance or renewal which is in conflict with this section is void.

3. The provisions of this section do not apply to unit-of-use packaging for which synchronization is not practicable or to a controlled substance.

4. As used in this section:

(a) "Chronic medication" means any drug that is prescribed to treat any disease or other condition which is determined to be permanent, persistent or lasting indefinitely.

(b) ~~["Prorated daily cost sharing rate"]~~ "Synchronization" means ~~for apportionment of the insured's out of pocket cost for medications, including, without limitation, copayment, deductible or coinsurance, by which the insured's out of pocket cost for a quantity of medication is the same regardless of the number of fills and refills required to dispense that quantity~~ the alignment of the dispensing of multiple medications by a single

contracted pharmacy for the purpose of improving a patient's adherence to a prescribed course of medication.

(c) "Unit-of-use packaging" means medication that is prepackaged by the manufacturer in blister packs, compliance packs, course-of-therapy packs or any other packaging which is designed and intended to be dispensed directly to the patient without modification by the dispensing pharmacy, except for the addition of a prescription label.

Sec. 7. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health maintenance organization that offers or issues a health care plan which provides coverage for prescription drugs:

(a) Must authorize coverage for and may apply a ~~prorated daily cost sharing rate~~ copayment and deductible to a prescription that is dispensed by a pharmacy for less than a 30-day supply if, for the purpose of synchronizing the enrollee's chronic medications:

(1) The prescriber or pharmacist determines that filling or refilling the prescription in that manner is in the best interest of the enrollee; ~~for~~ and

(2) The enrollee requests less than a 30-day supply.

(b) May not deny coverage for a prescription described in paragraph (a) which is otherwise approved for coverage by the health maintenance organization.

(c) May not prorate any pharmacy dispensing fees for a prescription described in paragraph (a).

2. An evidence of coverage subject to the provisions of this chapter which provides coverage for prescription drugs and that is delivered, issued for delivery or renewed on or after January 1, ~~2016~~ 2017, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the evidence of coverage or renewal which is in conflict with this section is void.

3. The provisions of this section do not apply to unit-of-use packaging for which synchronization is not practicable or to a controlled substance.

4. As used in this section:

(a) "Chronic medication" means any drug that is prescribed to treat any disease or other condition which is determined to be permanent, persistent or lasting indefinitely.

(b) ~~["Prorated daily cost sharing rate"]~~ "Synchronization" means ~~an~~ apportionment of the enrollee's out of pocket cost for medications, including, without limitation, copayment, deductible or coinsurance, by which the enrollee's out of pocket cost for a quantity of medication is the same regardless of the number of fills and refills required to dispense that quantity the alignment of the dispensing of multiple medications by a single contracted pharmacy for the purpose of improving a patient's adherence to a prescribed course of medication.

(c) "Unit-of-use packaging" means medication that is prepackaged by the manufacturer in blister packs, compliance packs, course-of-therapy packs or

any other packaging which is designed and intended to be dispensed directly to the patient without modification by the dispensing pharmacy, except for the addition of a prescription label.

Sec. 8. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.173, inclusive, 695C.1733 to 695C.200, inclusive, and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 *and section 7 of this act* apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 9. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if the Commissioner finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, *and section 7 of this act* or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The Commissioner certifies that the health maintenance organization:

(1) Does not meet the requirements of subsection 1 of NRS 695C.080;

or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as the Commissioner may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 10. Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A managed care organization that offers or issues a health care plan which provides coverage for prescription drugs:*

(a) *Must authorize coverage for and may apply a ~~prorated daily cost sharing rate~~ copayment and deductible to a prescription that is dispensed by a pharmacy for less than a 30-day supply if, for the purpose of synchronizing the insured's chronic medications:*

(1) *The prescriber or pharmacist determines that filling or refilling the prescription in that manner is in the best interest of the insured; ~~for~~ and*

(2) *The insured requests less than a 30-day supply.*

(b) *May not deny coverage for a prescription described in paragraph (a) which is otherwise approved for coverage by the managed care organization.*

(c) *May not prorate any pharmacy dispensing fees for a prescription described in paragraph (a).*

2. *An evidence of coverage subject to the provisions of this chapter which provides coverage for prescription drugs and that is delivered, issued for delivery or renewed on or after January 1, ~~2016,~~ 2017, has the legal effect of providing that coverage subject to the requirements of this section, and any provision of the evidence of coverage or renewal which is in conflict with this section is void.*

3. *The provisions of this section do not apply to unit-of-use packaging for which synchronization is not practicable or to a controlled substance.*

4. *As used in this section:*

(a) *"Chronic medication" means any drug that is prescribed to treat any disease or other condition which is determined to be permanent, persistent or lasting indefinitely.*

(b) ~~*"Prorated daily cost sharing rate"*~~ *"Synchronization" means ~~an apportionment of the insured's out of pocket cost for medications, including, without limitation, copayment, deductible or coinsurance, by which the insured's out of pocket cost for a quantity of medication is the same regardless of the number of fills and refills required to dispense that quantity~~ the alignment of the dispensing of multiple medications by a single contracted pharmacy for the purpose of improving a patient's adherence to a prescribed course of medication.*

(c) *"Unit-of-use packaging" means medication that is prepackaged by the manufacturer in blister packs, compliance packs, course-of-therapy packs or any other packaging which is designed and intended to be dispensed directly to the patient without modification by the dispensing pharmacy, except for the addition of a prescription label.*

Sec. 11. NRS 287.010 is hereby amended to read as follows:

287.010 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada may:

(a) Adopt and carry into effect a system of group life, accident or health insurance, or any combination thereof, for the benefit of its officers and employees, and the dependents of officers and employees who elect to accept the insurance and who, where necessary, have authorized the governing body to make deductions from their compensation for the payment of premiums on the insurance.

(b) Purchase group policies of life, accident or health insurance, or any combination thereof, for the benefit of such officers and employees, and the dependents of such officers and employees, as have authorized the purchase, from insurance companies authorized to transact the business of such insurance in the State of Nevada, and, where necessary, deduct from the compensation of officers and employees the premiums upon insurance and pay the deductions upon the premiums.

(c) Provide group life, accident or health coverage through a self-insurance reserve fund and, where necessary, deduct contributions to the maintenance of the fund from the compensation of officers and employees and pay the deductions into the fund. The money accumulated for this purpose through deductions from the compensation of officers and employees and contributions of the governing body must be maintained as an internal service fund as defined by NRS 354.543. The money must be deposited in a state or national bank or credit union authorized to transact business in the State of Nevada. Any independent administrator of a fund created under this section is subject to the licensing requirements of chapter 683A of NRS, and must be a resident of this State. Any contract with an independent administrator must be approved by the Commissioner of Insurance as to the reasonableness of administrative charges in relation to contributions collected and benefits provided. The provisions of NRS 687B.408, 689B.030 to 689B.050, inclusive, *and section 3 of this act* and 689B.287 apply to coverage provided pursuant to this paragraph.

(d) Defray part or all of the cost of maintenance of a self-insurance fund or of the premiums upon insurance. The money for contributions must be budgeted for in accordance with the laws governing the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada.

2. If a school district offers group insurance to its officers and employees pursuant to this section, members of the board of trustees of the school district must not be excluded from participating in the group insurance. If the amount of the deductions from compensation required to pay for the group insurance exceeds the compensation to which a trustee is entitled, the difference must be paid by the trustee.

3. In any county in which a legal services organization exists, the governing body of the county, or of any school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada in the county, may enter into a contract with the legal services organization pursuant to which the officers

and employees of the legal services organization, and the dependents of those officers and employees, are eligible for any life, accident or health insurance provided pursuant to this section to the officers and employees, and the dependents of the officers and employees, of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency.

4. If a contract is entered into pursuant to subsection 3, the officers and employees of the legal services organization:

(a) Shall be deemed, solely for the purposes of this section, to be officers and employees of the county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency with which the legal services organization has contracted; and

(b) Must be required by the contract to pay the premiums or contributions for all insurance which they elect to accept or of which they authorize the purchase.

5. A contract that is entered into pursuant to subsection 3:

(a) Must be submitted to the Commissioner of Insurance for approval not less than 30 days before the date on which the contract is to become effective.

(b) Does not become effective unless approved by the Commissioner.

(c) Shall be deemed to be approved if not disapproved by the Commissioner within 30 days after its submission.

6. As used in this section, "legal services organization" means an organization that operates a program for legal aid and receives money pursuant to NRS 19.031.

Sec. 12. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.1645, 695G.167, 695G.170, 695G.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, *and section 10 of this act* in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 13. 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. 14. This act becomes effective:

1. Upon passage and approval for the purposes of adopting any regulations and performing any preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On January 1, ~~2016~~, 2017, for all other purposes.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 459 makes three changes to Senate Bill No. 250. The amendment removes the requirement to apply a prorated daily cost sharing rate to synchronize an insured's chronic medications; requires certain public and private health insurance policies and health care plans

that provide coverage for prescription drugs and is delivered, issued for delivery or renewed on or after January 1, 2017, has the legal effect of providing coverage pursuant to this bill and defines "synchronization."

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 273.

Bill read second time.

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

Amendment No. 461.

SUMMARY—Revises provisions relating to health care records. (BDR 54-589)

AN ACT relating to health care records; prohibiting a custodian of ~~the~~ health care records from preventing the physical inspection of any health care records or providing copies thereof under certain circumstances; requiring a custodian of health care records to deliver the health care records or copies thereof under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each provider of health care to: (1) retain the health care records of his or her patients as part of his or her regularly maintained records for 5 years after their receipt or production; and (2) make those health care records available for physical inspection or provide copies thereof for certain persons, including, without limitation, the patient or a representative with written authorization from the patient. If the health care records are retained for at least 5 years or a longer period as provided by federal law and the person for whom the health care records are maintained has attained the age of 23 years, the health care records may be destroyed. (NRS 629.051, 629.061) Existing law defines "provider of health care" to mean a physician licensed pursuant to chapter 630, 630A or 633 of NRS and various other persons involved in the provision of health care. ~~[including, without limitation, any licensed hospital as the employer of those persons and any facility that maintains the health care records of patients.]~~ (NRS 629.031) This bill enacts provisions governing the retention of health care records by a custodian of health care records, and defines a "custodian of health care records" to mean any person having lawful custody of any health care records pursuant to chapter 629 of NRS, ~~[including, without limitation, any]~~ other than a licensed hospital or facility that maintains health care records. This bill also: (1) prohibits, under certain circumstances, a custodian of health care records who has lawful custody of any health care records of a provider of health care from preventing the provider of health care from physically inspecting the health care records or from receiving copies of those records upon request; (2) requires a custodian of health care records to deliver the health care records or copies thereof to the provider of health care

and the patient under certain circumstances; and (3) subjects a custodian of health care records who violates a provision of this bill to prosecution for a gross misdemeanor and punishment by imprisonment in the county jail for not more than 364 days or by a fine of not more than \$25,000, or both, for each violation and the imposition of a civil penalty of not less than \$10,000 for each violation.

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Except as otherwise provided in NRS 449.171 and 635.118, and subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, or any other federal law or regulation:~~

(a) *A custodian of health care records having custody of any health care records of a provider of health care pursuant to this chapter shall not prevent the provider of health care from physically inspecting the health care records ~~in the manner specified in NRS 629.061~~ or receiving copies of those records upon request by the provider of health care ~~+~~ in the manner specified in NRS 629.061.*

(b) *If a custodian of health care records specified in paragraph (a) ceases to do business in this State, ~~for if a provider of health care who is employed as a provider of health care by the custodian of health care records ceases to be employed by the custodian of health care records,~~ the custodian of health care records shall, within 10 days after ceasing to do business in this State, ~~for after ceasing to employ the provider of health care,~~ deliver the health care records of the provider of health care, or copies thereof, to the provider of health care.*

2. *A custodian of health care records who violates a provision of this section is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 364 days, or by a fine of not more than \$25,000 for each violation, or by both fine and imprisonment.*

3. *In addition to any criminal penalties imposed pursuant to subsection 2, a custodian of health care records who violates a provision of this section is subject to a civil penalty of not less than \$10,000 for each violation, to be recovered in a civil action brought in the district court in the county in which the provider of health care's principal place of business is located or in the district court of Carson City.*

4. *As used in this section, "custodian of health care records" means any person having custody of any health care records pursuant to this chapter. The term ~~includes~~ does not include any licensed hospital or facility that maintains health care records specified in NRS 629.031.*

Sec. 2. This act becomes effective on July 1, 2015.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 461 makes two changes to Senate Bill No. 273. The amendment requires the bill to be subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, and it clarifies that the custodian of health care records does not include a licensed hospital or facility that maintains health care records.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 303.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 456.

SUMMARY—Revises provisions relating to the protection of children.
(BDR 38-1036)

AN ACT relating to the protection of children; revising provisions relating to the circumstances under which a child is considered to be in need of protection; revising provisions concerning proceedings related to the termination of parental rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the circumstances under which a child is or may be in need of protection. (NRS 432B.330) Those circumstances are considered, without limitation, by: (1) an agency which provides child welfare services to determine whether to file a petition in juvenile court alleging that a child is in need of protection; and (2) the juvenile court in an adjudicatory hearing to determine whether a child was in need of protection at the time the child was removed from the home. (NRS 62A.180, 432B.050, 432B.340, 432B.410, 432B.490, 432B.510, 432B.530) Under existing law, a child may be in need of protection if the person responsible for the welfare of the child is responsible for the abuse or neglect of another child who resided with that person. (NRS 432B.330) Section 1 of this bill provides that a child is, rather than may be, in need of protection if the child is in the care of a person responsible for the welfare of the child and another child has been subjected to abuse by that person, unless the person has successfully completed a plan for services that was recommended by an agency which provides child welfare services to address the abuse of the other child. Section 1 also provides that a child may be in need of protection if the child is in the care of a person responsible for the welfare of the child and another child has been subjected to abuse by that person, regardless of whether the person has successfully completed such a plan for services.

Existing law sets forth the grounds necessary to terminate parental rights, including, without limitation, conduct of a parent or parents that demonstrates a risk of serious physical, mental or emotional injury to the child if the child were returned to, or remains in, the home of his or her

parent or parents. (NRS 128.105) Section ~~2~~ 3 of this bill requires a court to consider certain factors ~~if~~ if the child has been out of the care of his or her parent or guardian for at least 12 consecutive months, before making a ~~determination~~ finding that parental conduct satisfies that provision. Section 4 of this bill revises the conditions a court is required to consider in determining neglect by or unfitness of a parent for the purpose of proceedings regarding the termination of parental rights.

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

Section 1. NRS 432B.330 is hereby amended to read as follows:

432B.330 1. A child is in need of protection if:

(a) The child has been abandoned by a person responsible for the welfare of the child;

(b) The child has been subjected to abuse or neglect by a person responsible for the welfare of the child;

(c) The child is in the care of a person responsible for the welfare of the child and another child has ~~died~~ :

(1) Died as a result of abuse or neglect by that person; or

(2) *Been subjected to abuse by that person ~~for~~, unless the person has successfully completed a plan for services that was recommended by an agency which provides child welfare services pursuant to NRS 432B.340 to address the abuse of the other child;*

(d) The child has been placed for care or adoption in violation of law; or

(e) The child has been delivered to a provider of emergency services pursuant to NRS 432B.630.

2. A child may be in need of protection if the person responsible for the welfare of the child:

(a) Is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;

(b) Fails, although the person is financially able to do so or has been offered financial or other means to do so, to provide for the following needs of the child:

(1) Food, clothing or shelter necessary for the child's health or safety;

(2) Education as required by law; or

(3) Adequate medical care; ~~for~~

(c) Has been responsible for the ~~abuse or~~ neglect of a child who has resided with that person ~~for~~; or

(d) Has been responsible for the abuse of another child regardless of whether that person has successfully completed a plan for services that was recommended by an agency which provides child welfare services pursuant to NRS 432B.340 to address the abuse of the other child.

3. A child may be in need of protection if the death of a parent of the child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018.

4. A child may be in need of protection if the child is identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure.

5. *As used in this section:*

(a) "Abuse" means:

(1) Physical or mental injury of a nonaccidental nature; or

(2) Sexual abuse or sexual exploitation, ~~for~~

~~(3) Abandonment;~~

↳ of a child caused or allowed by a person responsible for the welfare of the child under circumstances which indicate that the child's health or welfare is harmed or threatened with harm. The term does not include the actions described in subsection 2 of NRS 432B.020.

(b) "Allow" means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that a child is abused or neglected.

(c) "Neglect" means abandonment or failure to:

(1) Provide for the needs of a child set forth in paragraph (b) of subsection 2; or

(2) Provide proper care, control and supervision of a child as necessary for the well-being of the child because of the faults or habits of the person responsible for the welfare of the child or the neglect or refusal of the person to provide them when able to do so.

↳ The term does not include the actions described in subsection 2 of NRS 432B.020.

Sec. 2. ~~[Chapter 128 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~In determining the risk of serious mental or emotional injury to a child if the child were returned to, or remains in, the home of his or her parent or parents pursuant to NRS 128.105, the court shall consider, without limitation, the following factors:~~

~~1. The length of time the child has been out of the care of his or her parent or parents;~~

~~2. The placement options for the child;~~

~~3. The age of the child;~~

~~4. The developmental, cognitive and psychological needs of the child;~~

~~5. Whether the child has formed a strong positive attachment or bond with the substitute caregiver; and~~

~~6. Whether the removal of the child from the care of the substitute caregiver is likely to result in psychological harm to the child.] (Deleted by amendment.)~~

Sec. 3. NRS 128.105 is hereby amended to read as follows:

128.105 1. The primary consideration in any proceeding to terminate parental rights must be whether the best interests of the child will be served by the termination. An order of the court for the termination of parental rights must be made in light of the considerations set forth in this section and

NRS 128.106 to 128.109, inclusive, ~~and section 2 of this act,~~ and based on evidence and include a finding that:

~~[(1)]~~ (a) The best interests of the child would be served by the termination of parental rights; and

~~[(2)]~~ (b) The conduct of the parent or parents was the basis for a finding made pursuant to subsection 3 of NRS 432B.393 or demonstrated at least one of the following:

~~[(a)]~~ (1) Abandonment of the child;

~~[(b)]~~ (2) Neglect of the child;

~~[(c)]~~ (3) Unfitness of the parent;

~~[(d)]~~ (4) Failure of parental adjustment;

~~[(e)]~~ (5) Risk of serious physical, mental or emotional injury to the child if the child were returned to, or remains in, the home of his or her parent or parents;

~~[(f)]~~ (6) Only token efforts by the parent or parents:

~~[(1)]~~ (I) To support or communicate with the child;

~~[(2)]~~ (II) To prevent neglect of the child;

~~[(3)]~~ (III) To avoid being an unfit parent; or

~~[(4)]~~ (IV) To eliminate the risk of serious physical, mental or emotional injury to the child; or

~~[(e)]~~ (7) With respect to termination of the parental rights of one parent, the abandonment by that parent.

2. Before making a finding pursuant to subparagraph (5) of paragraph (b) of subsection 1, if the child has been out of the care of his or her parent or guardian for at least 12 consecutive months, the court shall consider, without limitation:

(a) The placement options for the child;

(b) The age of the child;

(c) The developmental, cognitive and psychological needs of the child;

(d) Whether the child has formed a strong positive attachment or bond with the substitute caregiver; and

(e) Whether the removal of the child from the care of the substitute caregiver is likely to result in psychological harm to the child.

Sec. 4. NRS 128.106 is hereby amended to read as follows:

128.106 In determining neglect by or unfitness of a parent, the court shall consider, without limitation, the following conditions which may diminish suitability as a parent:

1. Emotional illness, mental illness or mental deficiency of the parent which renders the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time. The provisions contained in NRS 128.109 apply to the case if the child has been placed outside his or her home pursuant to chapter 432B of NRS.

2. Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature.

3. Conduct that violates any provision of NRS 200.463, 200.4631, 200.464 or 200.465.

4. Excessive use of intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child.

5. Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education or other care and control necessary for the child's physical, mental and emotional health and development, but a person who, legitimately practicing his or her religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.

6. Conviction of the parent for commission of a felony, if the facts of the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development.

7. ~~Unexplained injury or death of a~~ *Whether the child, a sibling of the child ~~or~~ or another child in the care of the parent suffered a physical injury resulting in substantial bodily harm, a near fatality or fatality for which the parent has no reasonable explanation and for which there is evidence that such physical injury or death would not have occurred absent abuse or neglect of the child by the parent.*

8. Inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies.

9. *As used in this section, "near fatality" has the meaning ascribed to it in NRS 432B.175.*

Sec. 4.5. NRS 128.109 is hereby amended to read as follows:

128.109 1. If a child has been placed outside of his or her home pursuant to chapter 432B of NRS, the following provisions must be applied to determine the conduct of the parent:

(a) If the child has resided outside of his or her home pursuant to that placement for 14 months of any 20 consecutive months, it must be presumed that the parent or parents have demonstrated only token efforts to care for the child as set forth in subparagraph (6) of paragraph ~~((4))~~ (b) of subsection ~~((2))~~ 1 of NRS 128.105.

(b) If the parent or parents fail to comply substantially with the terms and conditions of a plan to reunite the family within 6 months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment as set forth in subparagraph (4) of paragraph ~~((4))~~ (b) of subsection ~~((2))~~ 1 of NRS 128.105.

2. If a child has been placed outside of his or her home pursuant to chapter 432B of NRS and has resided outside of his or her home pursuant to that placement for 14 months of any 20 consecutive months, the best interests of the child must be presumed to be served by the termination of parental rights.

3. The presumptions specified in subsections 1 and 2 must not be overcome or otherwise affected by evidence of failure of the State to provide services to the family.

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

Senator Hammond moved the adoption of the amendment.

Remarks by Senator Hammond.

Amendment No. 456 to Senate Bill No. 303 clarifies that there is no determination that a child is in need of protection if the child is in the care of a person responsible for their welfare and another child has been subjected to abuse by that person, if the person successfully completed a plan, facilitated by a child welfare agency, to address the abuse of the other child.

It further clarifies that a child may be in need of protection even if the person responsible for the welfare of the child has successfully completed such a plan.

Finally, it clarifies that a court consider certain factors, if the child has been out of the care of his or her parent or guardian for at least 12 consecutive months, before making a finding that parental conduct satisfies certain grounds that are necessary to terminate parental rights.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 329.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 345.

SUMMARY—Revises provisions relating to partnerships. (BDR 7-784)

AN ACT relating to partnerships; exempting, under certain circumstances, certain persons from liability as a partner by estoppel and liability as a purported partner; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth various provisions governing partnerships, including the formation of such business associations and the rights and obligations of partners in a partnership. (Chapter 87 of NRS) Under existing law, partnerships are governed either by the provisions of the Uniform Partnership Act, which were enacted in 1931, or the more recent provisions of the Uniform Partnership Act, which were enacted in 1997, depending on the date of the partnership's formation. (NRS 87.025, 87.4314) Also under existing law, a person who is not an actual partner of a partnership may be held liable as a partner under certain circumstances and as a result of the words or conduct of the person. (NRS 87.160, 87.4332) This bill provides that those provisions do not apply to a person who announces an association of persons for the sole purpose of a business development, regardless of whether such an announcement uses, or the association is described by, certain terms, so long as the business development is undertaken ~~for the furtherance of forming an entity in accordance with title 7 of NRS~~ by one or more corporations or limited-liability companies.

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

Section 1. NRS 87.160 is hereby amended to read as follows:

87.160 1. When a person, by words spoken or written or by conduct, represents himself or herself, or consents to another representing him or her to anyone, as a partner in an existing partnership or with one or more persons not actual partners, the person is liable to any such person to whom such representation has been made who has, on the faith of such representation, given credit to the actual or apparent partnership, and if the person has made such representation or consented to its being made in a public manner the person is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made.

(a) When a partnership liability results, the person is liable as though the person were an actual member of the partnership.

(b) When no partnership liability results, the person is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

2. When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, the person is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he or she were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation.

3. *This section does not apply to any person who, by words spoken or written or by conduct, announces an association of persons for the sole purpose of a business development, regardless of whether such an announcement uses, or the association of persons is described by, the terms "partnering" or "joint venturing" or any other similar term, so long as the business development is undertaken ~~in furtherance of forming an entity in accordance with title 7 of NRS.~~ by one or more corporations or limited-liability companies.*

Sec. 2. NRS 87.4332 is hereby amended to read as follows:

87.4332 1. If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner is liable with respect to that liability as if the purported partner were a partner.

If no partnership liability results, the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.

2. If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

3. A person is not liable as a partner merely because the person is named by another in a statement of partnership authority.

4. A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

5. Except as otherwise provided in subsections 1 and 2, persons who are not partners as to each other are not liable as partners to other persons.

6. *Subsections 1 and 2 do not apply to any person who, by words spoken or written or conduct, announces an association of persons for the sole purpose of a business development, regardless of whether such an announcement uses, or the association of persons is described by, the terms "partnering" or "joint venturing" or any other similar term, so long as the business development is undertaken ~~in furtherance of forming an entity in accordance with title 7 of NRS,~~ by one or more corporations or limited-liability companies.*

Sec. 3. This act becomes effective upon passage and approval.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 345 to Senate Bill No. 329 revises the bill's provisions to apply to a specific business development and only to such a development that is being undertaken by a corporation or limited-liability company.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 401.

Bill read second time.

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

Amendment No. 474.

SUMMARY—Revises provisions relating to notaries public and document preparation services. (BDR 19-895)

AN ACT relating to public affairs; ~~[authorizing the Secretary of State to adopt regulations and accept applications for the formation of consumer protection associations; authorizing the Secretary of State to enter into certain cooperative agreements with other governmental entities;]~~ authorizing certain persons to file complaints relating to notaries public or document preparation services with the Secretary of State; revising provisions relating to the requirements for an application for appointment as a notary public or document preparation service; revising provisions relating to the advertising of services as a notary public or document preparation service; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Secretary of State to appoint notaries public. (NRS 240.010) In addition, existing law provides that it is unlawful for a person: (1) to represent themselves as a notary public if they have not been appointed by the Secretary of State; (2) to submit an application for appointment as a notary public that contains a material misrepresentation or omission of fact; and (3) if the person is a notary public, to use the term "notario" or "notario publico" on any advertisement if the person is not also an attorney licensed in this State. (NRS 240.010, 240.085) Existing law sets forth similar prohibitions with respect to a document preparation service. (NRS 240A.100, 240A.240, 240A.260)

Sections 8 and 13 of this bill authorize any person who is aware of a violation of existing law governing notaries public and document preparation services to file a complaint with the Secretary of State. Sections 9 and 11 of this bill require an applicant for appointment as a notary public or registration as a document preparation service to provide with his or her application ~~[any address where the applicant has resided during the previous 5 years and an affidavit]~~ a declaration under penalty of perjury stating that the applicant has never had an appointment as a notary public, or certificate or license as a document preparation service, as applicable, revoked or suspended in this State or any other state or territory. Section 10 of this bill adds the term "licenciado" to the list of terms prohibited to be used in an advertisement if a notary public is not also an attorney licensed in this State. Section 12 of this bill similarly prohibits document preparation services from using terms that may mislead a consumer into believing that a document preparation service is a licensed attorney, if such is not the case.

~~[Sections 2-6 of this bill authorize the Secretary of State to adopt regulations and accept applications for the formation of consumer protection associations to assist with the reporting of violations of existing law governing notaries public and document preparation services. Section 7 of this bill authorizes the Secretary of State to enter into cooperative agreements with other governmental entities for the purpose of managing the activities of a consumer protection association.]~~

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

Section 1. ~~[Chapter 240 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 2. ~~[As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 3. ~~["Consumer protection association" means a nonprofit, unincorporated association formed pursuant to section 6 of this act.] (Deleted by amendment.)~~

Sec. 4. ~~["Governmental entity" has the meaning ascribed to it in NRS 239.005.] (Deleted by amendment.)~~

Sec. 5. ~~[The Secretary of State shall adopt regulations relating to consumer protection associations in this State, including, without limitation, regulations which:~~

~~1. Establish the requirements for the formation of a consumer protection association;~~

~~2. Provide for the governance and management of a consumer protection association;~~

~~3. Define the activities that a consumer protection association may undertake;~~

~~4. Establish education or training requirements for the members of a consumer protection association;~~

~~5. Establish minimum liability insurance requirements for a consumer protection association;~~

~~6. Govern the types, amounts and uses of money that a consumer protection association may receive to pay for the activities of the association; and~~

~~7. Establish the minimum financial requirements necessary for the formation and operation of a consumer protection association.] (Deleted by amendment.)~~

Sec. 6. ~~[1. A consumer protection association may be formed by submitting a written application to the Secretary of State, on a form and in a manner prescribed by the Secretary of State. The written application must include, without limitation, all information required pursuant to the regulations adopted by the Secretary of State.~~

~~2. The application required by subsection 1 may be filed by:~~

~~(a) A business entity or nonprofit cooperative corporation located in this State if the entity or corporation has never had a business license or professional registration revoked in this State or in any other state or territory; or~~

~~(b) Any two or more natural persons who reside within this State and who:~~

~~(1) Are not notaries public appointed pursuant to NRS 240.010 or document preparation services registered pursuant to NRS 240A.100; and~~

~~(2) Have never had a an appointment as a notary public or registration as a document preparation service revoked in this State or any other state or territory;~~

~~3. The Secretary of State may approve an application to establish a consumer protection association if the petitioners:~~

~~(a) Meet the requirement of subsection 2;~~

~~(b) Meet the requirements established by the Secretary of State relating to the formation, operation and financing of a consumer protection association set forth in the regulations adopted by the Secretary of State; and~~

~~(c) Complete all education or training required by the regulations adopted by the Secretary of State.~~

~~4. A consumer protection association formed pursuant to this section shall:~~

~~(a) Report to the Secretary of State any violations of this chapter or chapter 240.4 of NRS known to or discovered by the association; and~~

~~(b) Perform such other functions as determined by the Secretary of State.]~~

~~(Deleted by amendment.)~~

~~Sec. 7. 1. The Secretary of State may enter into a cooperative agreement with a governmental entity for the purpose of overseeing and managing the activities of a consumer protection association. The cooperative agreement must provide for an annual evaluation of the consumer protection association, including, without limitation:~~

~~(a) The governance and management structure of the association;~~

~~(b) The adequacy of any policy of liability insurance of the association;~~

~~(c) The management of money received by the association; and~~

~~(d) The training and qualifications of each member of the association.~~

~~2. A governmental entity which is a party to a cooperative agreement with the Secretary of State pursuant to subsection 1 shall, to the extent practicable, assist the consumer protection association with:~~

~~(a) Procuring money to pay for the activities of the association;~~

~~(b) Carrying out the activities of the association; and~~

~~(c) Training the members of the association.] (Deleted by amendment.)~~

Sec. 8. NRS 240.010 is hereby amended to read as follows:

240.010 1. The Secretary of State may appoint notaries public in this State.

2. The Secretary of State shall not appoint as a notary public a person:

(a) Who submits an application containing a substantial and material misstatement or omission of fact.

(b) Whose previous appointment as a notary public in this State has been revoked.

(c) Who, except as otherwise provided in subsection 3, has been convicted of:

(1) A crime involving moral turpitude; or

(2) Burglary, conversion, embezzlement, extortion, forgery, fraud, identity theft, larceny, obtaining money under false pretenses, robbery or any

other crime involving misappropriation of the identity or property of another person or entity,

↳ if the Secretary of State is aware of such a conviction before the Secretary of State makes the appointment.

(d) Against whom a complaint that alleges a violation of a provision of this chapter is pending.

(e) Who has not submitted to the Secretary of State proof satisfactory to the Secretary of State that the person has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

3. A person who has been convicted of a crime involving moral turpitude may apply for appointment as a notary public if the person provides proof satisfactory to the Secretary of State that:

(a) More than 10 years have elapsed since the date of the person's release from confinement or the expiration of the period of his or her parole, probation or sentence, whichever is later;

(b) The person has made complete restitution for his or her crime involving moral turpitude, if applicable;

(c) The person possesses his or her civil rights; and

(d) The crime for which the person was convicted is not one of the crimes enumerated in subparagraph (2) of paragraph (c) of subsection 2.

4. A notary public may cancel his or her appointment by submitting a written notice to the Secretary of State.

5. It is unlawful for a person to:

(a) Represent himself or herself as a notary public appointed pursuant to this section if the person has not received a certificate of appointment from the Secretary of State pursuant to this chapter.

(b) Submit an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact.

(c) *Violate any provision of this chapter, including, without limitation, the provisions of NRS 240.085.*

6. *Any person who is aware of a violation of this chapter by a notary public or a person applying for appointment as a notary public may file a complaint with the Secretary of State setting forth the details of the violation that are known by the person who is filing the complaint.*

7. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 5.

Sec. 9. NRS 240.030 is hereby amended to read as follows:

240.030 1. Each person applying for appointment as a notary public must:

(a) At the time the applicant submits his or her application, pay to the Secretary of State \$35.

(b) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if the applicant were a public officer.

(c) Submit to the Secretary of State proof satisfactory to the Secretary of State that the applicant has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

(d) Enter into a bond to the State of Nevada in the sum of \$10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant must submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

(e) *Submit to the Secretary of State ~~the~~*

~~*(1) All addresses at which the applicant has resided for any length of time during the 5 years immediately preceding the submission of the application; and*~~

~~*(2) A notarized affidavit*~~ *a declaration under penalty of perjury stating that the applicant has not had an appointment as a notary public revoked or suspended in this State or any other state or territory of the United States.*

(f) If required by the Secretary of State, submit:

(1) A complete set of the fingerprints of the applicant and written permission authorizing the Secretary of State to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(2) A fee established by regulation of the Secretary of State which must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

2. In addition to the requirements set forth in subsection 1, an applicant for appointment as a notary public who resides in an adjoining state must submit to the Secretary of State with the application:

(a) An affidavit setting forth the adjoining state in which the applicant resides, the applicant's mailing address and the address of the applicant's place of business or employment that is located within the State of Nevada;

(b) A copy of the applicant's state business license issued pursuant to chapter 76 of NRS and any business license required by the local government where the business is located, if the applicant is self-employed; and

(c) Unless the applicant is self-employed, a copy of the state business license of the applicant's employer, a copy of any business license of the applicant's employer that is required by the local government where the business is located and an affidavit from the applicant's employer setting forth the facts which show that the employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

3. In completing an application, bond, oath or other document necessary to apply for appointment as a notary public, an applicant must not be required to disclose his or her residential address or telephone number on any such document which will become available to the public.

4. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when the applicant applies for the appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as a notary public to the applicant.

5. The term of a notary public commences on the effective date of the bond required pursuant to paragraph (d) of subsection 1. A notary public shall not perform a notarial act after the effective date of the bond unless the notary public has been issued a certificate of appointment.

6. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of \$10 for each duplicate or amended certificate of appointment which is issued to a notary. If the notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 10. NRS 240.085 is hereby amended to read as follows:

240.085 1. Every notary public who is not an attorney licensed to practice law in this State and who advertises his or her services as a notary public in a language other than English by any form of communication, except a single plaque on his or her desk, shall post or otherwise include with the advertisement a notice in the language in which the advertisement appears. The notice must be of a conspicuous size, if in writing, and must appear in substantially the following form:

I AM NOT AN ATTORNEY IN THE STATE OF NEVADA. I
AM NOT LICENSED TO GIVE LEGAL ADVICE. I MAY NOT
ACCEPT FEES FOR GIVING LEGAL ADVICE.

2. A notary public who is not an attorney licensed to practice law in this State shall not use the term "notario," "notario publico [?]," "*licenciado*" or any other equivalent non-English term in any form of communication that advertises his or her services as a notary public, including, without limitation, a business card, stationery, notice and sign.

3. If the Secretary of State finds a notary public guilty of violating the provisions of subsection 1 or 2, the Secretary of State shall:

- (a) Suspend the appointment of the notary public for not less than 1 year.
- (b) Revoke the appointment of the notary public for a third or subsequent offense.

4. A notary public who is found guilty in a criminal prosecution of violating subsection 1 or 2 shall be punished by a fine of not more than \$2,000.

Sec. 11. NRS 240A.100 is hereby amended to read as follows:

240A.100 1. A person who wishes to engage in the business of a document preparation service must be registered by the Secretary of State pursuant to this chapter. An applicant for registration must be a citizen or legal resident of the United States and at least 18 years of age.

2. The Secretary of State shall not register as a document preparation service any person:

(a) Who is suspended or has previously been disbarred from the practice of law in any jurisdiction;

(b) Whose registration as a document preparation service has previously been revoked by the Secretary of State;

(c) Who has previously been convicted of a gross misdemeanor pursuant to paragraph (b) of subsection 1 of NRS 240A.290; or

(d) Who has, within the 10 years immediately preceding the date of the application for registration as a document preparation service, been:

(1) Convicted of a crime involving theft, fraud or dishonesty;

(2) Convicted of the unauthorized practice of law pursuant to NRS 7.285 or the corresponding statute of any other jurisdiction; or

(3) Adjudged by the final judgment of any court to have committed an act involving theft, fraud or dishonesty.

3. An application for registration as a document preparation service must be made under penalty of perjury on a form prescribed by regulation of the Secretary of State and must be accompanied by a cash bond or surety bond meeting the requirements of NRS 240A.120.

4. *An applicant for registration must submit to the Secretary of State ~~the~~*

~~(a) All addresses at which the applicant has resided for any length of time during the 5 years immediately preceding the submission of the application; and~~

~~(b) A notarized affidavit;~~ *a declaration under penalty of perjury stating that the applicant has not had a certificate or license as a document preparation service revoked or suspended in this State or any other state or territory of the United States.*

5. After the investigation of the history of the applicant is completed, the Secretary of State shall issue a certificate of registration if the applicant is qualified for registration and has complied with the requirements of this section. Each certificate of registration must bear the name of the registrant and a registration number unique to that registrant. The Secretary of State shall maintain a record of the name and registration number of each registrant.

Sec. 12. NRS 240A.240 is hereby amended to read as follows:

240A.240 A registrant shall not:

1. After the date of the last service performed for a client, retain any fees or costs for services not performed or costs not incurred.

2. Make, orally or in writing:

(a) A promise of the result to be obtained by the filing or submission of any document, unless the registrant has some basis in fact for making the promise;

(b) A statement that the registrant has some special influence with or is able to obtain special treatment from the court or agency with which a document is to be filed or submitted; or

(c) A false or misleading statement to a client if the registrant knows that the statement is false or misleading or knows that the registrant lacks a sufficient basis for making the statement.

3. In any advertisement or written description of the registrant or the services provided by the registrant, or on any letterhead or business card of the registrant, use the term "legal aid," "legal services," "law office," "*notario*," "*notario publico*," "notary public," "notary," "licensed," "*licenciado*," "attorney," "lawyer" or any similar term, in English, *Spanish* or ~~any~~ any other language, which implies that the registrant:

(a) Offers services without charge if the registrant does not do so; or

(b) Is an attorney authorized to practice law in this State.

4. Negotiate with another person concerning the rights or responsibilities of a client, communicate the position of a client to another person or convey the position of another person to a client.

5. Appear on behalf of a client in a court proceeding or other formal adjudicative proceeding, unless the registrant is ordered to appear by the court or presiding officer.

6. Provide any advice, explanation, opinion or recommendation to a client about possible legal rights, remedies, defenses, options or the selection of documents or strategies, except that a registrant may provide to a client published factual information, written or approved by an attorney, relating to legal procedures, rights or obligations.

7. Seek or obtain from a client a waiver of any provision of this chapter. Any such waiver is contrary to public policy and void.

Sec. 13. NRS 240A.260 is hereby amended to read as follows:

240A.260 1. If the Secretary of State obtains information that a provision of this chapter or a regulation or order adopted or issued pursuant thereto has been violated by a registrant or another person, the Secretary of State may conduct or cause to be conducted an investigation of the alleged violation.

2. If, after investigation, the Secretary of State determines that a violation has occurred, the Secretary of State may:

(a) Serve, by certified mail addressed to the person who has committed the violation, a written order directing the person to cease and desist from the conduct constituting the violation. The order must notify the person that any willful violation of the order may subject the person to prosecution and criminal penalties pursuant to NRS 240A.290.

(b) If a registrant has committed the violation, begin proceedings pursuant to NRS 240A.270 to revoke or suspend the registration of the registrant.

(c) Refer the alleged violation to the Attorney General or a district attorney for commencement of a civil action against the person pursuant to NRS 240A.280.

(d) Refer the alleged violation to the Attorney General or a district attorney for prosecution of the person pursuant to NRS 240A.290.

(e) Take any combination of the actions described in this subsection.

3. *Any person who is aware of a violation of this chapter by a document preparation service, or person applying for registration as a document preparation service, may file a complaint with the Secretary of State setting forth the details of the violation that are known by the person who is filing the complaint.*

Sec. 14. This act becomes effective:

1. 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

2. On January 1, 2016, for all other purposes.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Amendment No. 474 to Senate Bill No. 401 deletes all of the sections relevant to the consumer protection associations; and deletes the requirement that an applicant for appointment as a notary public or registration as a document preparation service provide with his or her application any address where the applicant has resided during the previous five years and a notarized affidavit, instead requiring the submission of a declaration under penalty of perjury stating that the applicant has never had an appointment as a notary public or certificate or license as a document preparation service, as applicable, revoked or suspended in this State or any other state or territory of the United States.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 432.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 509.

SUMMARY—Makes an appropriation to be distributed to certain public schools designated as Victory schools. (BDR S-1187)

AN ACT relating to education; making an appropriation for Fiscal Years 2015-2016 and 2016-2017 for distribution to public schools designated as Victory schools because they have high numbers of pupils living in poverty and ~~[performing low academically;]~~ received a rating indicating underperformance; requiring an assessment of the needs of the pupils at such schools; requiring Victory schools to use the money received to offer certain programs and services; authorizing the ~~[Department]~~ State Board of Education to withhold money if a Victory school demonstrates unsatisfactory pupil achievement and school performance; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill appropriates money for Fiscal Years 2015-2016 and 2016-2017 for distribution to schools that have high numbers of pupils living in poverty and ~~perform low academically,~~ have received one of the two lowest possible ratings indicating underperformance of a public school, as determined by the Department of Education pursuant to the statewide system of accountability for public schools, for the preceding school year, which are designated as Victory schools. This bill requires each school district in which a Victory school is designated and the governing body of each charter school that is designated as a Victory school to conduct an assessment of the needs of pupils at such schools and submit a comprehensive plan for meeting those needs. A Victory school is required to use the money distributed to the school to provide certain programs and services.

Existing law requires the principal of each school to prepare a plan to improve the achievement of the pupils enrolled in the school and submit the plan to various entities, including the Superintendent of Public Instruction and the Department of Education. (NRS 385.357) This bill requires the principal of a Victory school to include in such a plan a description of how the money distributed to the school is being used to meet the needs of the pupils at the school. This bill also requires the board of trustees of each school district in which a Victory school is designated and the governing body of each charter school which is designated as a Victory school to submit a report concerning the programs and services provided using the money distributed to the school.

This bill requires the Department of Education to contract with an independent auditor to evaluate the effectiveness of programs and services provided pursuant to this bill and authorizes the ~~Department~~ State Board of Education to require a Victory school that demonstrates unsatisfactory pupil achievement and school performance to take corrective action ~~and~~. The State Board is also authorized to direct the Department of Education to withhold money if unsatisfactory pupil achievement and school performance continues.

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

Section 1. The Legislature finds and declares that:

1. It is the public policy of this State to provide each pupil enrolled in a public school with high-quality instruction.
2. Pupils who live in poverty benefit from attending a school that has a sustained focus on improving pupil achievement using methods that take into account a variety of factors that influence pupil achievement.
3. Pupils who live in poverty should be provided with services and instruction that is designed to address the needs of such pupils so that each such pupil:
 - (a) Reads at or above the level of the average pupil in third grade before the pupil completes third grade;

(b) Is prepared to engage in a rigorous high school curriculum upon completion of eighth grade; and

(c) Graduates from high school with the skills and attributes necessary to immediately succeed in college or a career.

4. The cost of providing additional services to pupils who live in poverty will continue to be studied with the purpose of updating the formula for funding schools as necessary.

Sec. 2. 1. There is hereby appropriated from the State General Fund to the Account for Programs for Innovation and the Prevention of Remediation created by NRS 387.031 the following sums:

For the Fiscal Year 2015-2016.....~~[\$25,000,000]~~ \$24,850,000

For the Fiscal Year 2016-2017.....\$25,000,000

2. The Department of Education shall designate a public school as a Victory school if, relative to other public schools, including charter schools, that are located in the school district in which the school is also located:

(a) A high percentage of pupils enrolled in the school live in households that have household incomes that are less than the federally designated level signifying poverty, based on the most recent data compiled by the Bureau of the Census of the United States Department of Commerce; and

(b) ~~The school has a low rating in pupil achievement and school performance, based on~~ received one of the two lowest possible ratings indicating underperformance of a public school, as determined by the Department pursuant to the statewide system of accountability for public schools ~~for~~ for the immediately preceding school year.

3. The Department shall designate each Victory school for the 2015-2016 Fiscal Year on or before June 1, 2015.

4. The Department shall transfer money from the Account for Programs for Innovation and the Prevention of Remediation to each ~~school district in which a~~ Victory school ~~is designated based on the~~ on a per pupil basis. The amount distributed per pupil must be determined by dividing the legislative appropriation by the total number of pupils who are enrolled in ~~a~~ Victory ~~school in the district and to the governing body of each charter school that is designated as a Victory school based on the number of pupils enrolled at the school. The board of trustees of each school district to which money is transferred shall distribute such money to each Victory school in the district.~~ schools statewide.

5. The board of trustees of each school district in which a Victory school is located and the governing body of each charter school that is designated as a Victory school shall, as soon as practicable after the school is designated as a Victory school, conduct an assessment of the needs of pupils that attend the school. The assessment must include soliciting input from the community served by the Victory school and identify any barriers to improving pupil achievement and school performance and strategies to meet the needs of pupils at the school.

6. On or before August 15, 2015, the board of trustees of each school district in which a Victory school is designated for the 2015-2016 Fiscal Year and the governing body of each charter school that is designated as a Victory school for the 2015-2016 Fiscal Year shall submit to the Department a comprehensive plan for meeting the educational needs of pupils enrolled in each Victory school. The plan must:

- (a) Include appropriate means to determine the effectiveness of the plan;
- (b) Be based on the assessment of the needs of the pupils who attend the school conducted pursuant to subsection 5;
- (c) Provide means by which the school district or governing body will collaborate with the community to offer programs and services without charge to persons within the region in which the school is located;
- (d) Take into account the number and types of pupils who attend the school and the locations where such pupils reside;
- (e) Coordinate existing or planned engagement of other persons who provide services in the region in which the school is located;
- (f) Consider and coordinate all funding available to each school that is subject to the plan; and
- (g) Identify, for each school or group of schools subject to the plan, which of the measures described in subsection 8 will be implemented.

7. The Department shall review each plan submitted pursuant to subsection 6 to determine whether, or the extent to which, the plan complies with the requirements of this section and either approve or request revisions to the plan.

8. A Victory school ~~{may}~~ shall use the majority of the money transferred pursuant to subsection 4 to ~~{ }~~ provide one or more of the following:

- (a) ~~{Provide a}~~ A prekindergarten program free of charge, if such a program is not paid for by another grant. ~~{ }~~
- (b) ~~{Expand}~~ An expansion of full-day kindergarten classes, if such classes have not otherwise been paid for through legislative appropriation. ~~{ }~~
- (c) ~~{Provide a}~~ A summer academy or other instruction for pupils free of charge at times during the year when school is not in session. ~~{ }~~
- (d) ~~{Provide additional}~~ Additional instruction or other learning opportunities free of charge at times of day when school is not in session. ~~{ }~~
- (e) ~~{Provide professional}~~ Professional development for teachers and other educational personnel concerning instructional practices and strategies that have proven to be an effective means to increase pupil achievement in populations of pupils similar to those served by the school. ~~{ }~~
- (f) Provide programs to recruit and retain highly effective teachers and other educational personnel. ~~{ }~~

~~{(g)}~~ 9. A Victory school may use any money transferred pursuant to subsection 4 that is not used for the purposes described in subsection 8 to:

(a) Provide evidence-based social, psychological or health care services to pupils and their families, including, without limitation, wrap-around services;

~~[(a)]~~ (b) Provide programs and services designed to engage parents and families;

~~[(c)]~~ (c) Provide programs to improve school climate and culture; ~~and~~

~~[(d)]~~ (d) Provide evidence-based programs and services specifically designed to meet the needs of pupils who attend the school, as determined using the assessment conducted pursuant to subsection 5 ~~[(1)]~~; or

(e) Any combination thereof.

10. A Victory school shall not use any money transferred pursuant to subsection 4 for a purpose not described in subsection 8 or 9.

~~[(9)]~~ 11. Any programs offered at a Victory school pursuant to subsection 8 or 9 must:

(a) Be designed to meet the needs of pupils at the school, as determined using the assessment conducted pursuant to subsection 5 and to improve pupil achievement and school performance, as determined using the measures prescribed by the State Board of Education; and

(b) Be based on scientific research concerning effective practices to increase the achievement of pupils who live in poverty.

~~[(10)]~~ 12. Each plan to improve the achievement of pupils enrolled in a Victory school that is prepared by the principal of the school pursuant to NRS 385.357 must describe how the school will use the money transferred pursuant to subsection 4 to meet the needs of pupils who attend the school, as determined using the assessment described in subsection 5 and the requirements of this section.

~~[(11)]~~ 13. The Department shall use money appropriated pursuant to subsection 1 to contract with an independent auditor to evaluate the effectiveness of programs and services provided pursuant to this section. The evaluation must include, without limitation, consideration of the achievement of pupils who have participated in such programs and received such services. When complete, the evaluation must be provided contemporaneously to the Department and the Legislative Committee on Education.

~~[(12)]~~ 14. The ~~Department~~ State Board shall require a Victory school to take corrective action if pupil achievement and school performance at the school are unsatisfactory, as determined by the ~~Department~~ State Board. If unsatisfactory pupil achievement and school performance continue, the State Board may direct the Department ~~may~~ to withhold any additional money that would otherwise be distributed pursuant to this section.

~~[(13)]~~ 15. On or before November 30, 2016, and November 30, 2017, the board of trustees of each school district in which a Victory school is designated and the governing body of each charter school that is designated as a Victory school shall submit to the Department and to the Legislative Committee on Education a report, which must include, without limitation:

(a) An identification of schools to which money was distributed pursuant to subsection 4 for the previous fiscal year;

- (b) The amount of money distributed to each such school;
- (c) A description of the programs or services for which the money was used;
- (d) The number of pupils who participated in such programs or received such services;
- (e) The average expenditure per pupil for each program or service that was funded; and
- (f) Recommendations concerning the manner in which the average expenditure per pupil reported pursuant to paragraph (e) may be used to determine formulas for allocating money from the State Distributive School Account in the State General Fund.

~~[14.]~~ 16. The Legislative Committee on Education shall consider the evaluations of the independent auditor received pursuant to subsection 13 and the reports received pursuant to subsection 15 and advise the State Board regarding any action the Committee determines appropriate for the State Board to take based upon that information. The Committee shall also make any recommendations it deems appropriate concerning Victory schools to the next regular session of the Legislature which may include, without limitation, recommendations for legislation.

17. The sums appropriated by subsection 1:

- (a) Must be accounted for separately from any other money received by ~~[school districts and governing bodies of charter]~~ Victory schools and used only for the purposes specified in this section;
- (b) May not be used to settle or arbitrate disputes between a recognized organization representing employees of a school district or the governing body of a charter school and the school district or governing body or to settle any negotiations; and
- (c) May not be used to adjust the district-wide schedules of salaries and benefits of the employees of a school district.

~~[15.]~~ 18. Upon request of the Legislative Commission, ~~[the board of trustees of any school district and the governing body of any charter]~~ a Victory school to which money is transferred pursuant to subsection 4 shall make available to the Legislative Auditor any of the books, accounts, claims, reports, vouchers or other records of information, confidential or otherwise, regardless of their form or location, that the Legislative Auditor deems necessary to conduct an audit of the use of such money.

~~[16.]~~ 19. Any remaining balance of the transfers made pursuant to subsection 4 for Fiscal Year 2015-2016 must be added to the money transferred for Fiscal Year 2016-2017 and may be expended as that money is expended. Any remaining balance of the transfers made pursuant to subsection 4 for Fiscal Year 2016-2017, including any money added from the previous fiscal year, must not be committed for expenditure after June 30, 2017, and must be reverted to the State General Fund on or before September 15, 2017.

~~[17.]~~ 20. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2017, 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 15, 2017, 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 15, 2017.

~~[18.]~~ 21. As used in this section:

(a) "Community" includes any person or governmental entity who resides or has a significant presence in the geographic area in which a school is located or who interacts with pupils and personnel at a school, and may include, without limitation, parents, businesses, nonprofit organizations, faith-based organizations, community groups, teachers, administrators and governmental entities.

(b) "Evidence-based programs and services" means practices, interventions and services that have been proven, through scientifically based research, as defined in 20 U.S.C. § 7801(37), to be effective in improving outcomes for pupils when implemented with fidelity.

(c) "Victory school" means a school that is so designated by the Department pursuant to subsection 2.

~~[(c)]~~ (d) "Wrap-around services" means supplemental services provided to a pupil with special needs or the family of such a pupil that are not otherwise covered by any federal or state program of assistance.

Sec. 3. This act becomes effective ~~[on July 1, 2015.]~~ upon passage and approval.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

Amendment No. 509 to Senate Bill No. 432 specifies which Victory school services are mandatory and which are permissive, and specifies that a majority of the funding received must be spent on mandatory services; changes program oversight from the Department to the State Board of Education; requires additional oversight by the Legislative Committee on Education; and makes technical clarifications to the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 502.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 404.

SUMMARY—Makes an appropriation to the Department of Motor Vehicles for the modernization of its current platform of information

technology and authorizes the Department to collect a technology fee. (BDR 43-1177)

AN ACT relating to the Department of Motor Vehicles; creating an account in the Motor Vehicle Fund for system modernization; authorizing the Department to collect a technology fee; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill creates the Revolving Account for System Modernization within the Motor Vehicle Fund. Section 6 of this bill makes an appropriation of \$40,536,613 to the Account to pay for the upgrade of the platform of information technology used by the Department of Motor Vehicles. Section 3 of this bill authorizes the Department to assess a \$1 technology fee on ~~certain~~ paid transactions, to be deposited into the Account. Existing law requires that the cost of administration of the Department be not more than 22 percent of the license and registration fees collected. (NRS 408.235) Section 6.5 of this bill provides that section 3 becomes effective when the Director of the Department determines that sufficient resources are available to enable the Department to carry out the provisions of section 3. Section 5 of this bill excludes the money spent from the Account for the technology upgrade from the costs of administration.

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

Section 1. Chapter 481 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *The Revolving Account for System Modernization is hereby created in the Motor Vehicle Fund.*

2. *The Director shall administer the Account. The money in the Account must be expended to pay for any costs associated with the implementation, upgrade and maintenance of the platform of information technology used by the Department.*

3. *The Director may apply for and accept any legislative appropriations, fees, gifts, grants, donations or other sources of money for deposit in the Account.*

4. *The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.*

5. *Any money remaining in the Account at the end of the fiscal year does not revert to the State General Fund or the State Highway Fund, and the balance of the Account must remain in the Account and be carried forward to the next fiscal year.*

6. *The expenditure of money in the Account is not deemed to be costs of administration of the Department for the purposes of NRS 408.235.*

7. *As used in this section:*

(a) *"Information technology" has the meaning ascribed to it in NRS 242.059.*

(b) "Platform" means a group of technologies that are used as a base upon which other applications, processes or technologies are developed.

Sec. 3. The Department shall add a nonrefundable technology fee of \$1 to the existing fee for any transaction performed by the Department ~~for as specified by regulation of the Director.~~ for which a fee is charged. The technology fee must be deposited in the Revolving Account for System Modernization created by section 2 of this act.

Sec. 4. NRS 481.079 is hereby amended to read as follows:

481.079 1. Except as otherwise provided by section 3 of this act or any other specific statute, all taxes, license fees and money collected by the Department must be deposited with the State Treasurer to the credit of the Motor Vehicle Fund.

2. If a check or any other method of payment accepted by the Department in payment of such fees is returned to the Department or otherwise dishonored upon presentation for payment:

(a) The drawer or any other person responsible for payment of the fee is subject to a fee in the amount established by the State Controller pursuant to NRS 353C.115 in addition to any other penalties provided by law; and

(b) The Department may require that future payments from the person be made by cashier's check, money order, traveler's check or cash.

3. The Department may adjust the amount of a deposit made with the State Treasurer to the credit of the Motor Vehicle Fund for any cash shortage or overage resulting from the collection of fees.

Sec. 5. NRS 408.235 is hereby amended to read as follows:

408.235 1. There is hereby created the State Highway Fund.

2. Except as otherwise provided by a specific statute, the proceeds from the imposition of any:

(a) License or registration fee and other charges with respect to the operation of any motor vehicle upon any public highway, city, town or county road, street, alley or highway in this State; and

(b) Excise tax on gasoline or other motor vehicle fuel,
➔ must be deposited in the State Highway Fund and must, except for costs of administering the collection thereof, be used exclusively for the administration, construction, reconstruction, improvement and maintenance of highways as provided for in this chapter.

3. The interest and income earned on the money in the State Highway Fund, after deducting any applicable charges, must be credited to the Fund.

4. ~~[Costs]~~ Except as otherwise provided in section 2 of this act, costs of administration for the collection of the proceeds for any license or registration fees and other charges with respect to the operation of any motor vehicle must be limited to a sum not to exceed 22 percent of the total proceeds so collected.

5. Costs of administration for the collection of any excise tax on gasoline or other motor vehicle fuel must be limited to a sum not to exceed 1 percent of the total proceeds so collected.

6. All bills and charges against the State Highway Fund for administration, construction, reconstruction, improvement and maintenance of highways under the provisions of this chapter must be certified by the Director and must be presented to and examined by the State Board of Examiners. When allowed by the State Board of Examiners and upon being audited by the State Controller, the State Controller shall draw his or her warrant therefor upon the State Treasurer.

7. The money deposited in the State Highway Fund pursuant to NRS 244A.637 and 354.59815 must be maintained in a separate account for the county from which the money was received. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways in that county as provided for in this chapter;

(b) Must not be used to reduce or supplant the amount or percentage of any money which would otherwise be made available from the State Highway Fund for projects in that county; and

(c) Must not be used for any costs of administration or to purchase any equipment.

8. The money deposited in the State Highway Fund pursuant to NRS 482.313 must be maintained in a separate account. The interest and income on the money in the account, after deducting any applicable charges, must be credited to the account. Any money remaining in the account at the end of each fiscal year does not revert to the State Highway Fund but must be carried over into the next fiscal year. The money in the account:

(a) Must be used exclusively for the construction, reconstruction, improvement and maintenance of highways as provided for in this chapter; and

(b) Must not be used for any costs of administration or to purchase any equipment.

Sec. 6. There is hereby appropriated from the State Highway Fund to the Revolving Account for System Modernization created by section 2 of this act the sum of \$40,536,613 for upgrading the current platform of information technology used by the Department of Motor Vehicles.

Sec. 6.5. Upon determining that sufficient resources are available to enable the Department of Motor Vehicles to carry out the provisions of section 3 of this act, the Director of the Department shall notify the Governor and the Director of the Legislative Counsel Bureau of that fact, and shall publish on the Internet website of the Department notice to the public of that fact.

Sec. 7. ~~[This act becomes effective.]~~

1. ~~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~~ This section and sections 1, 2 and 4 to 6.5, inclusive, of this act become effective on July 1, 2015.

2. ~~On July 1, 2015, for all other purposes.~~ Section 3 of this act becomes effective on the date on which the Department of Motor Vehicles publishes on its Internet website the notice required pursuant to section 6.5 of this act.

Senator Hammond moved the adoption of the amendment.

Remarks by Senator Hammond.

Amendment No. 404 to Senate Bill No. 502 revises the provision authorizing the Department of Motor Vehicles to charge a \$1 technology fee, allowing the DMV to add the fee to *any* DMV transaction for which a fee is currently charged; and changes the effective date to require the DMV to carry out the amendatory provisions of the bill upon determining that sufficient resources are available and after notifying the Governor and the director of the Legislative Counsel Bureau.

Amendment adopted.

Senator Hammond moved that the bill be re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

Bill ordered reprinted, engrossed and to the Committee on Finance.

Senate Bill No. 504.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 353.

SUMMARY—Amends provisions relating to a safe and respectful learning environment in public schools. (BDR 34-1201)

AN ACT relating to education; providing for disciplinary and licensure proceedings against administrators, teachers and other employees of a public school for failure to comply with certain provisions of law regarding bullying and cyber-bullying; providing for a cause of action related thereto; creating the Office for a Safe and Respectful Learning Environment within the Department of Education; providing for the appointment of the Director of the Office; providing the duties of the Office; amending provisions relating to reports of and investigations into incidents of bullying; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill amends a number of provisions, and provides new provisions, regarding bullying and cyber-bullying in the public schools of this State.

Existing law provides grounds by which licensed teachers and administrators may be disciplined. (NRS 391.31297) Sections 2, 14 and 16 of this bill provide for disciplinary and licensure proceedings against teachers, administrators, principals, coaches or other staff members who knowingly and willfully fail to comply with applicable provisions of law regarding bullying and cyber-bullying.

Section 3 of this bill provides that a parent or guardian of a pupil may petition a court of competent jurisdiction for a writ of mandamus to compel the performance by a school official of any duty imposed by law regarding bullying and cyber-bullying.

Section 4 of this bill creates the Office for a Safe and Respectful Learning Environment within the Department of Education. The Office must maintain a 24-hour, toll-free hotline and an Internet website by which a person may report an incident of bullying or cyber-bullying or receive information regarding anti-bullying efforts and organizations. The Office must also provide outreach and anti-bullying education and training. The Director of the Office, who is appointed by and serves at the pleasure of the Superintendent of Public Instruction, must establish procedures by which the Office may receive reports and complaints regarding bullying and cyber-bullying, and the Director or his or her designee must investigate any complaint that a teacher, administrator, principal, coach or other staff member has violated applicable provisions of law regarding bullying or cyber-bullying.

Section 6 of this bill amends the definition of "bullying" for the purposes of provisions of law regarding bullying.

Section 12 of this bill changes requirements regarding the reporting and investigation of an incidence of bullying or cyber-bullying. Under section 12, a principal, or his or her designee, who receives a report of bullying or cyber-bullying must immediately take any necessary action to stop the bullying or cyber-bullying and ensure the safety and well-being of any reported victims. Before the end of that or the next school day, the principal or designee must notify the parents or guardians of every pupil reported to be involved in the bullying or cyber-bullying, as applicable ~~and~~ or make a good faith effort to do so if the contact information for the parent or guardian in the records of the school is not correct. The principal or designee must interview all of the pupils reported to be involved and the parents or guardians of those pupils, and the investigation must be completed within ~~[48 hours]~~ 2 school days after receiving the report of the bullying or cyber-bullying ~~and~~ or within 3 school days if any of the persons is unavailable to be interviewed. After completing the investigation, the principal or designee must complete a written report of the investigation. Subject to applicable federal privacy laws, the report must be made available to the parents or guardians of all the pupils who were reported to be involved in the bullying or cyber-bullying, as applicable.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ~~If [a teacher,] an administrator, principal, [a coach] or [other staff member]~~ the designee of an administrator or principal of a school

knowingly and willfully fails to comply with the provisions of NRS 388.1351, the superintendent of the school district:

1. Shall take disciplinary action against the employee by written admonishment, demotion, suspension, dismissal or refusal to reemploy; and

2. If the employee is the holder of a license issued pursuant to chapter 391 of NRS, may recommend to the board of trustees of the school district that the board submit a recommendation to the State Board for the suspension or revocation of the license.

Sec. 3. 1. The Legislature hereby declares that the members of a board of trustees and all administrators and teachers of a school district have ~~an affirmative~~ a duty to create and provide a safe and respectful learning environment for all pupils that is free of bullying and cyber-bullying.

2. A parent or guardian of a pupil of the public school system of this State may petition a court of competent jurisdiction for a writ of mandamus to compel the performance of any duty imposed by the provisions of NRS 388.121 to 388.145, inclusive, and sections 2, 3 and 4 of this act.

3. Nothing in this section shall be deemed to preclude a parent or guardian of a pupil of the public school system of this State from seeking any remedy available at law or in equity.

Sec. 4. 1. The Office for a Safe and Respectful Learning Environment is hereby created within the Department.

2. The Superintendent of Public Instruction shall appoint a Director of the Office, who shall serve at the pleasure of the Superintendent.

3. The Director of the Office shall ensure that the Office:

(a) Maintains a 24-hour, toll-free statewide hotline and Internet website by which any person can report a violation of the provisions of NRS 388.121 to 388.145, inclusive, and sections 2, 3 and 4 of this act, and obtain information about anti-bullying efforts and organizations; and

(b) Provides outreach and anti-bullying education and training for pupils, parents and guardians, teachers, administrators, principals, coaches and other staff members and the members of a board of trustees of a school district. The outreach and training must include, without limitation:

(1) Training regarding methods, procedures and practice for recognizing bullying and cyber-bullying behaviors;

(2) Training regarding effective intervention and remediation strategies regarding bullying and cyber-bullying; ~~and~~

(3) Training regarding methods for reporting violations of NRS 388.135; and

(4) Information on and referral to available resources regarding suicide prevention and the relationship between bullying or cyber-bullying and suicide.

4. The Director of the Office shall establish procedures by which the Office may receive reports of bullying and cyber-bullying and complaints regarding violations of the provisions of NRS 388.121 to 388.145, inclusive, and sections 2, 3 and 4 of this act.

5. *The Director of the Office or his or her designee shall investigate any complaint that a teacher, administrator, principal, coach or other staff member or member of a board of trustees of a school district has violated a provision of NRS 388.121 to 388.145, inclusive, and sections 2, 3 and 4 of this act. If a complaint alleges criminal conduct or an investigation leads the Director of the Office or his or her designee to suspect criminal conduct, the Director of the Office may request assistance from the Investigation Division of the Department of Public Safety.*

Sec. 5. NRS 388.121 is hereby amended to read as follows:

388.121 As used in NRS 388.121 to 388.145, inclusive, *and sections 2, 3 and 4 of this act*, unless the context otherwise requires, the words and terms defined in NRS 388.122, 388.123 and 388.124 have the meanings ascribed to them in those sections.

Sec. 6. NRS 388.122 is hereby amended to read as follows:

388.122 1. "Bullying" means a ~~{willful act which is}~~ written, verbal or electronic expression or a physical ~~{, or a course of conduct on the part of one or more persons which is not authorized by law and which exposes a person repeatedly and over time to one or more negative actions which is highly offensive to a reasonable person}~~ act or gesture, or any combination thereof, that is directed at a ~~{pupil}~~ person or group of ~~{pupils}~~ persons and:

- ~~{1. Is intended to cause or actually causes the person to suffer harm or serious emotional distress;~~
- ~~— 2. Exploits an imbalance in power between the person engaging in the act or conduct and the person who is the subject of the act or conduct;~~
- ~~— 3. Poses a threat of immediate harm or actually inflicts harm to another person or to the property of another person;~~
- ~~— 4. Places the person in reasonable fear of harm or serious emotional distress; or~~
- ~~— 5. Creates an environment which is hostile to a pupil by interfering with the education of the pupil.}~~

(a) *Has the effect or can reasonably be expected to have the effect of:*

(1) Physically harming a ~~{pupil}~~ person or damaging the property of a ~~{pupil}~~ person; or

(2) Placing a ~~{pupil}~~ person in reasonable fear of physical harm to the ~~{pupil}~~ person or damage to the property of the ~~{pupil}~~ person; or

(b) *Interferes with the rights of a ~~{pupil}~~ person by:*

(1) Creating an intimidating or hostile educational environment for the ~~{pupil}~~ person; or

(2) Interfering with the academic performance of ~~{the}~~ a pupil or the ability of the ~~{pupil}~~ person to participate in or benefit from services, activities or privileges provided by a school; or

(c) *Is an act or conduct described in paragraph (a) or (b) and is based upon the:*

(1) Actual or perceived race, color, national origin, ancestry, religion, gender ~~{,}~~ identity or expression, sexual orientation, physical or mental

disability of a ~~[pupil]~~ person, sex or any other distinguishing characteristic or background of a ~~[pupil]~~ person; or

(2) The association of a ~~[pupil]~~ person with ~~to~~ another person having one or more of those actual or perceived characteristics.

2. The term includes, without limitation:

(a) Repeated or pervasive taunting, name-calling, belittling, mocking or use of put-downs or demeaning humor ~~to~~ regarding the actual or perceived race, color, national origin, ancestry, religion, gender identity or expression, sexual orientation, physical or mental disability of a person, sex or any other distinguishing characteristic or background of a person;

(b) Behavior that is intended to harm another person by damaging or manipulating his or her relationships with others by conduct that includes, without limitation, ~~[gossip or]~~ spreading false rumors;

(c) ~~[Non verbal]~~ Repeated or pervasive nonverbal threats or intimidation such as the use of aggressive, menacing or disrespectful gestures;

(d) Threats of harm to a ~~[pupil]~~ person, to his or her possessions or to other persons, whether such threats are transmitted verbally, electronically or in writing;

(e) Blackmail, extortion or demands for protection money or involuntary loans or donations;

(f) Blocking access to any property or facility of a school;

(g) Stalking; and

(h) ~~[Physical]~~ Physically harmful contact with or injury to another person or his or her property.

Sec. 7. NRS 388.132 is hereby amended to read as follows:

388.132 The Legislature declares that:

1. Pupils are the most vital resource to the future of this State;

2. A learning environment that is safe and respectful is essential ~~[mandatory]~~ for the pupils enrolled in the public schools in this State and is necessary for those pupils to achieve academic success and meet this State's high academic standards;

~~[2.]~~ 3. Every classroom, hallway, locker room, cafeteria, restroom, gymnasium, playground, athletic field, school bus, parking lot and other areas on the premises of a public school in this State must be maintained as a safe and respectful learning environment, and no form of bullying or cyber-bullying will be tolerated within the system of public education in this State;

4. Any form of bullying or cyber-bullying seriously interferes with the ability of teachers to teach in the classroom and the ability of pupils to learn;

~~[3.]~~ 5. The use of the Internet by pupils in a manner that is ethical, safe and secure is essential to a safe and respectful learning environment and is essential for the successful use of technology;

~~[4.]~~ 6. The ~~[intended goal of the]~~ Legislature ~~[is to]~~ hereby declares that it will ensure that:

(a) The public schools in this State provide a safe and respectful learning environment in which persons ~~pupils~~ of differing beliefs, *rac*es, *color*s, *national origins*, *ancestries*, *religions*, ~~gender~~s, *gender identities or expressions*, *sexual orientations*, *physical or mental disabilities*, sexes or any other distinguishing characteristics ~~and~~ or backgrounds can realize their full academic and personal potential;

(b) All administrators, principals, teachers and other personnel of the school districts and public schools in this State demonstrate appropriate *and professional* behavior on the premises of any public school by treating other persons, including, without limitation, pupils, with civility and respect, ~~and~~ by refusing to tolerate bullying and cyber-bullying ~~and~~, *and by taking immediate action to protect a victim or target of bullying or cyber-bullying when witnessing, overhearing or being notified that bullying or cyber-bullying is occurring or has occurred*;

(c) All persons in public schools are entitled to maintain their own beliefs and to respectfully disagree without resorting to bullying, cyber-bullying or violence;

~~5.~~ and

(d) *Any teacher, administrator, principal, coach or other staff member or pupil who tolerates or engages in an act of bullying or cyber-bullying or violates a provision of NRS 388.121 to 388.145, inclusive, and sections 2, 3 and 4 of this act regarding a response to bullying or cyber-bullying will be held accountable; and*

7. By declaring ~~its goal~~ this mandate that the public schools in this State provide a safe and respectful learning environment, the Legislature is not advocating or requiring the acceptance of differing beliefs in a manner that would inhibit the freedom of expression, but is requiring that pupils ~~[with differing beliefs]~~ be free from *physical, emotional or mental* abuse ~~and~~ while in the care of the State and that pupils be provided with an environment that allows them to learn.

Sec. 8. NRS 388.1325 is hereby amended to read as follows:

388.1325 1. The Bullying Prevention Account is hereby created in the State General Fund, to be administered by the ~~Superintendent of Public Instruction. The Superintendent of Public Instruction~~ *Director of the Office for a Safe and Respectful Learning Environment appointed pursuant to section 4 of this act. The Director of the Office* may accept gifts and grants from any source for deposit into the Account. The interest and income earned on the money in the Account must be credited to the Account.

2. In accordance with the regulations adopted by the State Board pursuant to NRS 388.1327, a school district that applies for and receives a grant of money from the Bullying Prevention Account shall use the money for one or more of the following purposes:

(a) The establishment of programs to create a school environment that is free from bullying and cyber-bullying;

(b) The provision of training on the policies adopted by the school district pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.145, inclusive ~~[-]~~, *and sections 2, 3 and 4 of this act*; or

(c) The development and implementation of procedures by which the public schools of the school district and the pupils enrolled in those schools can discuss the policies adopted pursuant to NRS 388.134 and the provisions of NRS 388.121 to 388.145, inclusive ~~[-]~~, *and sections 2, 3 and 4 of this act*.

Sec. 9. NRS 388.1327 is hereby amended to read as follows:

388.1327 The State Board shall adopt regulations:

1. Establishing the process whereby school districts may apply to the State Board for a grant of money from the Bullying Prevention Account pursuant to NRS 388.1325.

2. As are necessary to carry out the provisions of NRS 388.121 to 388.145, inclusive ~~[-]~~, *and sections 2, 3 and 4 of this act*.

Sec. 10. NRS 388.1341 is hereby amended to read as follows:

388.1341 1. The Department, in consultation with persons who possess knowledge and expertise in bullying and cyber-bullying, shall, to the extent money is available, develop an informational pamphlet to assist pupils and the parents or legal guardians of pupils enrolled in the public schools in this State in resolving incidents of bullying or cyber-bullying. If developed, the pamphlet must include, without limitation:

(a) A summary of the policy prescribed by the Department pursuant to NRS 388.133 and the provisions of NRS 388.121 to 388.145, inclusive ~~[-]~~, *and sections 2, 3 and 4 of this act*.

(b) A description of practices which have proven effective in preventing and resolving violations of NRS 388.135 in schools, which must include, without limitation, methods to identify and assist pupils who are at risk for bullying and cyber-bullying; and

(c) An explanation that the parent or legal guardian of a pupil who is involved in a reported violation of NRS 388.135 may request an appeal of a disciplinary decision made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.

2. If the Department develops a pamphlet pursuant to subsection 1, the Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as the Department determines are necessary to ensure the pamphlet contains current information.

3. If the Department develops a pamphlet pursuant to subsection 1, the Department shall post a copy of the pamphlet on the Internet website maintained by the Department.

4. To the extent the money is available, the Department shall develop a tutorial which must be made available on the Internet website maintained by the Department that includes, without limitation, the information contained in the pamphlet developed pursuant to subsection 1, if such a pamphlet is developed by the Department.

Sec. 11. NRS 388.1342 is hereby amended to read as follows:

388.1342 1. The Department, in consultation with persons who possess knowledge and expertise in bullying and cyber-bullying shall:

(a) Establish a program of training on methods to prevent, identify and report incidents of bullying and cyber-bullying for members of the State Board.

(b) Establish a program of training on methods to prevent, identify and report incidents of bullying and cyber-bullying for members of the boards of trustees of school districts.

(c) Establish a program of training for school district and charter school personnel to assist those persons with carrying out their powers and duties pursuant to NRS 388.121 to 388.145, inclusive ~~[-]~~, *and sections 2, 3 and 4 of this act.*

(d) Establish a program of training for administrators in the prevention of violence and suicide associated with bullying and cyber-bullying and appropriate methods to respond to incidents of violence or suicide.

2. Each member of the State Board shall, within 1 year after the member is elected or appointed to the State Board, complete the program of training on bullying and cyber-bullying established pursuant to paragraph (a) of subsection 1 and undergo the training at least one additional time while the person is a member of the State Board.

3. Except as otherwise provided in NRS 388.134, each member of a board of trustees of a school district shall, within 1 year after the member is elected or appointed to the board of trustees, complete the program of training on bullying and cyber-bullying established pursuant to paragraph (b) of subsection 1 and undergo the training at least one additional time while the person is a member of the board of trustees.

4. Each administrator of a public school shall complete the program of training established pursuant to paragraph (d) of subsection 1:

(a) Within 90 days after becoming an administrator;

(b) Except as otherwise provided in paragraph (c), at least once every 3 years thereafter; and

(c) At least once during any school year within which the program of training is revised or updated.

5. Each program of training established pursuant to subsection 1 must, to the extent money is available, be made available on the Internet website maintained by the Department or through another provider on the Internet.

6. The board of trustees of a school district may allow school district personnel to attend the program established pursuant to paragraph (c) or (d) of subsection 1 during regular school hours.

7. The Department shall review each program of training established pursuant to subsection 1 on an annual basis to ensure that the program contains current information.

Sec. 12. NRS 388.1351 is hereby amended to read as follows:

388.1351 1. A teacher ~~[or]~~, administrator, principal, coach or other staff member who witnesses a violation of NRS 388.135 or receives information that a violation of NRS 388.135 has occurred shall ~~[verbally]~~ report the violation to the principal or his or her designee ~~[on]~~ *as soon as practicable, but not later than a time during the same day on which the teacher ~~[or]~~, administrator, principal, coach or other staff member witnessed the violation or received information regarding the occurrence of a violation.*

2. ~~[The principal or his or her designee shall initiate an investigation not later than 1 day after receiving notice of the violation pursuant to subsection 1. The principal or the designee shall provide written notice of a reported violation of NRS 388.135 to the parent or legal guardian of each pupil involved in the reported violation. The notice must include, without limitation, a statement that the principal or the designee will be conducting an investigation into the reported violation and that the parent or legal guardian may discuss with the principal or the designee any counseling and intervention services that are available to the pupil. The investigation must be completed within 10 days after the date on which the investigation is initiated and, if a violation is found to have occurred, include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district.]~~ Upon receiving a report required by subsection 1, the principal or designee shall immediately take any necessary action to stop the bullying or cyber-bullying and ensure the safety and well-being of the reported victim or victims of the bullying or cyber-bullying and shall begin an investigation into the report. The investigation must include, without limitation:

(a) ~~[Notification.]~~ Except as otherwise provided in subsection 3, notification provided by telephone, electronic mail or other electronic means or provided in person, of the parents or guardians of all pupils directly involved in the reported bullying or cyber-bullying, as applicable, either as a reported aggressor or a reported victim of the bullying or cyber-bullying. The notification must be provided not later than:

(1) *If the bullying or cyber-bullying is reported before the end of school hours on a school day, 6 p.m. on the day on which the bullying or cyber-bullying is reported; or*

(2) *If the bullying or cyber-bullying was reported on a day that is not a school day, or after school hours on a school day, 6 p.m. on the school day following the day on which the bullying or cyber-bullying is reported.*

(b) *Interviews with all pupils whose parents or guardians must be notified pursuant to paragraph (a) and with all such parents and guardians.*

3. ~~[And]~~ If the contact information for the parent or guardian of a pupil in the records of the school is not correct, a good faith effort to notify the parent or guardian shall be deemed sufficient to meet the requirement for notification pursuant to paragraph (a) of subsection 2.

4. Except as otherwise provided in this subsection, an investigation required by this section must be completed not later than ~~48 hours~~ 2 school days after the principal or designee receives a report required by subsection 1. ~~The hours during a day that is not a school day are not included in calculating the deadline prescribed by this section.~~ If the principal or designee is not able to complete the interviews required by paragraph (b) of subsection 2 within 2 school days after making a good faith effort because any of the persons to be interviewed is not available, 1 additional school day may be used to complete the investigation.

~~4.1~~ *5. A principal or designee who conducts an investigation required by this section shall complete a written report of the findings and conclusions of the investigation. If a violation is found to have occurred, the report must include recommendations concerning the imposition of disciplinary action or other measures to be imposed as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district. Subject to the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, the report must be made available, not later than 24 hours after the completion of the written report, to all parents or guardians who must be notified pursuant to paragraph (a) of subsection 2 as part of the investigation.*

~~5.1~~ *6. Not later than ~~2 weeks~~ 10 school days after receiving a report required by subsection 1, the principal or designee shall meet with each reported victim of the bullying or cyber-bullying to inquire about the well-being of the reported victim and to ensure that the reported bullying or cyber-bullying, as applicable, is not continuing.*

~~6.1~~ *7. The parent or ~~legal~~ guardian of a pupil involved in the reported violation of NRS 388.135 may appeal a disciplinary decision of the principal or his or her designee, made against the pupil as a result of the violation, in accordance with the policy governing disciplinary action adopted by the board of trustees of the school district. Not later than 30 days after receiving a response provided in accordance with such a policy, the parent or guardian may submit a complaint to the Department. The Department shall consider and respond to the complaint pursuant to procedures and standards prescribed in regulations adopted by the Department.*

Sec. 13. NRS 388.139 is hereby amended to read as follows:

388.139 Each school district shall include the text of the provisions of NRS 388.121 to 388.145, inclusive, and sections 2, 3 and 4 of this act, and the policies adopted by the board of trustees of the school district pursuant to NRS 388.134 under the heading "Bullying and Cyber-Bullying Is Prohibited in Public Schools," within each copy of the rules of behavior for pupils that the school district provides to pupils pursuant to NRS 392.463.

Sec. 14. NRS 391.31297 is hereby amended to read as follows:

391.31297 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

- (a) Inefficiency;
- (b) Immorality;
- (c) Unprofessional conduct;
- (d) Insubordination;
- (e) Neglect of duty;
- (f) Physical or mental incapacity;
- (g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
- (h) Conviction of a felony or of a crime involving moral turpitude;
- (i) Inadequate performance;
- (j) Evident unfitness for service;
- (k) Failure to comply with such reasonable requirements as a board may prescribe;
- (l) Failure to show normal improvement and evidence of professional training and growth;
- (m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;
- (n) Any cause which constitutes grounds for the revocation of a teacher's license;
- (o) Willful neglect or failure to observe and carry out the requirements of this title;
- (p) Dishonesty;
- (q) Breaches in the security or confidentiality of the questions and answers of the examinations that are administered pursuant to NRS 389.550 or 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807.
- (r) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations and assessments adopted pursuant to NRS 389.616 or 389.620;
- (s) An intentional violation of NRS 388.5265 or 388.527;
- (t) *Knowingly and willfully failing to comply with the provisions of NRS 388.1351;*
- (u) Gross misconduct; or
- ~~(u)~~ (v) An intentional failure to report a violation of NRS 388.135 if the teacher or administrator witnessed the violation.

2. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

3. As used in this section, "gross misconduct" includes any act or omission that is in wanton, willful, reckless or deliberate disregard of the interests of a school or school district or a pupil thereof.

Sec. 15. NRS 391.313 is hereby amended to read as follows:

391.313 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that the administrator believes may lead to demotion or dismissal or may cause the employee not to be reemployed under the provisions of NRS 391.31297, the administrator shall:

(a) Except as otherwise provided in subsection 3, bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to the employee's demotion, dismissal or a refusal to reemploy him or her, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for the employee's potential demotion, dismissal or a potential recommendation not to reemploy him or her; and

(b) Except as otherwise provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

➔ The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for the employee by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

3. An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his or her employment will be terminated pursuant to NRS 391.3197.

4. A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h), (p), ~~and~~ (t) and (u) of subsection 1 of NRS 391.31297.

Sec. 16. NRS 391.330 is hereby amended to read as follows:

391.330 The State Board may suspend or revoke the license of any teacher, administrator or other licensed employee, after notice and an opportunity for hearing have been provided pursuant to NRS 391.322 and 391.323, for:

1. Immoral or unprofessional conduct.
2. Evident unfitness for service.
3. Physical or mental incapacity which renders the teacher, administrator or other licensed employee unfit for service.
4. Conviction of a felony or crime involving moral turpitude.

5. Conviction of a sex offense under NRS 200.366, 200.368, 201.190, 201.220, 201.230, 201.540 or 201.560 in which a pupil enrolled in a school of a county school district was the victim.

6. Knowingly advocating the overthrow of the Federal Government or of the State of Nevada by force, violence or unlawful means.

7. Persistent defiance of or refusal to obey the regulations of the State Board, the Commission or the Superintendent of Public Instruction, defining and governing the duties of teachers, administrators and other licensed employees.

8. Breaches in the security or confidentiality of the questions and answers of the examinations that are administered pursuant to NRS 389.550 or 389.805 and the college and career readiness assessment administered pursuant to NRS 389.807.

9. Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations and assessments adopted pursuant to NRS 389.616 or 389.620.

10. An intentional violation of NRS 388.5265 or 388.527.

11. *Knowingly and willfully failing to comply with the provisions of NRS 388.1351.*

Sec. 17. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

Amendment No. 353 to Senate Bill No. 504 limits disciplinary action for noncompliance to an administrator, principal, or his or her designee; requires training in the reporting of bullying and cyber-bullying; clarifies the definition of bullying; requires a good faith effort to notify parents and conduct interviews concerning an incident; and makes other clarifying changes.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bills Nos. 432, 504 be re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

Senator Brower moved that Senate Bill No. 443 be taken from the Secretary's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 443.

Bill read third time.

The following amendment was proposed by Senator Brower:

Amendment No. 596.

SUMMARY—Revises provisions governing the acceptance of race book and sports pool wagers. (BDR 41-1135)

AN ACT relating to gaming; revising provisions governing the acceptance of race book and sports pool wagers; authorizing the Nevada Gaming

Commission to adopt regulations governing the acceptance of race book and sports pool wagers from certain entities; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Nevada Gaming Commission and the State Gaming Control Board are required to perform various acts relating to the regulation and control of gaming. (NRS 463.140) This bill authorizes certain business entities to place race book and sports pool wagers under certain circumstances. This bill also authorizes the Commission to adopt regulations governing the acceptance of such wagers.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. 1. *A race book or sports pool may accept wagers from a business entity if the business entity has established a wagering account with the race book or sports pool and provided the information required pursuant to subsection 2. The business entity shall:*

(a) Be deemed to be a patron for the purposes of this chapter and chapter 465 of NRS.

(b) Place wagers in compliance with all applicable state and federal laws.

2. *A business entity that wishes to establish a wagering account with a race book or sports pool shall provide to the race book or sports pool:*

(a) The name, residential address, copy of a valid photo identification which evidences that the person is at least 21 years of age, and social security number or individual taxpayer identification number, of each of the business entity's equity owners, holders of indebtedness, directors, officers, managers and partners, anyone entitled to payments based on the profits or revenues and any designated individuals;

(b) The business entity's formation documents and all filings with the Secretary of State pursuant to title 7 of NRS;

(c) Any other documentation or information the Commission may require; and

(d) Any other documentation or information the race book or sports pool may require.

3. *A business entity shall update the information provided pursuant to subsection 2 within 5 business days after any change in the information or status.*

4. *A business entity shall:*

(a) In addition to the books and records required by law to be kept in this State, keep in this State originals or copies of the records received from the race book or sports pool for all wagers placed;

(b) Maintain an account in this State with a bank or other financial institution having a principal office, branch or agency located in this State,

from which it shall transfer and receive all money used in wagering with an operator of a race book or sports pool; and

(c) Make any records pursuant to this subsection available for review by the Board or its agents.

5. Notwithstanding the provisions of NRS 463.350, a race book or sports pool may accept wagers from a designated individual of a business entity which has established a wagering account with the race book or sports pool.

6. A business entity and any designated individual that places a wager with a race book or sports pool pursuant to this section must not be considered to be engaged in the unlawful accepting or facilitating of any bet or wager.

7. It is unlawful for any person either solely or in conjunction with others:

(a) To knowingly pay or distribute profits or any compensation to a designated individual or equity owner who is not disclosed to the race book or sports pool pursuant to subsection 2;

(b) To knowingly pay or distribute a percentage of revenue derived from the wagering activity of a business entity to a person who is not disclosed to the race book or sports pool pursuant to subsection 2;

(c) To wager with money received from a person who is not disclosed to the race book or sports pool pursuant to subsection 2; ~~for~~

(d) To place a wager on behalf of a person who is not disclosed to the race book or sports pool pursuant to subsection 2; or

(e) To knowingly submit any false information as required by this section.

8. The Commission may, with the advice and assistance of the Board, adopt regulations as it deems necessary to carry out the provisions of this section.

9. As used in this section:

(a) "Business entity" means an entity organized and existing under the laws of this State.

(b) "Designated individual" means a person listed as an officer, director, partner or manager of a business entity in the business entity's filings with the Secretary of State pursuant to title 7 of NRS, and any other natural person authorized by the business entity in writing to place wagers.

Sec. 3.5. NRS 463.360 is hereby amended to read as follows:

463.360 1. Conviction by a court of competent jurisdiction of a person for a violation of, an attempt to violate, or a conspiracy to violate any of the provisions of this chapter or of chapter 463B, 464 or 465 of NRS may act as an immediate revocation of all licenses which have been issued to the violator, and, in addition, the court may, upon application of the district attorney of the county or of the Commission, order that no new or additional license under this chapter be issued to the violator, or be issued to any person for the room or premises in which the violation occurred, for 1 year after the date of the revocation.

2. A person who willfully fails to report, pay or truthfully account for and pay over any license fee or tax imposed by the provisions of this chapter, or willfully attempts in any manner to evade or defeat any such license fee, tax or payment thereof is guilty of a category C felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

3. Except as otherwise provided in subsection 4, a person who willfully violates, attempts to violate, or conspires to violate any of the provisions of subsection 1 of NRS 463.160 *or section 3 of this act* is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, by a fine of not more than \$50,000, or by both fine and imprisonment.

4. A licensee who puts additional games or slot machines into play or displays additional games or slot machines in a public area without first obtaining all required licenses and approval is subject only to the penalties provided in NRS 463.270 and 463.310 and in any applicable ordinance of the county, city or town.

5. A person who willfully violates any provision of a regulation adopted pursuant to NRS 463.125 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. The violation of any of the provisions of this chapter, the penalty for which is not specifically fixed in this chapter, is a gross misdemeanor.

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

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 596 to Senate Bill No. 443 includes new language as section 3.7(d) providing that it is unlawful to place a wager on behalf of a person who is not disclosed to the race book or sports pool pursuant the bill's provisions.

Amendment adopted.

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

Senator Roberson moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 6:41 p.m.

SENATE IN SESSION

At 6:49 p.m.

President Hutchison presiding.

Quorum present.

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolution No. 7.

REMARKS FROM THE FLOOR

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

April 15th is not only Tax Day, but it is a very important day in America. Baseball fans know what I am talking about. If you are not a baseball fan and you happen to watch a baseball game today, you will notice that every single person on the field—players, coaches and managers—are all wearing the same number. That number is 42. They are wearing number 42 because that is the number worn by Jackie Robinson, and it has been retired by Major League Baseball; not just by his former team the Dodgers, but every team in Major League Baseball. No one will ever wear number 42 again except on this day. It was on this day, April 15, 1947, that Jackie Robinson started for the Brooklyn Dodgers in his first major league baseball game.

We all know the Jackie Robinson story, mostly because of the recent film about him. We know he played for the Dodgers from 1947 until 1956. We know he was a six-time All Star and that he was a World Series Champion in 1955, National League MVP in 1949, National League Rookie of the Year in 1947 and the batting champion in the National League in 1949. He is a member of the Major League Baseball Hall of Fame and a member of the MLB All-Century Team. And, of course, Jackie Robinson broke the so-called color barrier in major league sports on this day in 1947.

Jackie Robinson was much more than a baseball player. He was an Army officer during W.W. II. He did not see combat only because he was unfairly court-martialed, which lead him to be unable to deploy with his unit, the famous 761st Black Panther's Tank Division. Fortunately, he was acquitted at the court-martial, which we all know now was an unfair case, fortunately, concluded with a just result.

He was also a great civil rights leader later in life. He was, and is, an inspiration to millions of people around the world, and he famously observed during his lifetime that: "a life is not important except in the impact it has on other lives." I humbly suggest as we go about our business today and in the days to follow, we do so mindful of Jackie Robinson's words and of his lasting legacy.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Hammond, the privilege of the floor of the Senate Chamber for this day was extended to Kyle Hutchings and Mark Hutchings.

On request of Senator Roberson, the privilege of the floor of the Senate Chamber for this day was extended to Dean Karen West.

On request of Senator Settelmeyer, the privilege of the floor of the Senate Chamber for this day was extended to David White.

On request of Senator Smith, the privilege of the floor of the Senate Chamber for this day was extended to Patrice Banister, Chuck Zittle and Marlene Zittle.

Senator Roberson moved that the Senate adjourn until Thursday, April 16, 2015, at 11:00 a.m.

Motion carried.

Senate adjourned at 6:49 p.m.

Approved:

MARK A. HUTCHISON
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate