

THE SEVENTY-FOURTH DAY

CARSON CITY (Thursday) April 16, 2015

Senate called to order at 12:31 p.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by Rabbi Felipe Goodman.

Our God and God of our ancestors:

We ask Your blessings for the State of Nevada, for its government, its legislature, for its leaders and advisors, and for all who exercise just and rightful authority. Teach them insights from Your Torah, that they may administer all affairs of state fairly, that peace and security, happiness and prosperity, justice and freedom may forever abide in our midst.

Creator of all flesh, bless all the inhabitants of our State with Your spirit. May citizens of all races and creeds forge a common bond in true harmony, to banish hatred and bigotry and to safeguard the ideals and free institutions that are the pride and glory of our Country and the great State of Nevada.

May our State and our vision of prosperity be under Your providence, an influence for good throughout our Nation, uniting all people in peace and freedom. May we have ever present in our lives the values of democracy and freedom. We ask for Your blessing for all the men and women of our Armed Forces who still stand in harm's way, every day, so that we may continue to enjoy the plenty and beauty of our great Nation and of our beautiful State.

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 was referred Senate Bill No. 224, 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. 474, 503, 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 were referred Senate Bills Nos. 289, 312, 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*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 293, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PATRICIA FARLEY, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Senate Bills Nos. 261, 386, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DONALD G. GUSTAVSON, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 15, 2015

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 100.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 73, 87, 121, 137, 138, 139, 156.

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 73.

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

Motion carried.

Assembly Bill No. 87.

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

Motion carried.

Assembly Bill No. 100.

Senator Roberson moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Judiciary.

Motion carried.

Assembly Bill No. 121.

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

Motion carried.

Assembly Bill No. 137.

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

Motion carried.

Assembly Bill No. 138.

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

Motion carried.

Assembly Bill No. 139.

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

Motion carried.

Assembly Bill No. 156.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 224.

Bill read second time.

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

Amendment No. 599.

SUMMARY—Revises provisions relating to employment. (BDR 53-985)

AN ACT relating to employment; establishing a conclusive presumption that a person is an independent contractor if certain conditions are met; excluding the relationship between a principal and an independent contractor from certain provisions governing the payment of minimum wage to an employee; ~~prohibiting a person from recovering unpaid wages in certain proceedings unless the person consents to his or her participation in writing;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 16 of Article 15 of the Nevada Constitution defines the term "employee" and requires each employer to pay a certain minimum wage to each employee. Existing law imposes certain additional requirements relating to compensation, wages and hours of employees. (Chapter 608 of NRS) Section ~~2~~ 1 of this bill ~~defines the term "independent contractor."~~ establishes a conclusive presumption that a person is an independent contractor, rather than an employee, if certain conditions are met. Section 5 of this bill excludes the relationship between a principal and an independent contractor from those relationships that constitute employment relationships for the purpose of requiring the payment of a minimum wage. ~~Section 3 of this bill prohibits a person from recovering unpaid wages in a proceeding relating to the payment of a minimum wage unless the person consents in writing to become a plaintiff in such a proceeding and such a consent is filed with the court or agency in which the proceeding is brought.~~ Section 7 of this bill applies the provisions of this bill to any action or proceeding to recover unpaid wages pursuant to a requirement to pay a minimum wage in which a final decision has not been rendered as of the effective date of this bill.

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

Section 1. Chapter 608 of NRS is hereby amended by adding thereto ~~the provisions set forth as sections 2 and 3 of this act.~~ a new section to read as follows:

1. For the purposes of this chapter, a person is conclusively presumed to be an independent contractor if:

(a) Unless the person is a foreign national who is legally present in the United States, the person possesses or has applied for an employer identification number or social security number or has filed an income tax return for a business or earnings from self-employment with the Internal Revenue Service in the previous year;

(b) The person is required by the contract with the principal to hold any state or local business license and to maintain any occupational license, insurance or bonding that may be required by law for the trade or profession in which the person engages pursuant to the contract; and

(c) The person satisfies three or more of the following criteria:

(1) Notwithstanding the exercise of any control necessary to comply with any statutory, regulatory or contractual obligations, the person has control and discretion over the means and manner of the performance of any work and the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the principal in the contract.

(2) Except for an agreement with the principal relating to the completion schedule, range of work hours or, if the work contracted for is entertainment, the time such entertainment is to be presented, the person has control over the time the work is performed.

(3) The person is not required to work exclusively for one principal unless:

(I) A law, regulation or ordinance prohibits the person from providing services to more than one principal; or

(II) The person has entered into a written contract to provide services to only one principal for a limited period.

(4) The person is free to hire employees to assist with the work.

(5) The person contributes a substantial investment of capital in the business of the person, including, without limitation, the purchase or lease of ordinary tools, material and equipment regardless of source and the lease of any work space from the principal required to perform the work for which the person was engaged. The determination of whether an investment of capital is substantial for the purpose of this paragraph must be made on the basis of the amount of income the person receives and the equipment commonly used in the trade or profession in which the person engages.

2. The fact that a person is not conclusively presumed to be an independent contractor for failure to satisfy three or more of the criteria set forth in paragraph (c) of subsection 1 does not automatically create a presumption that the person is an employee.

3. As used in this section, "foreign national" has the meaning ascribed to it in NRS 294A.325.

~~Sec. 2. ["Independent contractor" means any person who renders service for a specified recompense or no recompense for a specified result, under the control of the person's principal as to the result of the person's work only and not as to the means by which such result is accomplished.~~

~~Factors that must be considered to determine whether a person is an independent contractor are whether the person:~~

- ~~1. Is free to establish his or her days and hours of performance and is substantially free from the control and direction of the person's principal.~~
- ~~2. Is customarily engaged in a trade or business of the work being performed which is established independently of the principal.~~
- ~~3. Is free to offer the same services to competitors of the principal or to customers of the competitors of the principal.~~
- ~~4. Receives compensation from the principal or from some other person or entity and is a tenant or customer of the principal.~~
- ~~5. Holds a current state business license issued by the Secretary of State pursuant to chapter 76 of NRS.~~
- ~~6. Intended to be an independent contractor rather than an employee of the principal at the time the person's services were engaged.~~
- ~~7. Does not have contributions, premiums or taxes imposed pursuant to chapters 363A, 363B, 612 and 616A to 617, inclusive, of NRS withheld or paid on his or her behalf by the principal.~~
- ~~8. Leases space or equipment from the principal.] (Deleted by amendment.)~~

Sec. 3. ~~[A person may not recover unpaid wages in a proceeding pursuant to Section 16 of Article 15 of the Nevada Constitution or this section and NRS 608.250 to 608.290, inclusive, unless he or she gives his or her consent in writing to become a plaintiff and his or her consent is filed with the court or agency in which the proceeding is brought.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 608.007 is hereby amended to read as follows:
608.007 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 608.010 to 608.0126, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 5. NRS 608.255 is hereby amended to read as follows:

608.255 For the purposes of this chapter and any other statutory or constitutional provision governing the minimum wage paid to an employee, the following relationships do not constitute employment relationships and are therefore not subject to those provisions:

1. The relationship between a rehabilitation facility or workshop established by the Department of Employment, Training and Rehabilitation pursuant to chapter 615 of NRS and an individual with a disability who is participating in a training or rehabilitative program of such a facility or workshop.

2. The relationship between a provider of jobs and day training services which is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3) and which has been issued a certificate by the Division of Public and Behavioral Health of the Department of Health and Human Services pursuant to NRS 435.130 to 435.310, inclusive, and a person with

an intellectual disability or a person with a related condition participating in a jobs and day training services program.

3. *The relationship between a principal and an independent contractor.*

Sec. 6. ~~[NRS 444.300 is hereby amended to read as follows:~~

~~444.300 Any person employed by a children's camp on a written contract basis for a specified term longer than 1 week is exempt from the provisions of NRS 608.250 to 608.290, inclusive, and section 3 of this act and chapter 609 of NRS relating to daily and weekly hours of labor only if such camp is operated by a nonprofit organization which is exempt from federal income tax under I.R.C. § 501.] (Deleted by amendment.)~~

Sec. 7. The amendatory provisions of this act apply to an action or proceeding to recover unpaid wages pursuant to Section 16 of Article 15 of the Nevada Constitution or NRS 608.250 to 608.290, inclusive, ~~[and section 3 of this act]~~ in which a final decision has not been rendered before, on or after the effective date of this act.

Sec. 8. This act becomes effective upon passage and approval.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 599 makes two changes to Senate Bill No. 224; 1) establishes a conclusive presumption that a person is an independent contractor if certain conditions are met; and 2) deletes the section of the bill that would prohibit a person from recovering unpaid wages in a proceeding relating to the payment of a minimum wage unless the person consents to his or her participation in writing.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 261.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 418.

SUMMARY—Makes various changes relating to certain research facilities ~~[that are engaged in scientific, medical or educational research.]~~ (BDR 50-56)

AN ACT relating to animals; ~~[requiring]~~ authorizing certain research facilities ~~[and product testing facilities]~~ to offer certain dogs and cats to an animal shelter or rescue organization for adoption before euthanizing or destroying ~~[the]~~ such a dog or cat; ~~[limiting the length of time that a research facility or product testing facility may conduct research on a dog or cat;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill ~~[requires]~~ authorizes certain research facilities ~~[and product testing facilities that are engaged in scientific, medical or educational research]~~ to offer dogs and cats that are appropriate for adoption to an animal shelter or rescue organization before euthanizing or destroying ~~[the]~~ such a dog or cat. This bill also ~~[limits the length of time that a research facility or~~

~~product testing facility is authorized to conduct research on a dog or cat to 2 years.]~~ provides that such a research facility and its officers, directors, employees and agents are immune from civil liability for any act or omission relating to such an adoption.

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[[Except as otherwise provided in subsection 2, a]~~ A research facility ~~[for product testing facility]~~ that intends to euthanize ~~[or destroy]~~ a dog or cat for any purpose other than scientific, medical or educational research ~~[shall.]~~ may, before euthanizing [or destroying] the dog or cat, offer the dog or cat [to an animal shelter or rescue organization] for adoption [.] if the dog or cat is appropriate for adoption. A research facility [for product testing facility] may offer the dog or cat for adoption through a program of the research facility or enter into a collaborative agreement with an animal shelter [or] that performs the work of an animal rescue organization or an animal rescue organization for the purpose of carrying out the provisions of this subsection. Any such animal shelter or animal rescue organization must be domiciled in Nevada and exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

2. ~~[A research facility or product testing facility is not required to offer a dog or cat to an animal shelter or rescue organization pursuant to subsection 1 if the dog or cat:~~

~~— (a) Manifests a behavioral or temperamental defect that poses a risk to the health and safety of the public;~~

~~— (b) Manifests symptoms of a disease, injury or congenital or hereditary condition that adversely affects, or is likely to adversely affect, the health of the dog or cat; or~~

~~— (c) Is a newborn dog or cat in need of maternal care and has been impounded by the research facility or product testing facility without its mother.~~

~~3. A research facility or product testing facility shall not conduct research on any dog or cat for a period of more than 2 years.~~

~~4.] A research facility and any officer, director, employee or agent of the research facility is immune from civil liability for any act or omission relating to the adoption of a dog or cat pursuant to subsection 1.~~

3. ~~As used in this section [~~

~~(a) "Animal shelter or], "animal rescue organization" means a nonprofit organization established for the purpose of rescuing animals in need and finding permanent, adoptive homes for such animals.~~

~~[(b) "Institution of higher education" has the meaning ascribed to it in NRS 385.102.~~

~~(c) "Product testing facility" means a facility that:~~

~~— (1) Is privately owned or funded; or~~

~~(2) Receives public funding, including, without limitation, any subsidy, grant or tax exemption, either directly or indirectly, through collaboration with an institution of higher education;~~

~~that is engaged in animal research for the purpose of testing a product's performance, safety, quality and compliance with established standards.~~

~~(d) "Research facility" means:~~

~~(1) A department, branch or other subsidiary of an institution of higher education; or~~

~~(2) A facility that receives public funding, including, without limitation, any subsidy, grant or tax exemption, either directly or indirectly, through collaboration with an institution of higher education;~~

~~that is engaged in animal research for scientific, medical or educational purposes.~~

Sec. 2. NRS 574.050 is hereby amended to read as follows:

574.050 As used in NRS 574.050 to 574.200, inclusive [], and section 1 of this act:

1. "Animal" does not include the human race, but includes every other living creature.

2. "First responder" means a person who has successfully completed the national standard course for first responders.

3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.

4. "Research facility" means an organization that is engaged in:

(a) Animal research for the purpose of testing the performance, safety or quality of a product; or

(b) Scientific research for scientific, medical or educational purposes.

5. "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

Sec. 3. NRS 574.200 is hereby amended to read as follows:

574.200 1. The provisions of NRS 574.050 to 574.510, inclusive, and section 1 of this act do not:

~~{1}~~ (a) Interfere with any of the fish and game laws contained in title 45 of NRS or any laws for the destruction of certain birds.

~~{2}~~ (b) Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.

~~{3}~~ (c) Interfere with the right to kill all animals and fowl used for food.

~~{4}~~ (d) Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this State.

~~{5}~~ (e) Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.

~~{6-}~~ (f) Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

2. Nothing contained in subsection 1 shall be deemed to exclude a research facility from the provisions of section 1 of this act.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Amendment No. 418 to Senate Bill No. 261 provides that a research facility that intends to euthanize a dog or cat may instead offer it for adoption through a program of the research facility or through an agreement with an animal shelter or animal rescue organization, if the dog or cat is appropriate for adoption.

The amendment also provides that a research facility and any officer, director, employee or agent is immune from civil liability for any act or omission relating to the adoption of a dog or cat.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 289.

Bill read second time.

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

Amendment No. 472.

SUMMARY—Revises provisions relating to the ~~{protection—of technology—}~~ Information Technology Advisory Board. (BDR ~~{19-892}~~) S-892)

AN ACT relating to ~~{homeland security;}~~ the Information Technology Advisory Board; requiring ~~{each provider of Internet protocol service which serves an agency or political subdivision of this State to maintain certain peering arrangements within this State;}~~ the Board to conduct a study of peering that includes an analysis of potential benefits of peering arrangements to the State and its political subdivisions; requiring the Board to submit a report of its study to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the ~~{Nevada Commission on Homeland Security and requires the Commission to make recommendations with respect to actions and measures to protect residents of this State and visitors to this State from potential acts of terrorism and related emergencies. (NRS 239C.120, 239C.160)}~~ Information Technology Advisory Board which has various duties relating to information technology. (NRS 242.122, 242.124) This bill requires ~~{each provider of Internet protocol service which serves an agency or political subdivision of this State to interconnect and maintain a peering arrangement within this State with all other such providers of Internet protocol service.}~~ the Board to: (1) conduct a study of peering, including an analysis of potential benefits of peering arrangements to the State and its

political subdivisions; and (2) submit a report of its findings, including any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

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

Section 1. ~~{Chapter 239C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.}~~ (Deleted by amendment.)

Sec. 2. ~~{The Legislature hereby finds and declares that:~~

~~1. Physical and digital risks inherent in the use of an unnecessarily indirect path for the delivery of Internet protocol service threatens the security of the State's communications and computer systems, and these threats can be avoided by peering between providers of Internet protocol service which serve this State and other providers of Internet protocol service within this State.~~

~~2. Peering between providers of Internet protocol service which serve this State and other providers of Internet protocol service within this State increases redundancy and resiliency, enables more efficient control of the routing of network traffic, improves performance and avoids natural and man made risks and data security issues inherent in the interstate transmission of data belonging to this State.~~

~~3. It is necessary for the protection of the residents of this State to ensure that the State receives Internet protocol service from providers which use reasonably current technology to deliver service through a geographically proximate and reasonably direct path.}~~ (Deleted by amendment.)

Sec. 3. ~~{As used in sections 2 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 and 5 of this act have the meanings ascribed to them in those sections.}~~ (Deleted by amendment.)

Sec. 4. ~~{ "Internet protocol service" has the meaning ascribed to "Internet protocol enabled service" in paragraph (a) of subsection 3 of NRS 704.685, except that the term includes Voice over Internet protocol service as defined in paragraph (b) of subsection 3 of NRS 704.685.}~~ (Deleted by amendment.)

Sec. 5. ~~{ "Peering" means the voluntary physical interconnection of administratively separate Internet networks for the purpose of exchanging traffic between the users of each network.}~~ (Deleted by amendment.)

Sec. 6. ~~{1. Each provider of Internet protocol service which serves any agency or political subdivision of this State shall interconnect and maintain a peering arrangement within this State with all other providers of Internet protocol service which serve any agency or political subdivision of this State.~~

~~2. An agency or political subdivision of this State may not obtain Internet protocol service from a provider of Internet protocol service if the provider has not complied with the provisions of subsection 1.}~~ (Deleted by amendment.)

~~Sec. 7. [1. Except as otherwise provided in this section, the provisions of sections 2 to 6, inclusive, of this act do not apply to or otherwise affect a contract or other agreement for the provision of Internet protocol service entered into before October 1, 2015.~~

~~2. Each agency and political subdivision of this State shall, as soon as practicable, take all action necessary to ensure that it obtains Internet protocol service only from providers of Internet protocol service which comply with the provisions of subsection 1 of section 6 of this act.~~

~~3. On or before December 31, 2016, each agency and political subdivision of this State shall terminate any contract or other agreement for the provision of Internet protocol service from a provider of Internet protocol service who does not comply with the provisions of subsection 1 of section 6 of this act.] (Deleted by amendment.)~~

Sec. 8. 1. The Information Technology Advisory Board created by NRS 242.122 shall conduct a study of peering that includes, without limitation, an analysis of potential benefits of peering arrangements to the State and its political subdivisions.

2. In carrying out its duties pursuant to this section, the Board may hold meetings that are in addition to the meetings that the Board is required to hold pursuant to NRS 242.123.

3. The Board shall submit a report of its findings, including, without limitation, any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature.

4. As used in this section:

(a) "Peering" means the voluntary physical interconnection of administratively separate Internet networks for the purpose of exchanging traffic between the users of each network.

(b) "Political subdivision" means a city or county of this State.

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

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

The amendment to Senate Bill No. 289 deletes all of the bill and instead requires the Information Technology Advisory Board to conduct a study of peering that includes, without limitation, an analysis of potential benefits of peering arrangements to the State and its political subdivisions. The Board is required to submit a related report to the Legislature.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 293.

Bill read second time.

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

Amendment No. 316.

SUMMARY—Revises provisions relating to the disposition of unspent campaign contributions. (BDR 24-596)

AN ACT relating to campaign practices; requiring certain persons who do not file declarations of candidacy or acceptances of candidacy or appear on an election ballot within a certain period to dispose of unspent contributions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person becomes a candidate if: (1) he or she files a declaration of candidacy or an acceptance of candidacy; (2) his or her name appears on an official ballot at any election; or (3) he or she receives contributions in excess of \$100. (NRS 294A.005) Section ~~1~~ 2 of this bill provides that a person including a former public officer, who qualifies as a candidate by receiving one or more contributions in excess of \$100 must dispose of ~~the~~ any unspent contributions within ~~2~~ 4 years after the ~~receipt of such~~ date of receiving the first of those contributions if the person does not: (1) file a declaration or acceptance of candidacy; or (2) appear on an official ballot at any election ~~held in this State~~.

Section ~~2~~ 3 of this bill ~~requires~~ provides that certain former public officers ~~who have any unspent contributions must, on or before September 30, 2017, to:~~ (1) file a declaration or acceptance of candidacy; (2) appear on an official ballot at any election held in this State; or (3) dispose of the unspent contributions. Section ~~2~~ 3 also provides that such former public officers are subject to campaign finance reporting requirements for as long as they have any unspent contributions.

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

Section 1. NRS 294A.005 is hereby amended to read as follows:

294A.005 "Candidate" means any person:

1. Who files a declaration of candidacy;
2. Who files an acceptance of candidacy;
3. Whose name appears on an official ballot at any election; or
4. Who has received one or more contributions in excess of \$100,

regardless of whether:

(a) The person has filed a declaration of candidacy or an acceptance of candidacy; or

(b) The name of the person appears on an official ballot at any election.

~~Section 1.~~ *Sec. 2.* NRS 294A.160 is hereby amended to read as follows:

294A.160 1. It is unlawful for a candidate to spend money received as a contribution for the candidate's personal use.

2. Notwithstanding the provisions of NRS 294A.286, a candidate or public officer may use contributions to pay for any legal expenses that the candidate or public officer incurs in relation to a campaign or serving in public office without establishing a legal defense fund. Any such candidate or public officer shall report any expenditure of contributions to pay for legal

expenses in the same manner and at the same time as the report filed pursuant to NRS 294A.120 or 294A.200. A candidate or public officer shall not use contributions to satisfy a civil or criminal penalty imposed by law.

3. Every candidate for office at a primary election, general election or special election who is elected to that office and received contributions that were not spent or committed for expenditure before the primary election, general election or special election shall dispose of the money through one or any combination of the following methods:

(a) Return the unspent money to contributors;

(b) Use the money in the candidate's next election or for the payment of other expenses related to public office or his or her campaign, regardless of whether he or she is a candidate for a different office in the candidate's next election;

(c) Contribute the money to:

(1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;

(2) A political party; or

(3) Any combination of persons or groups set forth in subparagraphs (1) and (2);

(d) Donate the money to any tax-exempt nonprofit entity; or

(e) Donate the money to any governmental entity or fund of this State or a political subdivision of this State. A candidate who donates money pursuant to this paragraph may request that the money be used for a specific purpose.

4. Every candidate for office at a primary election, general election or special election who withdraws pursuant to NRS 293.202 or 293C.195 after filing a declaration of candidacy or an acceptance of candidacy, is removed from the ballot by court order or is defeated for or otherwise not elected to that office and who received contributions that were not spent or committed for expenditure before the primary election, general election or special election shall, not later than the 15th day of the second month after the election, dispose of the money through one or any combination of the following methods:

(a) Return the unspent money to contributors;

(b) Contribute the money to:

(1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;

(2) A political party; or

(3) Any combination of persons or groups set forth in subparagraphs (1) and (2);

(c) Donate the money to any tax-exempt nonprofit entity; or

(d) Donate the money to any governmental entity or fund of this State or a political subdivision of this State. A candidate who donates money pursuant to this paragraph may request that the money be used for a specific purpose.

5. Every candidate for office who withdraws after filing a declaration of candidacy or an acceptance of candidacy, is defeated for that office at a

primary election or is removed from the ballot by court order before a primary election or general election and who received a contribution from a person in excess of \$5,000 shall, not later than the 15th day of the second month after the primary election or general election, as applicable, return any money in excess of \$5,000 to the contributor.

6. ~~Except as otherwise provided in~~ for a former public officer who is subject to the provisions of subsection 10, a ~~10, every person who qualifies as a candidate by receiving one or more qualifying contributions in excess of \$100 but who, within 4 years after the date of receiving the first of those qualifying event, contributions, does not:~~

(a) File a declaration of candidacy or an acceptance of candidacy; or
 (b) Appear on an official ballot at any election,
 ➤ shall, not later than the 15th day of the month after the end of the ~~2-year~~ 4-year period, dispose of all contributions that have not been spent or committed for expenditure through one or any combination of the methods set forth in subsection 4.

7. Except as otherwise provided in ~~subsections 7 and~~ subsection 8, every public officer who:

(a) Does not run for reelection to the office which he or she holds ~~and is~~ :
 (b) Is not a candidate for any other office ~~and~~ and does not qualify as a candidate by receiving one or more qualifying contributions in excess of \$100; and

~~(b)~~ (c) Has contributions that are not spent or committed for expenditure remaining from a previous election,
 ➤ shall, not later than the 15th day of the second month after the expiration of the public officer's term of office, dispose of those contributions in the manner provided in subsection 4.

~~[7. 8. A.]~~

8. Every public officer who:

(a) Resigns from his or her office;
 (b) Is not a candidate for any other office ~~and~~ and does not qualify as a candidate by receiving one or more qualifying contributions in excess of \$100; and

(c) Has contributions that are not spent or committed for expenditure remaining from a previous election,
 ➤ shall, not later than the 15th day of the second month after the effective date of the resignation, dispose of those contributions in the manner provided in subsection 4.

~~[8. 9. A.]~~

9. Except as otherwise provided in subsection 10, every public officer who:

(a) Does not run for reelection to the office which he or she holds ~~and is~~ or who resigns from his or her office;

(b) Is a candidate for any other office ~~[-]~~ or qualifies as a candidate by receiving one or more qualifying contributions in excess of \$100; and

~~[(b)]~~ (c) Has contributions that are not spent or committed for expenditure remaining from a previous election,

➔ may use the unspent contributions in a future election. Such a public officer is subject to the reporting requirements set forth in NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.362 for as long as the public officer is a candidate for any office ~~[-]~~

~~—9.]~~ or qualifies as a candidate by receiving one or more qualifying contributions in excess of \$100.

10. Every former public officer described in subsection 9 who qualifies as a candidate by receiving one or more qualifying contributions in excess of \$100 but who, within 4 years after the date of receiving the first of those qualifying contributions, does not:

(a) File a declaration of candidacy or an acceptance of candidacy; or

(b) Appear on an official ballot at any election,

➔ shall, not later than the 15th day of the month after the end of the 4-year period, dispose of all contributions that have not been spent or committed for expenditure through one or any combination of the methods set forth in subsection 4.

11. In addition to the methods for disposing of the unspent money set forth in ~~[subsections 3, 4, 5, 7 and 8,]~~ this section, a Legislator may donate not more than \$500 of that money to the Nevada Silver Haired Legislative Forum created pursuant to NRS 427A.320.

~~[10. 11.]~~ 12. Any contributions received before a candidate for office at a primary election, general election or special election dies that were not spent or committed for expenditure before the death of the candidate must be disposed of in the manner provided in subsection 4.

~~[11. 12.]~~ 13. The court shall, in addition to any penalty which may be imposed pursuant to NRS 294A.420, order the candidate or public officer to dispose of any remaining contributions in the manner provided in this section.

~~[12. 13.]~~ 14. As used in this section ~~[-, "contributions" include]~~ :

(a) ~~["Contributions"]~~ "Contribution" includes, without limitation, any interest and other income earned ~~[thereon.]~~ on a contribution.

(b) ~~"Qualifying event"]~~ "contribution" means the receipt of a contribution that causes a person to qualify as a candidate pursuant to subsection 4 of NRS 294A.005.

~~[Sec. 2.]~~ Sec. 3. 1. ~~[-A.]~~ Notwithstanding the provisions of NRS 294A.160, as amended by section 2 of this act, or any other provisions of law, a former public officer shall, on or before September 30, 2017:

(a) File a declaration of candidacy or acceptance of candidacy;

(b) Appear on an official ballot at any election held in the State; or

(c) Dispose of unspent contributions through one or any combination of the methods set forth in subsection 4 of NRS 294A.160.

2. A former public officer is subject to the reporting requirements set forth in chapter 294A of NRS for as long as the former public officer has unspent contributions. The provisions of this subsection apply to contributions remaining from a previous election and contributions that the former public officer has received since the expiration of his or her term of office.

3. A former public officer who violates a provision of this section is subject to the same penalties and procedure as if the person had violated the provisions of chapter 294A of NRS. In enforcing the provisions of this section, the Secretary of State has the powers prescribed in NRS 294A.410 and 294A.420.

4. As used in this section:

(a) ~~["Contributions"]~~ "Contribution" has the meaning ascribed to it in NRS 294A.007 and includes , without limitation, any interest and other income earned ~~thereon~~ on a contribution.

(b) "Former public officer" means a person who, on October 1, 2015:

(1) Previously held a state, district, county, city or township office;

(2) Does not currently hold that or any other office; and

(3) Has contributions that are not spent or committed for expenditure remaining from a previous election.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

This amendment to Senate Bill No. 293 does two things: it clarifies the definition of "candidate" in chapter 294A of NRS and changes the time frame within the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 312.

Bill read second time.

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

Amendment No. 473.

SUMMARY—Revises provisions relating to certain taxes. (BDR 21-834)

AN ACT relating to taxing districts; requiring a city that has created a taxing district to improve and maintain publicly owned facilities for tourism and entertainment to impose, in addition to any other surcharge, a surcharge on the per night charge for the rental of a room in a hotel in the district other than a hotel that holds a nonrestricted gaming license; requiring a city that has created such a taxing district to impose, in addition to any other surcharge, a surcharge on the per night charge for the rental of a room in a hotel in the district; providing that the money collected from the ~~surcharge~~ surcharges must be used by the city or the county fair and recreation board, as applicable, only ~~to pay the costs of advertising, publicizing and promoting the recreational facilities located in the district,~~ for specified purposes; creating in a county in which is located a city that has created a

taxing district to improve and maintain publicly owned facilities for tourism and entertainment a ~~[similar]~~ district for the promotion of tourism comprised of ~~[all]~~ certain property within the county, including property located within any city in the county, other than property located in the district created by the city; ~~[creating a governing body for the district;]~~ requiring the ~~[governing body of the district]~~ board of county commissioners of the county to prescribe the boundaries of the district and impose a surcharge on the per night charge for the rental of a room in a hotel in the district ~~[that holds a nonrestricted gaming license; prescribing the uses of]~~ ; providing that the money collected from the surcharge ~~[;]~~ must be used by the county or the county fair and recreation board, as applicable, only for specified purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of a city whose population is 220,000 or more in a county whose population is 100,000 or more but less than 700,000 (currently only the City of Reno) by ordinance to create a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment. Existing law requires that such an ordinance be approved by a two-thirds majority of the members of the governing body. Existing law also requires that the ordinance impose a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district that holds a nonrestricted gaming license and provides that the proceeds of the surcharge must be used by the city solely to pay the cost of improving and maintaining publicly owned facilities for tourism and entertainment in the district or within 1 mile outside the boundaries of the district, except for a minor league baseball stadium. (NRS 268.798)

Section 1.3 of this bill requires the governing body of a city that has created a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment to impose a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district, other than a hotel that holds a nonrestricted gaming license. Section ~~[1]~~ 1.5 of this bill requires the governing body of a city that has created such a district to impose an additional surcharge of \$1 on the per night charge for the rental of a room in a hotel in the district ~~[that holds a nonrestricted gaming license.]~~ If the city is located in a county in which a county fair and recreation board has been created, ~~[section 1 requires]~~ sections 1.3 and 1.5 require the city to transfer to the county fair and recreation board any money collected from the ~~[additional surcharge.]~~ surcharges imposed pursuant to those sections. If a county fair and recreation board has not been created, ~~[section 1 requires]~~ sections 1.3 and 1.5 require the city to keep the money collected from the ~~[surcharge, but in either event the money collected from the surcharge must be used by the county fair and recreation board or the city, as applicable, only to pay the costs of advertising, publicizing and promoting the recreational facilities located in~~

the district.] surcharges and expend the money only for certain purposes relating to the promotion of tourism.

In any county in which is located a city that has created a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment, section 4 of this bill creates a district ~~[to advertise, publicize and promote the recreational facilities located in the district and to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment in the district.]~~ for the promotion of tourism in the region. Section 4 also ~~[creates a governing body of the district and]~~ requires the ~~[governing body of the district]~~ board of county commissioners to adopt ~~[a resolution]~~ an ordinance prescribing the boundaries of the district, which must include within its boundaries all property : (1) which is located in the county and located in any city in the county other than property that is located within a district created by a city to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment. ~~[.]~~ ; and (2) which is located not more than 20 miles from the boundaries of any such district created by a city. Section 4 ~~[requires the governing body of the district to impose by resolution]~~ imposes a \$3 surcharge on the per night charge for the rental of a room in a hotel in the district ~~[that holds a nonrestricted gaming license.~~ Section 4 ~~provides that: (1) one third of the amount collected from the surcharge must be used by the governing body solely to pay the costs for advertising, publicizing and promoting the recreational facilities located in the district; and (2) two thirds of the amount collected must be used by the governing body solely to pay the cost of improving and maintaining publicly owned facilities for tourism and entertainment in the district, except for a minor league baseball stadium.]~~ and requires the board of county commissioners to transfer the money collected from the surcharge to the county fair and recreation board, if a county fair and recreation board has been created in the county. If a county fair and recreation board has not been created, section 4 requires the board of county commissioners to keep the money and prescribes the purposes for which the board of county commissioners may expend the money.

Section 4.5 of this bill requires a county fair and recreation board that receives any money from the surcharge imposed pursuant to section 1.3, 1.5 or 4 to create an account into which all such money must be deposited. Section 4.5 authorizes the board to expend the money to implement a strategic plan for the promotion of tourism in the region. Section 4.5 also requires the board, every 5 years, to prepare and submit to the Legislature a report concerning the expenditure by the board of any money received from the surcharge imposed pursuant to sections 1.3, 1.5 and 4.

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

Section 1. Chapter 268 of NRS is hereby amended by adding thereto ~~the provisions set forth as sections 1.3 and 1.5 of this act.~~ the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. 1. In a city in which a district is created and a surcharge is imposed pursuant to NRS 268.798, the governing body shall, in addition to the surcharge imposed pursuant to that section and section 1.5 of this act, impose a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district other than a hotel that holds a nonrestricted gaming license. The surcharge must not be applied for any time during which the room is provided to a guest free of charge.

2. The proceeds of the surcharge imposed pursuant to this section must be collected by the city and:

(a) If the city is located in a county in which a county fair and recreation board has been created pursuant to NRS 244A.597 to 244A.655, inclusive, the city shall transfer to the county fair and recreation board all money collected from the surcharge imposed pursuant to this section. The money must be deposited in the account created pursuant to section 4.5 of this act and used only for the purposes set forth in that section.

(b) If the city is located in a county in which a county fair and recreation board has not been created, the money collected must be retained by the city, accounted for separately and, except as otherwise provided in subsection 3, used solely to pay the costs for:

(1) The acquisition, construction and maintenance of public recreational facilities located in the district;

(2) Advertising, publicizing and promoting the public recreational facilities located in the district; and

(3) Projects designed to encourage tourism or to improve access by tourists to airports located in the county in which the district is located.

3. The proceeds of the surcharge and any interest or income earned on such money may not be used for the purposes of promoting or marketing professional bowling.

4. Except as otherwise provided in paragraph (a) of subsection 2, the proceeds of the surcharge must not be transferred to any other fund or account or used for any other purpose.

Sec. 1.5. 1. In a city in which a district is created and a surcharge is imposed pursuant to NRS 268.798, the governing body shall, in addition to the surcharge imposed pursuant to that section ~~1.3~~ and section 1.3 of this act, impose a surcharge of \$1 on the per night charge for the rental of a room in a hotel in the district ~~that holds a nonrestricted gaming license.~~ The surcharge must not be applied for any time during which the room is provided to a guest free of charge.

2. The proceeds of the surcharge imposed pursuant to this section must be collected by the city and:

(a) If the city is located in a county in which a county fair and recreation board has been created pursuant to NRS 244A.597 to 244A.655, inclusive,

the city shall transfer to the county fair and recreation board all money collected from the surcharge imposed pursuant to this section. The money must be ~~accounted for separately and used by the county fair and recreation board solely to pay the costs for advertising, publicizing and promoting the recreational facilities located in the district.~~ deposited in the account created pursuant to section 4.5 of this act and used only for the purposes set forth in that section.

(b) If the city is located in a county in which a county fair and recreation board has not been created, the money collected must be retained by the city, accounted for separately and , except as otherwise provided in subsection 3, used solely to pay the costs for ~~advertising,~~ :

(1) The acquisition, construction and maintenance of public recreational facilities located in the district;

(2) Advertising, publicizing and promoting the public recreational facilities located in the district ~~++~~ ; and

(3) Projects designed to encourage tourism or to improve access by tourists to airports located in the county in which the district is located.

3. The proceeds of the surcharge and any interest or income earned on such money may not be used for the purposes of promoting or marketing professional bowling.

4. Except as otherwise provided in paragraph (a) of subsection 2, the proceeds of the surcharge must not be transferred to any other fund or account or used for any other purpose.

Sec. 2. NRS 268.798 is hereby amended to read as follows:

268.798 1. The governing body of a city whose population is 220,000 or more in a county whose population is 100,000 or more but less than 700,000 may by ordinance create a district to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment. Such an ordinance must be approved by a two-thirds majority of the members of the governing body.

2. The boundaries of a district created pursuant to subsection 1 must be as prescribed by the governing body in the ordinance creating the district, except that the boundaries must include only property that is located in or within 4 city blocks, as determined by the governing body, of a district described in NRS 268.780 to 268.785, inclusive.

3. An ordinance enacted pursuant to subsection 1 must impose a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district that holds a nonrestricted gaming license. The surcharge must not be applied for any time during which the room is provided to a guest free of charge.

4. The proceeds of the surcharge imposed pursuant to this section must be retained by the city and must be used by the city solely to pay the cost of improving and maintaining publicly owned facilities for tourism and entertainment in the district or within 1 mile outside the boundaries of the district, except for a minor league baseball stadium project as defined in

NRS 244A.0344. The proceeds of the surcharge must not be transferred to any other fund or account or used for any other purpose.

5. On or before January 15, 2030, the governing body of a city that has created a district pursuant to this section shall submit a report concerning the district to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must:

(a) Address, without limitation ~~[- the]~~ :

(1) *The total amount collected from the surcharge imposed pursuant to this section and all the projects undertaken to improve and maintain the publicly owned facilities for tourism and entertainment in the district.*

(2) *The total amount collected from the ~~surcharge~~ surcharges imposed ~~pursuant to section 1~~ by sections 1.3 and 1.5 of this act and ~~the total amount~~, if applicable, expended by the city ~~for the county fair and recreation board, as applicable, for advertising, publicizing and promoting the recreational facilities located in the district~~ for the purposes authorized by those sections.*

(b) Cover the period between the creation of the district until the end of the calendar year immediately preceding the submission of the report.

Sec. 3. NRS 244.3359 is hereby amended to read as follows:

244.3359 1. A county whose population is 700,000 or more shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991, except pursuant to NRS 244.3351, 244.3352 and 244.33561.

2. A county whose population is 100,000 or more but less than 700,000 shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991, except pursuant to NRS 244.33561 ~~[-] and section 4 of this act.~~

3. Except as otherwise provided in subsection 2 and NRS 387.191, the Legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended except to allow the imposition of an increase in such a tax for the promotion of tourism or for the construction or operation of tourism facilities by a convention and visitors authority.

Sec. 3.5. Chapter 244A of NRS is hereby amended by adding thereto the provisions set forth in sections 4 and 4.5 of this act.

Sec. 4. ~~[Chapter 271A of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. *In a county in which is located a city that has created a district and imposed a surcharge pursuant to NRS 268.798, there is hereby ~~created:~~*

~~=(a) A:]~~

~~(a) Created a district ~~to advertise, publicize and promote the recreational facilities located in the district and to finance capital projects necessary to improve and maintain publicly owned facilities for tourism and entertainment in the district; and~~~~

~~=(b) A governing body of the district, composed of the following members:~~

~~(1) One member of the board of county commissioners, appointed by the board of county commissioners;~~

~~(2) One member of the governing body of each city in the county, appointed by the governing body of the respective city; and~~

~~(3) Two members who are not elected officials, appointed by the Nevada Resort Association, or its successor organization.~~

~~2. The board of county commissioners shall call the first meeting of the governing body of the district, which must be held on or before October 1, 2015. At the first meeting of the governing body, the governing body of the district shall by resolution:~~

~~(a) Prescribe the boundaries of the district created pursuant to subsection 1, which:~~

~~(1) Must include within it all property within the county and within each city in the county that is not located within a district created pursuant to NRS 268.798; and~~

~~(2) Must not include within it any property located within a district created pursuant to NRS 268.798.~~

~~(b) Impose for the promotion of tourism; and~~

~~(b) Imposed a surcharge of \$3 on the per night charge for the rental of a room in a hotel in the district, [that holds a nonrestricted gaming license.] The surcharge must not be applied for any time during which the room is provided to a guest free of charge.~~

~~[(c) Prescribe a schedule for the collection of the surcharge imposed pursuant to paragraph (b).]~~

2. As soon as practicable on or after July 1, 2015, but on or before October 1, 2015, the board of county commissioners shall adopt an ordinance:

(a) Prescribing the boundaries of the district created by paragraph (a) of subsection 1, which:

(1) Must include within it all property within the county and within each city in the county that is:

(I) Not located within a district created pursuant to NRS 268.798; and

(II) Located not more than 20 miles from the boundaries of a district created pursuant to NRS 268.798; and

(2) Must not include within it any property located within a district created pursuant to NRS 268.798; and

(b) Prescribing a schedule for the collection of the surcharge imposed by paragraph (b) of subsection 1.

3. The surcharge imposed [pursuant to] by this section is in addition to any other license fee, tax or surcharge imposed on the revenues from the rental of transient lodging. The surcharge must be collected by the county in accordance with the schedule prescribed by the [governing body of the district. The proceeds] ordinance adopted pursuant to subsection 2 and:

(a) If the board of county commissioners has created a county fair and recreation board pursuant to NRS 244A.597 to 244A.655, inclusive, the county shall transfer to the county fair and recreation board all money collected from the surcharge imposed pursuant to this section. The money must be deposited in the account created pursuant to section 4.5 of this act and used only for the purposes set forth in that section.

(b) If the board of county commissioners has not created a county fair and recreation board, the money collected from the surcharge imposed pursuant to this section must be ~~transferred~~ retained by the county, accounted for separately and, except as otherwise provided in this paragraph, used solely to pay the ~~governing body of the district~~. The county shall not retain any of the proceeds from the surcharge. From the proceeds of the surcharge imposed pursuant to this section:

~~(a) One third of the amount collected must be used by the governing body solely to pay the costs for ~~advertising~~;~~

(1) The acquisition, construction and maintenance of public recreational facilities located in the district;

(2) Advertising, publicizing and promoting the public recreational facilities located in the district;

~~(b) Two thirds of the amount collected must be used by the governing body solely to pay the cost of improving and maintaining publicly owned facilities for tourism and entertainment in the district, except for a minor league baseball stadium project as defined in NRS 244A.0344; and~~

(3) Projects designed to encourage tourism or to improve access by tourists to airports located in the county in which the district is located.

↪ The proceeds of the surcharge and any interest or income earned on such money may not be used for the purposes of promoting or marketing professional bowling.

4. ~~The~~ Except as otherwise provided in paragraph (a) of subsection 3, the proceeds of the surcharge imposed ~~pursuant to~~ by this section must not be transferred to any other fund or account or used for any other purpose other than the purposes specified in subsection 3.

5. The ~~resolution~~ ordinance adopted by the ~~governing body of the district~~ board of county commissioners must provide that if the surcharge imposed ~~pursuant to~~ by this section is not paid within the time set forth in the schedule for payment, the ~~governing body~~ county shall charge and collect in addition to the surcharge:

(a) A penalty of not more than 10 percent of the amount due, exclusive of interest, or an administrative fee established by the ~~governing body~~ board of county commissioners, whichever is greater; and

(b) Interest on the amount due at the rate of not more than 1.5 percent per month or fraction thereof from the date on which the surcharge became due until the date of payment.

~~6. On or before January 15, 2030, the governing body of a district created pursuant to this section shall submit a report concerning the district~~

~~to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must:~~

~~(a) Address, without limitation, the total amount collected from the surcharge imposed pursuant to this section and:~~

~~(1) The total amount expended for advertising, publicizing and promoting the recreational facilities located in the district.~~

~~(2) The total amount expended on all the projects undertaken to improve and maintain the publicly owned facilities for tourism and entertainment in the district.~~

~~(b) Cover the period between the creation of the district until the end of the calendar year immediately preceding the submission of the report.]~~

Sec. 4.5. 1. A county fair and recreation board that receives any proceeds of the surcharges imposed pursuant to section 1.3, 1.5 or 4 of this act shall create an account administered by the board and deposit into such account all proceeds received by the board from the surcharges imposed pursuant to sections 1.3, 1.5 and 4 of this act. The money in the account, including any interest and income earned on such money, must not be transferred to any other fund or account or used for any purpose other than the purposes set forth in subsection 2.

2. All money received by a county fair and recreation board from the proceeds of the surcharges imposed pursuant to sections 1.3, 1.5 and 4 of this act must be used to implement a strategic plan for the promotion of tourism in the region. The strategic plan:

(a) Except as otherwise provided in paragraph (b), may provide for the expenditure of any money received from the proceeds of the surcharges imposed pursuant to sections 1.3, 1.5 and 4 of this act:

(1) For the purposes set forth in NRS 244A.597.

(2) For the maintenance of public recreational facilities located in the county which are owned by the county or an incorporated city in the county or under the control of the county fair and recreation board.

(3) To carry out projects designed to encourage tourism or to improve access by tourists to airports located in the county.

(4) To solicit and promote tourism, gaming and the use of public recreational facilities of the community or area, which may include advertising the facilities under the control of the county fair and recreation board and the resources of the community or area, including tourist accommodations, transportation, entertainment, gaming and climate. Such advertising may be done jointly with a private enterprise. The county fair and recreation board may enter into contracts for advertising pursuant to this subparagraph and pay the cost of the advertising, including a reasonable commission.

(5) For any other purpose identified in the strategic plan.

(b) May not provide for the expenditure of any money received from the proceeds of the surcharges imposed pursuant to sections 1.3, 1.5 and 4 of

this act for the operational expenses of the county fair and recreation board or for the purposes of promoting or marketing professional bowling.

3. On or before January 15, 2021, and on or before January 15 of each fifth year thereafter, a county fair and recreation board that receives any money from the surcharge imposed and collected pursuant to section 1.3, 1.5 or 4 of this act shall prepare and submit to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature a written report which must:

(a) Address, without limitation, the total amount received from the surcharges imposed pursuant to sections 1.3, 1.5 and 4 of this act;

(b) Address, without limitation, the total amount expended by the board to carry out the purposes set forth in this section; and

(c) Cover the 5-year period immediately preceding the submission of the report.

Sec. 5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 6. This act becomes effective on July 1, 2015.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

Senate Bill No. 312 currently impacts the City of Reno and Washoe County. The amendment addresses concerns raised by properties in different areas of Washoe County. It requires the governing body of a city that has created a certain taxing district to improve and maintain publicly-owned facilities for tourism and entertainment to impose a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district, other than a hotel that holds a nonrestricted gaming license.

The amendment also narrows the applicability of the \$3 surcharge on the per night charge for the rental of a room in a hotel in the new district that was originally provided for in the bill, to a hotel in the new district, but outside of the district currently existing, and located within 20 miles of the boundaries of the existing district. This excludes properties such as those in Incline Village, Crystal Bay and Gerlach.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 386.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 417.

SUMMARY—Revises provisions relating to motor vehicles. (BDR 40-675)

AN ACT relating to motor vehicles; revising provisions ~~governing the~~ relating to authorized inspection stations that conduct ~~of the inspection~~ inspections of certain motor vehicles for compliance with pollution control device and exhaust emissions standards; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law the State Environmental Commission, in cooperation with the Department of Motor Vehicles and any local pollution control agency, is required to adopt regulations for: (1) the control of emissions from motor vehicles in certain areas of any county whose population is 100,000 or more (currently Clark and Washoe Counties); and (2) the control of emissions from motor vehicles in certain areas of any county whose population is less than 100,000 if certain determinations about feasibility, practicality and air quality are made by the Commission. (NRS 445B.770) The Department, in cooperation with the Commission, is required to adopt regulations which prescribe the manner in which authorized inspection stations, authorized stations and fleet stations inspect motor vehicles and issue evidence of compliance with the pollution control device and exhaust emissions standards prescribed by the Commission. (NRS 445B.785) This bill ~~requires that a person conducting such an inspection first look to see~~ provides that the regulations adopted by the Department, in cooperation with the Commission, must require that each authorized inspection station display conspicuously, in an area of the inspection station frequented by persons seeking inspection of a motor vehicle, a sign informing such persons that a motor vehicle likely will not pass the inspection if the malfunction illumination light, commonly known as the "check engine light," is on while the engine is running. ~~[If the light is on, the inspector must end the inspection and notify the person who brought the motor vehicle for inspection that:~~ (1) the malfunction illumination light is on; (2) the motor vehicle will not pass the inspection with that light on; and (3) there will be no charge for the inspection because the inspection cannot proceed while.] Additionally, this bill provides that the regulations must require an employee or agent of each authorized inspection station, before conducting an inspection of a motor vehicle, to inform the person seeking the inspection that the motor vehicle likely will not pass the inspection if the malfunction illumination light is on ~~[.] while the engine is running.~~

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

Section 1. NRS 445B.785 is hereby amended to read as follows:

445B.785 1. The Department of Motor Vehicles shall, in cooperation with the Commission, adopt regulations which:

(a) Prescribe requirements for licensing authorized inspection stations, authorized maintenance stations, authorized stations and fleet stations. The regulations adopted pursuant to this paragraph must provide that a facility licensed as an authorized inspection station:

(1) Except as otherwise provided in subparagraph (2), ~~and paragraph (b),~~ may not, unless specifically authorized by the Commission, install, repair, diagnose or adjust any component or system of a motor vehicle that affects exhaust emissions.

(2) May perform the following activities in connection with a motor vehicle:

(I) The changing of oil;
 (II) The replacing of an oil filter, air filter, fuel filter, belt or hose; and
 (III) The servicing of a fuel injection system using methods approved by the Division of Environmental Protection of the State Department of Conservation and Natural Resources.

(3) Shall display conspicuously, in areas of the authorized inspection station frequented by persons seeking an inspection of a motor vehicle, a sign that:

(I) Informs such persons that a motor vehicle likely will not pass the inspection if the malfunction illumination light is on when the engine of the motor vehicle is running; and

(II) Conforms to any regulations adopted by the Department and the Commission relating to the size and placement of the sign.

(b) Prescribe the manner in which authorized inspection stations, authorized stations and fleet stations inspect motor vehicles and issue evidence of compliance. *The regulations must require, without limitation, that ~~the person conducting the~~ an employee or agent of each authorized inspection ~~look first to see~~ station, before conducting an inspection of a motor vehicle, inform the person who is seeking the inspection that the motor vehicle likely will not pass the inspection if the malfunction illumination light is on when the engine of the motor vehicle is running. ~~and, if so, to end the inspection and inform the person who brought the vehicle in for inspection that:~~*

~~(1) The malfunction illumination light is on;~~

~~(2) The vehicle will not pass the inspection if the malfunction illumination light is on; and~~

~~(3) There will be no charge for the inspection because the inspection cannot proceed while the malfunction illumination light is on.]~~

(c) Prescribe the diagnostic equipment necessary to perform the required inspection. The regulations must ensure that:

(1) The equipment complies with any applicable standards of the United States Environmental Protection Agency; and

(2) Use of the equipment is specifically authorized by the Commission.

(d) Provide for any fee, bond or insurance which is necessary to carry out the provisions of NRS 445B.700 to 445B.815, inclusive.

(e) Provide for the issuance of a pamphlet for distribution to owners of motor vehicles. The pamphlet must contain information explaining the reasons for and the methods of the inspections.

2. The Department of Motor Vehicles shall issue a copy of the regulations to each authorized inspection station, authorized maintenance station, authorized station and fleet station.

Sec. 2. This act becomes effective on July 1, 2015.

Senator Gustavson moved the adoption of the amendment.

Remarks by Senator Gustavson.

This amendment to Senate Bill No. 386 requires that an authorized inspection station conspicuously display a sign informing that a motor vehicle likely will not pass an emission inspection if the malfunction light, commonly known as the "check engine light," is on while the engine is running.

The amendment also requires that before conducting the inspection, an employee or agent of the station must inform the customer that the motor vehicle likely will not pass the inspection if the "check engine light" is on while the engine is running.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 474.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 352.

SUMMARY—Creates the Great Teaching and Leading Fund.
(BDR 34-1183)

AN ACT relating to education; creating the Great Teaching and Leading Fund; prescribing the administration and use of money in the Fund; authorizing certain entities to submit an application to the ~~Superintendent of Public Instruction~~ State Board of Education for a grant of money from the Fund; revising provisions governing the provision of training by the regional training programs for the professional development of teachers and administrators; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill creates the Great Teaching and Leading Fund in the State General Fund, to be administered by the Superintendent of Public Instruction. Section 1 also authorizes the following entities to submit an application to the State Board of Education for a grant of money from the Fund: ~~on an annual basis:~~ (1) the governing body of a regional training program for the professional development of teachers and administrators; (2) the board of trustees of a school district; (3) the governing body of a charter school; (4) the State Public Charter School Authority; (5) a university, state college or community college within the Nevada System of Higher Education; (6) employee associations representing licensed educational personnel; and (7) nonprofit educational organizations. Section 1 further requires the State Board of Education to prescribe annually the priorities of programs for which grants of money may be awarded from the Fund and requires an application submitted by an entity to address how the money will be used in accordance with those priorities. An entity that receives a grant of money from the Fund is required to use the money in accordance with the priorities to provide: (1) professional development for teachers, administrators and other licensed educational personnel; (2) programs of preparation for teachers, administrators and other licensed educational personnel; (3) programs of peer assistance and review for teachers, administrators and other licensed educational personnel;

(4) programs for leadership training and development; and (5) programs to recruit, select and retain effective teachers and principals. Finally, section 1 requires the Superintendent of Public Instruction, to the extent money is available for this purpose, to contract for an independent evaluation of the effectiveness of the grants made from the Fund.

Existing law creates three regional training programs for the professional development of teachers and administrators and requires the governing body of each regional training program to make an assessment of the training needs of teachers and administrators who are employed by school districts within the primary jurisdiction of the regional training program and provide training based upon that assessment. (NRS 391.512, 391.544) Section 2 of this bill requires the provision of training by a regional training program to also be based upon the priorities of programs prescribed by the State Board pursuant to section 1.

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

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Great Teaching and Leading Fund is hereby created in the State General Fund, to be administered by the Superintendent of Public Instruction. The Superintendent may accept gifts and grants from any source for deposit in the Fund. Any money from such gifts and grants must be expended only in accordance with the terms and conditions of the gift or grant, or in accordance with this section.*

2. *The interest and income earned on:*

(a) *Money in the Fund, after deducting any applicable charges; and*

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

↪ must be credited to the Fund.

3. *Any money in the Fund and any unexpended appropriations made to the Fund from the State General Fund remaining at the end of a fiscal year do not revert to the State General Fund, and the balance in the Fund must be carried forward to the next fiscal year.*

4. *The money in the Fund may only be used for public schools and public education, as authorized by the Legislature and in accordance with the priorities of programs prescribed by the State Board pursuant to subsection 7.*

5. *The Superintendent of Public Instruction shall coordinate the annual distribution of grants of money from the Fund to the following entities whose applications for a grant are approved:*

(a) *The governing body of a regional training program for the professional development of teachers and administrators.*

(b) *The board of trustees of a school district.*

(c) *The governing body of a charter school.*

(d) *The State Public Charter School Authority.*

(e) *A university, state college or community college within the Nevada System of Higher Education.*

(f) *Employee associations representing licensed educational personnel.*

(g) *Nonprofit educational organizations.*

6. *The ~~Superintendent of Public Instruction~~ State Board shall:*

(a) *Prescribe the form for an entity described in subsection 5 to submit an application for a grant of money from the Fund and the deadline for submission of such an application.*

(b) *Assign a committee to review the applications and make recommendations for awarding grants of money from the Fund.*

(c) *Based upon those recommendations and to the extent money is available in the Fund, award grants of money to each entity with an approved application not later than December 31 of each year. To the extent that money is available, a grant of money from the Fund may be awarded for a period of up to 5 years.*

7. *On or before September 30 of each year, the State Board shall prescribe the priorities of programs set forth in subsection 9 for which grants of money will be made from the Fund on or before December 31 of that year. In developing the priorities, the State Board shall review and consider the assessment of the training needs of teachers and administrators made by the governing body of each regional training program for the professional development of teachers and administrators pursuant to NRS 391.540.*

8. *An entity described in subsection 5 may submit an application for a grant of money on the form prescribed by the ~~Superintendent of Public Instruction~~ State Board, which must include, without limitation, a description of how the entity will use money from the grant to address the priorities prescribed by the State Board pursuant to subsection 7.*

9. *An entity that receives a grant of money from the Fund shall use the money in accordance with the priorities of programs prescribed by the State Board pursuant to subsection 7 to provide:*

(a) *Professional development for teachers, administrators and other licensed educational personnel;*

(b) *Programs of preparation for teachers, administrators and other licensed educational personnel;*

(c) *Programs of peer assistance and review for teachers, administrators and other licensed educational personnel;*

(d) *Programs for leadership training and development; and*

(e) *Programs to recruit, select and retain effective teachers and principals.*

10. *An entity that receives a grant of money from the Fund shall provide a report to the Superintendent of Public Instruction in the form prescribed by the Superintendent that includes, without limitation, a description of:*

(a) *The programs for which the grant of money was used.*

(b) *The effectiveness of the grant of money in:*

- (1) *Improving the achievement of pupils;*
- (2) *Assisting teachers, administrators and other licensed educational personnel; and*
- (3) *Improving the recruitment, selection and retention of effective teachers and principals.*

11. *To the extent money is available from legislative appropriation or otherwise, the Superintendent of Public Instruction shall contract for an independent evaluation of the effectiveness of the grants of money from the Fund, including, without limitation, a review and analysis of data relating to:*

- (a) Changes in instructional or administrative practices;*
- (b) The achievement of pupils; and*
- (c) The recruitment, selection and retention of effective teachers and administrators.*

➡ *The Superintendent of Public Instruction shall consult with the Statewide Council for the Coordination of the Regional Training Programs in determining the duties of the contractor.*

Sec. 2. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the *priorities of programs prescribed by the State Board pursuant to subsection 7 of section 1 of this act and the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540*, each regional training program shall provide:

- (a) Training for teachers and other licensed educational personnel in the:
 - (1) Standards established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;
 - (2) Curriculum and instruction required for the ~~{common-core-state}~~ standards adopted by the State Board;
 - (3) Curriculum and instruction recommended by the Teachers and Leaders Council of Nevada; and
 - (4) Culturally relevant pedagogy, taking into account cultural diversity and demographic differences throughout this State.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

- (1) Phonemic awareness;
- (2) Phonics;
- (3) Vocabulary;
- (4) Fluency;
- (5) Comprehension; and
- (6) Motivation.

(c) Training for administrators who conduct the evaluations required pursuant to NRS 391.3125 and 391.3127 relating to the manner in which such evaluations are conducted. Such training must be developed in

consultation with the Teachers and Leaders Council of Nevada created by NRS 391.455.

(d) Training for teachers, administrators and other licensed educational personnel relating to correcting deficiencies and addressing recommendations for improvement in performance that are identified in the evaluations conducted pursuant to NRS 391.3125 or 391.3127.

(e) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b), training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

(f) In accordance with the program established by the Statewide Council pursuant to paragraph (b) of subsection 2 of NRS 391.520 training for:

(1) Teachers on how to engage parents and families, including, without limitation, disengaged families, in the education of their children and to build the capacity of parents and families to support the learning and academic achievement of their children.

(2) Training for teachers and paraprofessionals on working with parent liaisons in public schools to carry out strategies and practices for effective parental involvement and family engagement.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

↪ The governing body shall provide a copy of the list on an annual basis to school districts for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the school district that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 3. Notwithstanding the provisions of subsection 7 of section 1 of this act, for Fiscal Year 2015-2016, the priorities of programs for which grants of money may be made from the Great Teaching and Leading Fund created by section 1 of this act must address:

1. The provision of professional development for teachers to provide instruction in the standards of content and performance for the subject area of science;

2. The implementation of the statewide performance evaluation system established pursuant to NRS 391.465;

3. The recruitment, selection and retention of effective teachers and principals; and

4. Programs of leadership training and development.

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

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment to Senate Bill No. 474 requires grant awards to be determined by the State Board, instead of the Superintendent; and allows grants to be awarded for more than one year, subject to available funds.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 503.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 510.

SUMMARY—Provides for the creation and implementation of the Breakfast After the Bell Program. (BDR 34-1200)

AN ACT relating to education; providing for the creation and implementation of the Breakfast After the Bell Program; requiring public schools with a certain percentage of pupils from low-income families to

participate in the Program; providing certain exceptions; prescribing certain powers and duties of the State Department of Agriculture with respect to implementing and enforcing the Program; establishing the disbursements that may be made to a participating school; prescribing the manner in which money received under the Program may be used by a participating school; requiring the Department to prepare an annual report with respect to the implementation and effectiveness of the Program and to submit the report annually to the Governor and the Legislature; making an appropriation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the oversight of certain school programs of nutrition by the Director of the State Department of Agriculture. (NRS 387.068-387.112) Sections 2-12 of this bill provide for the creation of the Breakfast After the Bell Program for the purpose of requiring certain public schools with large populations of pupils from low-income families to provide breakfast to their pupils after an instructional day of school has officially begun. Section 6 creates the Program and requires public schools with a certain percentage of pupils from low-income families enrolled in the school to participate in the Program. Section 6 also prescribes certain exceptions from participation based on insufficient funding for the Program or the elimination of or a certain reduction in the amount of federal meal reimbursements available to public schools for serving breakfast. Section 6 authorizes a participating school to choose a suitable model for serving breakfast under the Program. Section 7 prescribes certain duties of the State Department of Agriculture with respect to the implementation and operation of the Program. Section 8 prescribes the amount of a disbursement of money from the Department to a participating school based on the population of pupils and requires such disbursements to be made sequentially beginning with the school with the highest percentage of pupils from low-income families until the money for the Program is exhausted for a school year. Section 9 provides the manner in which certain public money allocated for the operation of the Program may be used. Section 10 requires the Department to monitor participating schools and ensure that the schools remain in compliance with the Program. Section 11 requires the Department to prepare an annual report with respect to the implementation and effectiveness of the Program in this State and requires the Department to submit the report to the Governor and the Legislature. Section 12 authorizes the Department to adopt regulations as necessary to implement and operate the Program. Section 17 of this bill makes an appropriation to the State Department of Agriculture for allocation to schools that participate in the Program, but excludes from such allocations any school that currently provides breakfast after the bell.

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

Section 1. Chapter 387 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. "National School Lunch Act" means the Act created by 42 U.S.C. §§ 1751 et seq.

Sec. 3. "Program" means the Breakfast After the Bell Program created by section 6 of this act.

Sec. 4. "School Breakfast Program" means the school breakfast program created by 42 U.S.C. § 1773.

Sec. 5. The Legislature hereby finds and declares that providing breakfast to pupils in elementary schools and secondary schools after the instructional day has officially begun:

1. Increases the number of pupils who have the opportunity to eat a healthy breakfast and who are otherwise qualified for free or reduced-price lunches under the National School Lunch Act.

2. Furthers the goals and objectives of the United States Department of Agriculture to increase the consumption of nutritious meals by pupils.

3. Improves academic performance.

4. Improves the overall health of the children of this State by reducing food insecurity.

5. Generates additional revenue for programs of nutrition for children through federal grants and programs.

Sec. 6. 1. There is hereby created the Breakfast After the Bell Program for public schools in which the majority of enrolled pupils are eligible for free or reduced-price lunches under the National School Lunch Act.

2. Except as otherwise provided in ~~this subsection and~~ subsections 3 and 4 ~~f. beginning in:~~

~~(a) The 2015-2016 school year, each:~~

~~(a) If a public school in this State in which ~~60~~ 70 percent or more of the enrolled pupils during the previous school year were eligible for free or reduced-price lunches under the National School Lunch Act, the public school shall participate in the Program and offer a ~~free~~ breakfast to each pupil in the school after the instructional day has officially begun.~~

~~(b) ~~The 2016-2017 school year, each public school in this State in which 50 percent or more of the enrolled pupils during the previous school year were eligible for free or reduced price lunches under the National School Lunch Act shall offer a free breakfast to each pupil in the school after the instructional day has officially begun.~~ A public school that participates in universal meal service in high poverty areas pursuant to Section 104 of the Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296, must participate in the Program if the school is included on the list of public schools published by the State Department of Agriculture pursuant to section 7 of this act.~~

3. A public school is not required to continue to participate in the Program in any school year after the 2016-2017 school year if the school

can demonstrate to the satisfaction of the State Department of Agriculture that:

(a) The number of enrolled pupils in the school who were eligible for free or reduced-price lunches under the National School Lunch Act comprised less than ~~50~~ 70 percent of the total number of enrolled pupils at the school for each of the two immediately preceding school years; or

(b) A financial hardship exists.

4. A public school that would otherwise be required to participate in the Program pursuant to subsection 2 is not required to participate in the Program:

(a) Until sufficient money, as determined by the State Department of Agriculture, is available to fund the public school's participation in the Program.

(b) In the event that the amount of the federal per meal reimbursement available to a public school for free or reduced-price breakfasts pursuant to the School Breakfast Program is eliminated or reduced to an amount that is less than that amount which was in effect on December 31, 2013.

5. Each public school participating in the Program, in cooperation with the board of trustees of the school district or governing body, as applicable, may determine the model for serving breakfast that is best suited for the school. Models for serving breakfast may include, without limitation:

(a) Breakfast served in the classroom;

(b) Grab-and-go breakfasts; and

(c) Breakfast served in the cafeteria during or after the first period of school or during a morning recess.

6. Each breakfast served by a public school under the Program must comply with federal meal patterns and nutritional standards for school breakfast programs as required by the Healthy, Hunger-Free Kids Act of 2010, Public Law 111-296, and any regulations or rules interpreting that Act.

7. As used in this section, "grab-and-go breakfast" means a breakfast in which all of the components of the breakfast are packaged in a bag that is made available at sites throughout school, during the first period of school or during a break after the first period of school.

Sec. 7. 1. The State Department of Agriculture shall:

(a) On or before July 10, 2015, and on or before December 31 of the year preceding each school year thereafter, publish a list of the public schools that meet the requirements for participation in the Program pursuant to section 6 of this act.

(b) On or before July 15, 2015, ~~develop and distribute procedures for the implementation and enforcement of~~ implement the Program in accordance with the National School Lunch Act and the School Breakfast Program. ~~The State Department of Agriculture shall supplement such procedures annually, as necessary.~~

(c) Offer technical assistance to public schools and school districts relating to:

(1) The implementation of the Program.

(2) The submission of claims for reimbursement under the School Breakfast Program.

(d) ~~Develop procedures for the distribution of~~ Distribute the money to implement a breakfast-serving model under the Program.

2. The Director may apply for and accept any gift, donation, bequest, grant or other source of money for the purpose of funding the Program.

Sec. 8. 1. For each school year, disbursements from the State Department of Agriculture to public schools which are participating in the Program must:

(a) Be paid in sequential order starting with the public school with the highest percentage of enrolled pupils eligible for free or reduced-price lunches under the National School Lunch Act.

(b) ~~Not exceed the amount of money prescribed in subsection 2 for a school year.~~

~~(c)~~ Be paid until all money available for the Program for a school year is exhausted.

2. To the extent that money is available and for each school year, the State Department of Agriculture shall allocate to each public school that is participating in the Program an amount of money ~~not to exceed:~~

~~(a) For a school with 50 or fewer enrolled pupils, \$750.~~

~~(b) For a school with 51 or more enrolled pupils but not more than 100 enrolled pupils, \$2,500.~~

~~(c) For a school with 101 or more enrolled pupils but not more than 500 enrolled pupils, \$5,500.~~

~~(d) For a school with 501 or more enrolled pupils but not more than 1,000 enrolled pupils, \$8,000.~~

~~(e) For a school with 1,001 or more enrolled pupils but not more than 1,500 enrolled pupils, \$12,500.~~

~~(f) For a school with 1,501 or more enrolled pupils, \$16,000.] necessary to carry out the Program, as determined by the Department in accordance with subsection 1.~~

3. The State Department of Agriculture shall adopt regulations prescribing the manner in which a public school that is not otherwise required to participate in the Program may apply for and receive a waiver of the requirements of section 6 of this act for the purpose of participating in the Program, including, without limitation, any requirements to qualify for a waiver.

Sec. 9. 1. Except as otherwise provided in subsection 2, any federal or state money received by a public school or school district as reimbursement for breakfast served under the Program must be used only for the food served and operations directly incidental to the provision of breakfast.

2. *A public school that receives money pursuant to section 8 of this act may use the money for the following purposes with respect to the implementation and operation of the Program:*

- (a) Training school employees.*
- (b) Any additional costs of labor.*
- (c) Equipment related to the provision of breakfast.*
- (d) To conduct surveys designed to market the Program to pupils and the families of pupils and to receive feedback on proposed breakfast menu items.*

Sec. 10. 1. *The State Department of Agriculture shall monitor public schools participating in the Program and ensure that participating schools comply with sections 2 to 12, inclusive, of this act and any regulations adopted pursuant thereto.*

2. *If the State Department of Agriculture determines at the end of a school year that a public school participating in the Program has not increased the provision of breakfast to enrolled pupils who are eligible for free or reduced-price lunches under the National School Lunch Act by at least 10 percent, the State Department of Agriculture shall provide written notice of its findings to the school.*

3. *A public school that receives notice pursuant to subsection 2 shall, not later than 30 days after receiving such notice, submit to the State Department of Agriculture a plan for increasing participation in the Program by enrolled pupils in the school who are eligible for free or reduced-price lunches under the National School Lunch Act.*

Sec. 11. *The State Department of Agriculture shall, on or before December 31 of each year:*

1. *Prepare a report on the implementation and effectiveness of the Program in this State; and*

2. *Submit the report prepared pursuant to subsection 1 to:*

- (a) The Governor; and*
- (b) The Director of the Legislative Counsel Bureau for transmittal to:*
 - (1) If the report is prepared in an even-numbered year, the next regular session of the Legislature; or*
 - (2) If the report is prepared in an odd-numbered year, the Legislative Commission.*

Sec. 12. *The State Department of Agriculture may adopt regulations to carry out the provisions of sections 2 to 12, inclusive, of this act.*

Sec. 13. NRS 387.068 is hereby amended to read as follows:

387.068 As used in NRS 387.068 to 387.112, inclusive, and sections 2 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 387.069 and 387.070 and sections 2, 3 and 4 of this act have the meanings ascribed to them in those sections.

Sec. 14. NRS 387.070 is hereby amended to read as follows:

387.070 "Program of nutrition" means a program under which food is served to or nutritional education and assistance are provided for children and adults by any public school, private school or public or private institution

on a nonprofit basis, including any such program for which assistance may be made available out of money appropriated by the Congress of the United States. The term includes, but is not limited to, a school lunch program ~~[-] or the Program.~~

Sec. 15. NRS 387.090 is hereby amended to read as follows:

387.090 ~~[The]~~ *Except as otherwise provided in sections 2 to 12, inclusive, of this act, the board of trustees of each school district and the governing body of each charter school may:*

1. Operate or provide for the operation of programs of nutrition in the public schools under their jurisdiction.

2. Use therefor money disbursed to them pursuant to the provisions of NRS 387.068 to 387.112, inclusive, *and sections 2 to 12, inclusive, of this act*, gifts, donations and other money received from the sale of food under those programs.

3. Deposit the money in one or more accounts in one or more banks or credit unions within the State.

4. Contract with respect to food, services, supplies, equipment and facilities for the operation of the programs.

Sec. 16. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 17. 1. There is hereby appropriated from the State General Fund to the State Department of Agriculture ~~;~~ ~~[-, for the purpose of making the allocations required by subsection 2 of section 8 of this act to public schools that participate in the Breakfast After the Bell Program created by section 6 of this act.]~~

For the Fiscal Year 2015-2016.....\$1,000,000

For the Fiscal Year 2016-2017.....\$1,000,000

2. The sums appropriated by subsection 1 must be used to make the allocations required by subsection 2 of section 8 of this act to public schools that participate in the Breakfast After the Bell Program created by section 6 of this act. A public school that is currently providing breakfast after the bell for the 2014-2015 school year in accordance with the school breakfast program created by 42 U.S.C. § 1773 is not eligible to receive such an allocation from the appropriation.

3. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 of the respective fiscal years by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2016, and September 15, 2017, respectively, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2016, and September 15, 2017, respectively.

Sec. 18. This act becomes effective:

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 Harris moved the adoption of the amendment.

Remarks by Senator Harris.

This amendment to Senate Bill No. 503 sets the school eligibility threshold at 70 percent Free and Reduced-Price Lunch for both years of the biennium; requires schools already offering the program to continue without receiving additional grant funding; compels eligible schools to participate, but does not require that breakfast be free for all students, but only for those who are eligible; and removes prescribed school funding levels.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bills Nos. 474, 503 be re-referred to the Committee on Finance, upon return from reprint.

Motion carried.

Senator Roberson moved that Senate Bill No. 242 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Spearman moved that Senate Bill No. 359 be taken from the Secretary's desk and placed at the bottom of the General File.

Remarks by Senator Spearman.

Since Tuesday, I have had an opportunity to talk to a couple Gold Star Moms about the need for Senate Bill No. 359, and they indicate there is a need for it. I have also had the opportunity to talk with my colleague from Senate District 15 and relayed the information again that I have, that I have talked with the people here in the State, and there does appear to be a need for it.

Senators Spearman, Manendo and Woodhouse requested a roll call vote on Senator Spearman's motion.

Roll call on Senator Spearman'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.

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

Motion carried.

Senate in recess at 12:54 p.m.

SENATE IN SESSION

At 12:55 p.m.

President Hutchison presiding.

Quorum present.

Senator Settelmeyer moved that Senate Bill No. 153 be taken from the Secretary's desk and placed on the Second Reading File on the next Agenda.

Motion carried.

Senator Farley moved that Senate Bill No. 374 be taken from the General File and placed on the Secretary's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 68.

Bill read third time.

Remarks by Senator Settelmeyer.

Senate Bill No. 68 authorizes certain qualified physicians, osteopaths, podiatrists and other providers of health care and professionals to obtain a license by endorsement to practice in Nevada if they hold a valid and unrestricted license to practice in the District of Columbia or another state or territory of the United States; are certified in a specialty recognized by the American Board of Medical Specialties or the American Osteopathic Association, as applicable; and meet certain other requirements. The measure also requires, with limited exceptions, 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. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 68:

YEAS—21.

NAYS—None.

Senate Bill No. 68 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.

Remarks by Senator Settelmeyer.

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.

Roll call on Senate Bill No. 231:

YEAS—18.

NAYS—Smith, Spearman, Woodhouse—3.

Senate Bill No. 231 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 241.

Bill read third time.

The following amendment was proposed by Senator Brower:

Amendment No. 608.

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; revising the definition of "local government employer" to exclude certain courts from the provisions governing collective bargaining; reducing the amount of time within which the Local Government Employee-Management Relations Board must conduct a hearing relating to certain complaints; excluding certain deputy marshals from membership in an employee organization; 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 defines "local government employer" for certain purposes governing relations between governments and public employees and excludes certain persons from membership in an employee organization for negotiation. (NRS 288.060, 288.140) Section 1.05 of this bill revises the definition of "local government employer" to exclude district courts and justice courts from the provisions of existing law governing collective bargaining. Section 1.15 of this bill excludes deputy marshals who are

appointed or employed by a district court or justice court from membership in an employee organization.

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 1.4 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. 1.05. NRS 288.060 is hereby amended to read as follows:

288.060 "Local government employer" means any political subdivision of this State or any public or quasi-public corporation organized under the laws of this State and includes, without limitation, counties, cities, unincorporated towns, school districts, charter schools, hospital districts, irrigation districts and other special districts. The term does not include district courts and justice courts.

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. 1.15. NRS 288.140 is hereby amended to read as follows:

288.140 1. It is the right of every local government employee, subject to the limitations provided in subsections 3 and 4, to join any employee organization of the employee's choice or to refrain from joining any employee organization. A local government employer shall not discriminate in any way among its employees on account of membership or nonmembership in an employee organization.

2. The recognition of an employee organization for negotiation, pursuant to this chapter, does not preclude any local government employee who is not a member of that employee organization from acting for himself or herself with respect to any condition of his or her employment, but any action taken on a request or in adjustment of a grievance shall be consistent with the terms of an applicable negotiated agreement, if any.

3. A police officer, sheriff, deputy sheriff or other law enforcement officer may be a member of an employee organization only if such employee organization is composed exclusively of law enforcement officers.

4. The following persons may not be a member of an employee organization:

(a) A supervisory employee described in paragraph (b) of subsection 1 of NRS 288.075, including but not limited to appointed officials and department heads who are primarily responsible for formulating and administering management, policy and programs.

(b) A doctor or physician who is employed by a local government employer.

(c) A deputy marshal who is appointed pursuant to NRS 3.310 or 4.353 or employed in support of a district court or justice court.

(d) Except as otherwise provided in this paragraph, an attorney who is employed by a local government employer and who is assigned to a civil law division, department or agency. The provisions of this paragraph do not apply with respect to an attorney for the duration of a collective bargaining agreement to which the attorney is a party as of July 1, 2011.

5. As used in this section, "doctor or physician" means a doctor, physician, homeopathic physician, osteopathic physician, chiropractic physician, practitioner of Oriental medicine, podiatric physician or practitioner of optometry, as those terms are defined or used, respectively, in NRS 630.014, 630A.050, 633.091, chapter 634 of NRS, chapter 634A of NRS, chapter 635 of NRS or chapter 636 of NRS.

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.*

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 ~~[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]~~ 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. ~~[[~~ 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 . ~~for 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 agreement entered into on or after the effective date of this act. For the purposes of this section, the term of 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 Brower moved the adoption of the amendment.

Remarks by Senators Brower and Segerblom.

SENATOR BROWER:

Amendment No. 608 to Senate Bill No. 241 simply revises certain provisions to NRS to comport with recent case law.

SENATOR SEGERBLOM:

Does this affect the Deputy Marshals' unions in the District Court in Las Vegas?

SENATOR BROWER:

Yes, this amendment would codify and clarify the recent Local Government Employee-Management Relations Board decision that says that District Courts and Justice Courts are not local government employees for the purposes of chapter 288.

SENATOR SEGERBLOM:

Can you give us a citation so that we could check that before the next vote?

SENATOR BROWER:

The citation is from an Order in Case A1-046058, Item No. 793 issued on January 27, 2014. It was a unanimous decision by the Local Government Employee-Management Relations Board.

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

Motion carried.

Senate in recess at 1:03 p.m.

SENATE IN SESSION

At 1:09 p.m.

President Hutchison presiding.

Quorum present.

Senator Bower moved that the bill be taken from the General File and placed at the bottom of the General File on the third Agenda.

Motion carried.

Senate Bill No. 250.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 250 requires that certain public and private policies of insurance and health care plans must authorize coverage for, and may apply a copayment and deductible to, a prescription to be divided into more than one dispensing for the purpose of synchronizing a patient's multiple prescriptions. These policies and plans are prohibited from denying a claim for such a prescription that is otherwise covered. Finally, these policies and plans are prohibited from prorating the pharmacy dispensing fees for such prescriptions.

This bill is effective upon passage and approval for the purposes of adopting any regulations and performing any preparatory administrative tasks, and on January 1, 2017, for all other purposes.

Roll call on Senate Bill No. 250:

YEAS—21.

NAYS—None.

Senate Bill No. 250 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 273.

Bill read third time.

Remarks by Senators Hardy and Smith.

SENATOR HARDY:

Senate Bill No. 273 enacts provisions governing the retention of health care records by a custodian of health care records. The bill prohibits, under certain circumstances, a custodian of health records who has lawful custody of any health care records of a health care provider from preventing the health care provider from physically inspecting the health care records or from receiving copies of those records upon request. The measure requires a custodian of health care records to deliver the records or copies to the health care provider and patient under certain circumstances. Finally, a custodian of health care records who violates a provision of this bill is subject 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 for each violation.

SENATOR SMITH:

Did this bill take hospitals out as custodians of records?

SENATOR HARDY:

As I understand it, hospitals are exempted from this inasmuch as they are always there. The genesis of the bill came with someone who had a group of physicians who practice there, and the group of physicians was locked out, as were the patients. Neither could get their records. So, the genesis is not to deal with hospitals as much as the custodian of health care records that are not a hospital.

Roll call on Senate Bill No. 273:

YEAS—21.

NAYS—None.

Senate Bill No. 273 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 303.

Bill read third time.

The following amendment was proposed by Senator Woodhouse:

Amendment No. 604.

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; revising the powers and duties of the Legislative Committee on Child Welfare and Juvenile Justice; 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 3 of this bill requires a court to 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 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.

Sections 4.3 and 4.5 of this bill add: (1) reviewing issues relating to the provision of foster care; and (2) proposing recommended legislation concerning that issue to the powers and duties of the Legislative Committee on Child Welfare and Juvenile Justice.

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, 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,

➡ 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. (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 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

~~{(g)}~~ (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 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 ~~[(d)] (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 ~~[(d)] (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. 4.7. NRS 218E.715 is hereby amended to read as follows:

218E.715 The Committee shall evaluate and review issues relating to:

1. The provision of child welfare services in this State, including, without limitation:

(a) Programs for the provision of child welfare services;

(b) Licensing and reimbursement of providers of foster care;

(c) The provision of foster care, including, without limitation, reunification of foster children with a birth parent and adoption of foster children by a foster parent;

(d) Mental health services; and

~~[(d)]~~ (e) Compliance with federal requirements regarding child welfare; and

2. Juvenile justice in this State, including, without limitation:

(a) The coordinated continuum of care in which community-based programs and services are combined to ensure that health services, substance abuse treatment, education, training and care are compatible with the needs of each juvenile in the juvenile justice system;

(b) Individualized supervision, care and treatment to accommodate the individual needs and potential of the juvenile and the juvenile's family, and treatment programs which integrate the juvenile into situations of living and interacting that are compatible with a healthy, stable and familial environment;

(c) Programs for aftercare and reintegration in which juveniles will continue to receive treatment after their active rehabilitation in a facility to prevent the relapse or regression of progress achieved during the recovery process;

(d) Overrepresentation and disparate treatment of minorities in the juvenile justice system, including, without limitation, a review of the various places where bias may influence decisions concerning minorities;

(e) Gender-specific services, including, without limitation, programs for female juvenile offenders which consider female development in their design and implementation and which address the needs of females, including issues relating to:

- (1) Victimization and abuse;
- (2) Substance abuse;
- (3) Mental health;
- (4) Education; and
- (5) Vocational and skills training;

(f) The quality of care provided for juvenile offenders in state institutions and facilities, including, without limitation:

- (1) The qualifications and training of staff;
- (2) The documentation of the performance of state institutions and facilities;
- (3) The coordination and collaboration of agencies; and
- (4) The availability of services relating to mental health, substance abuse, education, vocational training and treatment of sex offenders and violent offenders;

(g) The feasibility and necessity for the independent monitoring of state institutions and facilities for the quality of care provided to juvenile offenders; and

(h) Programs developed in other states which provide a system of community-based programs that place juvenile offenders in more specialized programs according to the needs of the juveniles.

Sec. 4.9. NRS 218E.720 is hereby amended to read as follows:

218E.720 1. The Committee may:

(a) Conduct investigations and hold hearings in connection with its duties pursuant to NRS 218E.715 and exercise any of the investigative powers set forth in NRS 218E.105 to 218E.140, inclusive;

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

(c) Propose recommended legislation concerning child welfare and juvenile justice to the Legislature ~~and~~ including, without limitation, recommended legislation concerning the provision of foster care as described in paragraph (c) of subsection 1 of NRS 218E.715.

2. The Committee shall, on or before January 15 of each odd-numbered year, submit to the Director for transmittal to the Legislature a report concerning the evaluation and review conducted pursuant to NRS 218E.715.

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

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senators Woodhouse, Hardy and Hammond.

SENATOR WOODHOUSE:

Amendment No. 604 to Senate Bill No. 303 simply adds to the powers and duties of the Legislative Committee on Child Welfare and Juvenile Justice to do two things. One, a requirement to evaluate and review issues related to the provision of Child Welfare Services in

Nevada, including and in addition to other subjects, the provision of foster care, without limitation, reunification of foster children with a birth parent and adoption of adoption of foster children by a foster parent. Two, the ability to propose recommended legislation concerning child welfare and juvenile justice, including, without limitation, recommended legislation concerning the previously mentioned provisions of foster care.

When we heard Senate Bill No. 303 in the Committee on Health and Human Services, we heard some poignant stories, real life stories from parents of foster children. Senate Bill No. 303 addresses an issue, but what I am trying to do is give additional thought and consideration in the interim to bring additional recommendations back at the next Legislative Session.

SENATOR HARDY:

I appreciated the personal amendment brought to the Chair of the Committee and to vet that with the sponsor of the bill. I appreciated that process.

SENATOR HAMMOND:

I had the chance to review the amendment, and I think it makes Senate Bill No. 303 even better. I thank the Senator for being thoughtful, and in consideration, I think it makes it even better.

Amendment adopted.

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

Senate Bill No. 329.

Bill read third time.

Remarks by Senator Lipparelli.

Senate Bill No. 329 exempts a person from liability for the use of certain words or conduct relating to partnerships, joint ventures or other similar relationships, if the words or conduct are used for the sole purpose of a business development undertaken by a corporation or limited-liability company. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 329:

YEAS—21.

NAYS—None.

Senate Bill No. 329 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 401.

Bill read third time.

Remarks by Senator Denis.

Thank you, Mr. President. Senate Bill No. 401 requires an applicant for appointment as a notary public or registration as a document preparation services, to submit to the Secretary of State 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 in the United States. The measure prohibits the use of certain terms in an advertisement by a notary public or document preparation service that may mislead a consumer into believe either is a licensed attorney if such is not the case.

This is an issue we have been working on for probably ten years. Senate Bill No. 401 brings into line both the notary and the document preparation services, as far as the terminology that can be used. In other languages, the word notary means lawyer. It also helps to weed out anyone who has had their license revoked in other places creating fraud in this area. I urge your support.

Roll call on Senate Bill No. 401:

YEAS—21.

NAYS—None.

Senate Bill No. 401 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 441.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 441 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. The measure defines "acidified foods," specifies the requirements for a craft food operation and authorizes the production of acidified foods by a craft food operation. Various requirements are mandated for a person who produces 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 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.

This measure is effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this bill, and on January 1, 2016, for all other purposes.

Roll call on Senate Bill No. 441:

YEAS—21.

NAYS—None.

Senate Bill No. 441 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 443.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 443 enables the State Gaming Commission to adopt regulations on business entity race book and sports pool wagering as it deems appropriate and imposes criminal penalties for the Commission of certain acts including the failure to disclose persons involved with a business entity's wagering. This bill is effective upon passage and approval.

Roll call on Senate Bill No. 443:

YEAS—11.

NAYS—Atkinson, Denis, Ford, Kihuen, Manendo, Parks, Segerblom, Smith, Spearman, Woodhouse—10.

Senate Bill No. 443 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 78.

Bill read third time.

Remarks by Senator Goicoechea.

Assembly Bill No. 78 requires the Board of Wildlife Commissioners, in establishing wildlife management policies and regulations, to consider the recommendations of the Department of Wildlife, county advisory boards to manage wildlife and other persons who present their views at an open meeting of the Commission. Additionally, the Commission must provide a written explanation of any decision to reject the recommendations of a county advisory board with regard to the length of seasons for hunting, fishing, trapping or bag or possession limits.

The bill revises the allowable uses of the existing \$3 fee charged by the Department for processing game tag applications to include developing and implementing an annual program for the management and control of predatory wildlife. In developing a wildlife management program, the Commission must first consider the recommendations of the State Predatory Animal and Rodent Committee and may not approve a program for the management and control of predatory wildlife unless it provides for the expenditure of at least 80 percent of the yearly game tag application fees for the purpose of lethal management and control of predatory wildlife.

Finally, Assembly Bill No. 78 increases the membership of the State Predatory Animal and Rodent Committee by adding a licensed sportsman and a licensed master guide. The bill is effective upon passage and approval.

Roll call on Assembly Bill No. 78:

YEAS—11.

NAYS—Atkinson, Denis, Ford, Kihuen, Manendo, Parks, Segerblom, Smith, Spearman, Woodhouse—10.

Assembly Bill No. 78 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 252.

Read third time.

Senator Roberson moved that the bill be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

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

Motion carried.

Senate in recess at 1:27 p.m.

SENATE IN SESSION

At 1:29 p.m.

President Hutchison presiding.

Quorum present.

Senate Bill No. 242.

Bill read third time.

Remarks by Senators Settlemeyer, Smith and Roberson.

SENATOR SETTELMAYER:

Senate Bill No. 242 is a meritorious piece of legislation. It enacts the Payday Lender Best Practices Act, which adopts certain provisions of the Community Financial Services Association of America's Best Practices for the Payday Loan Industry. The provisions of this bill apply to a

licensee operating a deferred deposit loan service, a high-interest loan service or a title loan service. This bill is effective on October 1, 2015.

SENATOR SMITH:

We have worked on a lot of meritorious pieces of legislation on this topic over the time I have been here, and I am curious about what this bill does that we do not already have.

SENATOR SETTELMAYER:

This legislation came forward trying to establish some best practices. It seems, sadly, that we have some individuals with varying rules and ways they implement things. We are trying to have some uniformity so there is predictability for individuals in the field. That is what the bill seeks to give guidance to.

SENATOR ROBERSON:

If my colleague would like this moved to the next agenda, I would be happy to do that so we can have some more discussion.

Senator Roberson moved that the bill be taken from the General File and placed on the General File on the next Agenda.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Senate Bill No. 241 be taken from the General File and placed on the General File on the next Agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 153.

Bill read second time.

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

Amendment No. 487.

SUMMARY—Revises provisions relating to occupational diseases. (BDR 53-635)

AN ACT relating to occupational diseases; revising the circumstances under which certain occupational diseases are conclusively ~~for rebuttably~~ presumed to arise out of and in the course of employment; ~~revising provisions governing the compensability of certain diseases of the heart;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that certain diseases of the lungs or heart contracted by certain police officers, firefighters or other employees are, for purposes of industrial insurance claims, conclusively ~~for rebuttably~~ presumed to be occupationally related if the employee has served a certain number of years in the profession before contracting the disease. (NRS ~~617.453,~~ 617.455, ~~617.457, 617.485, 617.487,~~ 617.457) Sections ~~1-5,~~ 2 and 3 of this bill limit the period in which certain employees may claim these presumptions. ~~to employees or volunteers who are actively employed or volunteering in the profession at the time of diagnosis. Section 3 also provides that certain diseases of the heart, when suffered by a volunteer firefighter, must be~~

~~diagnosed and result in either temporary or permanent disability or death during the course of service of the volunteer firefighter in order to be compensable as an occupational disease.] Sections 2.5 and 3.5 of this bill prevent certain persons who use tobacco products or fail to follow a physician's prescribed plan of care from claiming these presumptions.~~

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

Section 1. ~~[NRS 617.453 is hereby amended to read as follows:~~

~~617.453 1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:~~

~~— (a) The cancer develops or manifests itself out of and in the course of the employment of a person who, for 5 years or more, has been:~~

~~— (1) Employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public; or~~

~~— (2) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; and~~

~~— (b) It is demonstrated that:~~

~~— (1) The person was exposed, while in the course of the employment, to a known carcinogen as defined by the International Agency for Research on Cancer or the National Toxicology Program; and~~

~~— (2) The carcinogen is reasonably associated with the disabling cancer.~~

~~2. With respect to a person who, for 5 years or more, has been employed in this State in a full-time salaried occupation of fire fighting for the benefit or safety of the public, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:~~

~~— (a) Diesel exhaust, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with bladder cancer.~~

~~— (b) Acrylonitrile, formaldehyde and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with brain cancer.~~

~~— (c) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.~~

~~— (d) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.~~

~~— (e) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.~~

~~— (f) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.~~

~~— (g) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known~~

~~carcinogens that are reasonably associated with lymphatic or hematopoietic cancer.~~

~~—(h) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.~~

~~—(i) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.~~

~~—(j) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.~~

~~—(k) Diesel exhaust, benzene and X ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.~~

~~—3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case by case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen that is reasonably associated with a disabling cancer.~~

~~—4. Compensation awarded to the employee or his or her dependents for disabling cancer pursuant to this section must include:~~

~~—(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization in accordance with the schedule of fees and charges established pursuant to NRS 616C.260 or, if the insurer has contracted with an organization for managed care or with providers of health care pursuant to NRS 616B.527, the amount that is allowed for the treatment or other services under that contract; and~~

~~—(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.~~

~~—5. Disabling cancer is presumed to have developed or manifested itself out of and in the course of the employment of any firefighter described in this section [.] who has been employed in a full time continuous, uninterrupted and salaried occupation as a firefighter for 5 years or more before the date of disablement. This rebuttable presumption applies to disabling cancer diagnosed [after the termination of the person's employment if the diagnosis occurs within a period, not to exceed 60 months, which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying 3 months by the number of full years of his or her employment. This rebuttable presumption] during the course of that employment and must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.~~

~~—6. The provisions of this section do not create a conclusive presumption.]~~
(Deleted by amendment.)

Sec. 1.5. NRS 617.454 is hereby amended to read as follows:

617.454 1. Any physical examination administered pursuant to NRS 617.455 or 617.457 must include:

(a) A thorough test of the functioning of the hearing of the employee; and

(b) A purified protein derivative skin test to screen for exposure to tuberculosis.

2. Except as otherwise provided in subsection ~~[7]~~ 8 of NRS 617.457, the tests required by this section must be paid for by the employer.

Sec. 2. NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of fire fighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; or

(c) Employed in a full-time salaried occupation as a police officer in this State.

2. Except as otherwise provided in subsection 3, each employee who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to a physical examination, including a thorough test of the functioning of his or her lungs and the making of an X-ray film of the employee's lungs, upon employment, upon commencement of the coverage, once every 2 years until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. Each volunteer firefighter who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to:

(a) A physical examination upon employment and upon commencement of the coverage; and

(b) The making of an X-ray film of the volunteer firefighter's lungs once every 3 years after the physical examination that is required upon commencement of the coverage,

↪ until the volunteer firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment. As used in this subsection, "physical examination" includes the making of an X-ray film of the volunteer firefighter's lungs but excludes a thorough test of the functioning of his or her lungs.

4. All physical examinations required pursuant to subsections 2 and 3 must be paid for by the employer.

5. A disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for ~~[5]~~ 2 years or more before the date of disablement ~~[.]~~ *if the disease is diagnosed and causes the disablement* ~~[during]~~ :

(a) During the course of that employment ~~[.]~~ :

(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

↪ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

6. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after a physical examination required pursuant to subsection 2 or 3 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

7. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, police officer or arson investigator,

↪ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

Sec. 2.5. NRS 617.455 is hereby amended to read as follows:

617.455 1. Notwithstanding any other provision of this chapter, diseases of the lungs, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by exposure to heat, smoke, fumes, tear gas or any other noxious gases, arising out of and in the course of the employment of a person who, for 2 years or more, has been:

(a) Employed in this State in a full-time salaried occupation of fire fighting or the investigation of arson for the benefit or safety of the public;

(b) Acting as a volunteer firefighter in this State and is entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145; or

(c) Employed in a full-time salaried occupation as a police officer in this State.

2. Except as otherwise provided in subsection 3, each employee who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to a physical examination, including a thorough test of the functioning of his or her lungs and the making of an X-ray film of the employee's lungs, upon employment, upon commencement of the coverage, once every 2 years until the employee is 40 years of age or older and thereafter on an annual basis during his or her employment.

3. Each volunteer firefighter who is to be covered for diseases of the lungs pursuant to the provisions of this section shall submit to:

(a) A physical examination upon employment and upon commencement of the coverage; and

(b) The making of an X-ray film of the volunteer firefighter's lungs once every 3 years after the physical examination that is required upon commencement of the coverage,

↪ until the volunteer firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment. As used in this subsection, "physical examination" includes the making of an X-ray film of the volunteer firefighter's lungs but excludes a thorough test of the functioning of his or her lungs.

4. All physical examinations required pursuant to subsections 2 and 3 must be paid for by the employer.

5. A disease of the lungs is conclusively presumed to have arisen out of and in the course of the employment of a person who has been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for 2 years or more before the date of disablement if the disease is diagnosed and causes the disablement:

(a) During the course of that employment;

(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

↪ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

6. Frequent or regular use of a tobacco product within 1 year, or a material departure from a physician's prescribed plan of care by a person within 3 months, immediately preceding the filing of a claim for compensation excludes a person who has separated from service from the benefit of the conclusive presumption provided in subsection 5.

7. Failure to correct predisposing conditions which lead to lung disease when so ordered in writing by the examining physician after a physical examination required pursuant to subsection 2 or 3 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

~~{7.}~~ 8. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, police officer or arson investigator,

↪ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

Sec. 3. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart ~~that are diagnosed and cause disablement during the course of the employment~~ of a person who, for ~~5~~ 2 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment ~~if~~ if the disease is diagnosed and causes the disablement:

(a) During the course of that employment;

(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked;
or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

↪ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

2. Notwithstanding any other provision of this chapter, diseases of the heart , resulting ~~that are diagnosed and result~~ in either temporary or permanent disability or death , during the course of service of a volunteer firefighter are occupational diseases and compensable as such under the provisions of this chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department.

3. Except as otherwise provided in subsection 4, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon commencement of coverage and thereafter on an annual basis during his or her employment.

4. During the period in which a volunteer firefighter is continuously on active status on the roster of a volunteer fire department, a physical examination for the volunteer firefighter is required:

(a) Upon employment;

(b) Upon commencement of coverage; and

(c) Once every 3 years after the physical examination that is required pursuant to paragraph (b),

➡ until the firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment.

5. The employer of the volunteer firefighter is responsible for scheduling the physical examination. The employer shall mail to the volunteer firefighter a written notice of the date, time and place of the physical examination at least 10 days before the date of the physical examination and shall obtain, at the time of mailing, a certificate of mailing issued by the United States Postal Service.

6. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection 5 excludes the volunteer firefighter from the benefits of this section.

7. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

(a) Applies to the department for the first time as a volunteer firefighter; and

(b) Is 50 years of age or older on the date of his or her application.

8. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

(a) Paid for the physical examination in accordance with subsection 7;

(b) Is declared physically fit to perform the duties required of a firefighter; and

(c) Becomes a volunteer with the volunteer fire department.

9. Except as otherwise provided in subsection 7, all physical examinations required pursuant to subsections 3 and 4 must be paid for by the employer.

10. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to a physical examination required pursuant to subsection 3 or 4 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

11. A person who is determined to be:

(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, arson investigator or police officer,

➡ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

12. Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the

occupational disease which would warrant an increase or rearrangement of compensation.

Sec. 3.5. NRS 617.457 is hereby amended to read as follows:

617.457 1. Notwithstanding any other provision of this chapter, diseases of the heart of a person who, for 2 years or more, has been employed in a full-time continuous, uninterrupted and salaried occupation as a firefighter, arson investigator or police officer in this State before the date of disablement are conclusively presumed to have arisen out of and in the course of the employment if the disease is diagnosed and causes the disablement:

(a) During the course of that employment;

(b) If the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or

(c) If the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life.

➔ Service credit which is purchased in a retirement system must not be calculated towards the years of service of a person for the purposes of this section.

2. Frequent or regular use of a tobacco product within 1 year, or a material departure from a physician's prescribed plan of care by a person within 3 months, immediately preceding the filing of a claim for compensation excludes a person who has separated from service from the benefit of the conclusive presumption provided in subsection 1.

3. Notwithstanding any other provision of this chapter, diseases of the heart, resulting in either temporary or permanent disability or death, are occupational diseases and compensable as such under the provisions of this chapter if caused by extreme overexertion in times of stress or danger and a causal relationship can be shown by competent evidence that the disability or death arose out of and was caused by the performance of duties as a volunteer firefighter by a person entitled to the benefits of chapters 616A to 616D, inclusive, of NRS pursuant to the provisions of NRS 616A.145 and who, for 5 years or more, has served continuously as a volunteer firefighter in this State by continuously maintaining an active status on the roster of a volunteer fire department.

~~[3.]~~ *4. Except as otherwise provided in subsection ~~[4.]~~ 5, each employee who is to be covered for diseases of the heart pursuant to the provisions of this section shall submit to a physical examination, including an examination of the heart, upon employment, upon commencement of coverage and thereafter on an annual basis during his or her employment.*

~~[4.]~~ *5. During the period in which a volunteer firefighter is continuously on active status on the roster of a volunteer fire department, a physical examination for the volunteer firefighter is required:*

- (a) Upon employment;
- (b) Upon commencement of coverage; and
- (c) Once every 3 years after the physical examination that is required pursuant to paragraph (b),

➔ until the firefighter reaches the age of 50 years. Each volunteer firefighter who is 50 years of age or older shall submit to a physical examination once every 2 years during his or her employment.

~~{5}~~ 6. The employer of the volunteer firefighter is responsible for scheduling the physical examination. The employer shall mail to the volunteer firefighter a written notice of the date, time and place of the physical examination at least 10 days before the date of the physical examination and shall obtain, at the time of mailing, a certificate of mailing issued by the United States Postal Service.

~~{6}~~ 7. Failure to submit to a physical examination that is scheduled by his or her employer pursuant to subsection ~~{5}~~ 6 excludes the volunteer firefighter from the benefits of this section.

~~{7}~~ 8. The chief of a volunteer fire department may require an applicant to pay for any physical examination required pursuant to this section if the applicant:

- (a) Applies to the department for the first time as a volunteer firefighter; and
- (b) Is 50 years of age or older on the date of his or her application.

~~{8}~~ 9. The volunteer fire department shall reimburse an applicant for the cost of a physical examination required pursuant to this section if the applicant:

- (a) Paid for the physical examination in accordance with subsection ~~{7}~~ 8;
- (b) Is declared physically fit to perform the duties required of a firefighter; and
- (c) Becomes a volunteer with the volunteer fire department.

~~{9}~~ 10. Except as otherwise provided in subsection ~~{7}~~ 8, all physical examinations required pursuant to subsections ~~{3}~~ 4 and ~~{4}~~ 5 must be paid for by the employer.

~~{10}~~ 11. Failure to correct predisposing conditions which lead to heart disease when so ordered in writing by the examining physician subsequent to a physical examination required pursuant to subsection ~~{3}~~ 4 or ~~{4}~~ 5 excludes the employee from the benefits of this section if the correction is within the ability of the employee.

~~{11}~~ 12. A person who is determined to be:

- (a) Partially disabled from an occupational disease pursuant to the provisions of this section; and

(b) Incapable of performing, with or without remuneration, work as a firefighter, arson investigator or police officer,

➔ may elect to receive the benefits provided under NRS 616C.440 for a permanent total disability.

~~[12.]~~ 13. Claims filed under this section may be reopened at any time during the life of the claimant for further examination and treatment of the claimant upon certification by a physician of a change of circumstances related to the occupational disease which would warrant an increase or rearrangement of compensation.

Sec. 4. ~~[NRS 617.485 is hereby amended to read as follows:~~

~~617.485 1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, if an employee has hepatitis, the disease is conclusively presumed to have arisen out of and in the course of his or her employment if [the]:~~

~~(a) The employee has been continuously employed for 5 years or more as a police officer, full time salaried firefighter or emergency medical attendant in this State before the date of any temporary or permanent disability or death resulting from the hepatitis [.]; and~~

~~(b) The hepatitis was diagnosed during the course of that employment.~~

~~2. Compensation awarded to a police officer, firefighter or emergency medical attendant, or to the dependents of such a person, for hepatitis pursuant to this section must include:~~

~~(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization; and~~

~~(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.~~

~~3. A police officer, salaried firefighter or emergency medical attendant shall:~~

~~(a) Submit to a blood test to screen for hepatitis C upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment.~~

~~(b) Submit to a blood test to screen for hepatitis A and hepatitis B upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment, except that a police officer, salaried firefighter or emergency medical attendant is not required to submit to a blood test to screen for hepatitis A and hepatitis B on an annual basis during his or her employment if he or she has been vaccinated for hepatitis A and hepatitis B upon employment or at other medically appropriate times during his or her employment. Each employer shall provide a police officer, salaried firefighter or emergency medical attendant with the opportunity to be vaccinated for hepatitis A and hepatitis B upon employment and at other medically appropriate times during his or her employment.~~

~~4. All blood tests required pursuant to this section and all vaccinations provided pursuant to this section must be paid for by the employer.~~

~~5. The provisions of this section:~~

~~(a) Except as otherwise provided in paragraph (b), do not apply to a police officer, firefighter or emergency medical attendant who is diagnosed with hepatitis upon employment.~~

~~—(b) Apply to a police officer, firefighter or emergency medical attendant who is diagnosed with hepatitis upon employment if, during the employment or within 1 year after the last day of the employment, he or she is diagnosed with a different strain of hepatitis.~~

~~—[(c) Apply to a police officer, firefighter or emergency medical attendant who is diagnosed with hepatitis after the termination of the employment if the diagnosis is made within 1 year after the last day of the employment.]~~

~~—6. A police officer, firefighter or emergency medical attendant who is determined to be:~~

~~—(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and~~

~~—(b) Incapable of performing, with or without remuneration, work as a police officer, firefighter or emergency medical attendant,~~

~~may elect to receive the benefits provided pursuant to NRS 616C.440 for a permanent total disability.~~

~~—7. As used in this section:~~

~~—(a) "Emergency medical attendant" means a person licensed as an attendant or certified as an emergency medical technician, advanced emergency medical technician or paramedic pursuant to chapter 450B of NRS, whose primary duties of employment are the provision of emergency medical services.~~

~~—(b) "Hepatitis" includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.~~

~~—(c) "Police officer" means a sheriff, deputy sheriff, officer of a metropolitan police department or city police officer.] (Deleted by amendment.)~~

Sec. 5. ~~[NRS 617.487 is hereby amended to read as follows:~~

~~—617.487 1. Notwithstanding any other provision of this chapter and except as otherwise provided in this section, if an employee has hepatitis, the disease is conclusively presumed to have arisen out of and in the course of his or her employment if [the]:~~

~~—(a) The employee has been continuously employed for 5 years or more as a police officer or a sheriff, deputy sheriff, officer of a metropolitan police department or city police officer in this State before the date of any temporary or permanent disability or death resulting from the hepatitis [.]; and~~

~~—(b) The hepatitis was diagnosed during the course of that employment.~~

~~—2. Compensation awarded to a police officer, or to the dependents of a police officer, for hepatitis pursuant to this section must include:~~

~~—(a) Full reimbursement for related expenses incurred for medical treatments, surgery and hospitalization; and~~

~~—(b) The compensation provided in chapters 616A to 616D, inclusive, of NRS for the disability or death.~~

~~—3. A police officer shall:~~

~~—(a) Submit to a blood test to screen for hepatitis C upon employment and upon the commencement of coverage.~~

~~—(b) If the employer of the police officer provides screening for hepatitis C for police officers on an annual basis, submit to a blood test to screen for hepatitis C thereafter on an annual basis during his or her employment.~~

~~—(c) If the employer of the police officer provides screening for hepatitis A and hepatitis B for police officers, submit to a blood test to screen for hepatitis A and hepatitis B upon employment, upon the commencement of coverage and thereafter on an annual basis during his or her employment, except that a police officer is not required to submit to a blood test to screen for hepatitis A and hepatitis B on an annual basis during his or her employment if he or she has been vaccinated for hepatitis A and hepatitis B upon employment or at other medically appropriate times during his or her employment. Each employer shall provide a police officer with the opportunity to be vaccinated for hepatitis A and hepatitis B upon employment and at other medically appropriate times during his or her employment.~~

~~—4. All blood tests required pursuant to this section and all vaccinations provided pursuant to this section must be paid for by the employer.~~

~~—5. The provisions of this section:~~

~~—(a) Except as otherwise provided in paragraph (b), do not apply to a police officer who is diagnosed with hepatitis upon employment.~~

~~—(b) Apply to a police officer who is diagnosed with hepatitis upon employment if, during the employment, [or within 1 year after the last day of the employment,] the police officer is diagnosed with a different strain of hepatitis.~~

~~—[(c) Apply to a police officer who is diagnosed with hepatitis after the termination of the employment if the diagnosis is made within 1 year after the last day of the employment.]~~

~~—6. A police officer who is determined to be:~~

~~—(a) Partially disabled from an occupational disease pursuant to the provisions of this section; and~~

~~—(b) Incapable of performing, with or without remuneration, work as a police officer;~~

~~— may elect to receive the benefits provided pursuant to NRS 616C.440 for a permanent total disability.~~

~~—7. As used in this section:~~

~~—(a) "Hepatitis" includes hepatitis A, hepatitis B, hepatitis C and any additional diseases or conditions that are associated with or result from hepatitis A, hepatitis B or hepatitis C.~~

~~—(b) "Police officer" means any police officer other than a sheriff, deputy sheriff, officer of a metropolitan police department or city police officer.]~~

~~(Deleted by amendment.)~~

Sec. 6. The amendatory provisions of this act ~~[apply]~~ :

1. Apply only to ~~claims for compensation for occupational diseases filed pursuant to chapter 617 of NRS~~ disablement which occurs on or after the effective date of this ~~act~~ section; and

2. Do not apply to any person who, on the effective date of this section, has completed at least 20 years of creditable service, not including any service credit purchased in a retirement system, as a police officer, firefighter, volunteer firefighter or arson investigator in this State.

Sec. 7. 1. This section and sections 2, 3 and 6 of this act ~~becomes~~ become effective upon passage and approval.

2. Sections 1.5, 2.5 and 3.5 of this act become effective on January 1, 2017.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senators Settelmeyer and Atkinson.

SENATOR SETTELMEYER:

Amendment No. 487 makes two changes to Senate Bill No. 153. It first limits the time period that certain diseases of the lung and heart contracted by police officers, firefighters and arson investigators for the purpose of industrial insurance claims are conclusively presumed to be occupationally related. Second, it prevents certain police officers, firefighter and arson investigators who use tobacco products or fail to follow a physician's prescribed plan of care, from claiming these presumptions.

SENATOR ATKINSON:

Is this still keeping in the year-for-year up to twenty years?

SENATOR SETTELMEYER:

We basically gutted the original bill because it had problems and issues, and we came to an agreement on what to do. If individuals put in 20 years of service in the State of Nevada, if they work here 20 years, they get to keep the presumption for life. However, if they do not work for 20 years, they get year-for-year of service. We did change the presumption level which is currently 5 years and lowered it to 2 years. If you only work 2 years, you will only get 2 years of presumption. If you can prove it is from the job, you are still covered, but the automatic presumption is only year-for-year of the time worked. We added the concept that if an individual decides he or she is going to smoke cigarettes or not follow what their physician tells them to do, they lose the presumption. Those aspects were decided by the Committee after talking to individuals on the police force who stated it is sometimes difficult to quit smoking or lose weight; therefore, we decided that section of law should be given an additional year. The amendment moves the effective date on that provision to 2017.

SENATOR ATKINSON:

I realize the bill was gutted by reading it and through the conversations we have had. I want to find out who is going to determine an individual is not complying? Will it be the occupational disease doctors or an individual's doctor? Who determines this?

SENATOR SETTELMEYER:

The discussion was that when someone comes in with a claim, if we find there are doctor's notes saying for a year or so previous the individual should, for example, lose weight, when that section goes into effect, if they have an accident and the doctor says they are at risk for heart attack because of obesity or smoking, this can take away their presumption. If it is still determined it came from the job, that is fine but the automatic presumption goes away due to their action or lack thereof. That was negotiated with the agencies involved, and they were supportive of it.

Amendment adopted.

Bill ordered reprinted, 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 1:38 p.m.

SENATE IN SESSION

At 5:03 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which was referred Senate Bill No. 208, 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 were referred Senate Bills Nos. 6, 419, 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 were referred Senate Bills Nos. 192, 225, 260, 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 Legislative Operations and Elections, to which was referred Senate Bill No. 274, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

PATRICIA FARLEY, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 6.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 453.

SUMMARY—Revises provisions relating to the delivery of health care. (BDR 40-63)

AN ACT relating to health care; ~~providing for the creation of the Office for Patient Centered Medical Homes within the Division of Public and Behavioral Health of the Department of Health and Human Services;~~ requiring ~~certification~~ accreditation before a primary care practice may operate as a patient-centered medical home; ~~authorizing the creation of the~~

~~Advisory Council on Patient Centered Medical Homes; authorizing insurers that register with the Office to provide payments and incentives to such medical homes; requiring the Administrator of the Division to evaluate patient centered medical homes and provide certain oversight;}~~ requiring each operator of a patient-centered medical home to spend a certain amount of his or her working hours providing primary health services for the patient-centered medical home; authorizing the State Board of Health to adopt regulations governing the operation of patient-centered medical homes; authorizing the Commissioner of Insurance to adopt regulations governing insurance coverage for health services provided through patient-centered medical homes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~{Sections 2 to 20 of this bill provide for the creation of the Office for Patient Centered Medical Homes and the Advisory Council on Patient Centered Medical Homes within the Division of Public and Behavioral Health of the Department of Health and Human Services. Section 13 requires the Administrator of the Division to administer the Office and to adopt regulations to establish certain standards and processes relating to the Office. Section 14 requires a primary care practice to be certified by the Office before operating as a patient centered medical home. Section 15 allows an insurer which registers with the Office: (1) to pay incentives to a patient centered medical home for the coordination of care for insureds; and (2) if authorized by an insured, to share information about the insured with a patient centered medical home and any other practitioner or health facility that provides health services to the insured. Sections 14 and 15 require the Administrator to adopt necessary regulations to provide for the certification of patient centered medical homes and the registration of insurers, including regulations to impose a fee for certification and registration.~~

~~— Section 19 requires the Administrator to evaluate the effectiveness of patient centered medical homes and the efforts of the Office to promote and regulate such homes and report to the Legislature with the results of the evaluation on or before January 1 of each odd numbered year. Section 22 of this bill requires the Administrator, to the extent that money is available for that purpose and as soon as practicable, to adopt certain regulations relating to certain payments made by insurers to patient centered medical homes and federal antitrust laws. Section 22 also requires the Administrator to carry out the provisions of this bill relating to patient centered medical homes as soon as practicable after receiving money to cover the costs necessary to carry out those provisions. Section 23 of this bill makes the provisions of this bill: (1) effective on the date on which the Administrator determines that sufficient money has been received to carry out those provisions; and (2) expire by limitation on June 30, 2021.}~~ Section 20.2 of this bill defines the term "patient-centered medical home" to mean a primary care practice that: (1) offers family centered, culturally competent health care that is coordinated with outside practitioners and health facilities to provide

comprehensive health services; and (2) emphasizes enhanced access to practitioners and preventive care to improve the outcomes for and experiences of patients and lower the costs of health services. Section 20.2 also prohibits a primary care practice from representing itself as a patient-centered medical home unless: (1) it is accredited as such by a nationally recognized organization for accrediting patient-centered medical homes; and (2) each physician or advanced practice registered nurse who operates a patient-centered medical home spends at least 60 percent of his or her working hours providing primary health services for the patient-centered medical home. Sections 20.2 and 20.7 of this bill authorize the State Board of Health and the Commissioner of Insurance to adopt regulations that govern the operation of patient-centered medical homes and insurance coverage for health services provided through patient-centered medical homes. Such regulations: (1) must allow for the operation of patient-centered medical homes to the greatest extent authorized by federal and state antitrust laws; and (2) may allow for coordination between patient-centered medical homes and insurers and incentives provided by insurers to patient-centered medical homes that would otherwise constitute unfair trade practices. Section 21 of this bill authorizes the State Board and the Commissioner to adopt regulations exempting insurance coverage for health services provided through patient-centered medical homes from certain prohibitions on inducements to insurance.

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

Section 1. ~~[Chapter 439A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 2. ~~[As used in sections 2 to 20, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 11, inclusive, of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 3. ~~["Administrator" means the Administrator of the Division.] (Deleted by amendment.)~~

Sec. 4. ~~["Advisory Council" means the Advisory Council on Patient Centered Medical Homes established pursuant to section 16 of this act.] (Deleted by amendment.)~~

Sec. 5. ~~["Division" means the Division of Public and Behavioral Health of the Department.] (Deleted by amendment.)~~

Sec. 6. ~~["Federally qualified health center" has the meaning ascribed to it in 42 U.S.C. § 1396d(l)(2)(B).] (Deleted by amendment.)~~

Sec. 7. ~~["Insured" means a person who receives health coverage or benefits in accordance with state law from an insurer.] (Deleted by amendment.)~~

Sec. 8. ~~["Insurer" means a person or governmental entity that provides health coverage or benefits in accordance with state law. The term includes, without limitation:~~

~~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 that provides health insurance through a plan of self insurance pursuant to NRS 287.010 to 287.040, inclusive.~~

~~2. The Board of the Public Employees' Benefits Program if the Board provides health insurance through a plan of self insurance pursuant to NRS 287.04335.~~

~~3. The Division of Health Care Financing and Policy of the Department for the purpose of administering the Medicaid program and the Children's Health Insurance Program pursuant to chapter 422 of NRS.~~

~~4. An insurer that issues policies of individual health insurance pursuant to chapter 689A of NRS or policies of group health insurance pursuant to chapter 689B of NRS.~~

~~5. A carrier who provides health benefit plans pursuant to chapter 689C of NRS.~~

~~6. A fraternal benefit society that provides hospital, medical or nursing benefits pursuant to chapter 695A of NRS.~~

~~7. A corporation organized for the purpose of maintaining and operating a hospital, medical or dental service plan pursuant to chapter 695B of NRS.~~

~~8. A health maintenance organization established and operated pursuant to chapter 695C of NRS.~~

~~9. A managed care organization established and operated pursuant to chapter 695G of NRS.~~

~~10. The Silver State Health Insurance Exchange established by NRS 695I.200.] (Deleted by amendment.)~~

Sec. 9. ~~["Office" means the Office for Patient-Centered Medical Homes created by section 12 of this act.] (Deleted by amendment.)~~

Sec. 10. ~~["Patient centered medical home" means a primary care practice certified by the Office pursuant to section 14 of this act.] (Deleted by amendment.)~~

Sec. 11. ~~["Primary care practice" means a federally qualified health center or a business where health services are provided by one or more advanced practice registered nurses or one or more physicians who are licensed pursuant to chapter 630 or 633 of NRS and who practice in the area of family practice, internal medicine or pediatrics.] (Deleted by amendment.)~~

Sec. 12. ~~1. There is hereby created within the Division the Office for Patient-Centered Medical Homes.~~

~~2. The Office shall encourage the development of patient centered medical homes and adopt standards to encourage insurers to provide~~

~~coverage for health services provided to insureds at patient centered medical homes.~~ (Deleted by amendment.)

Sec. 13. ~~[1. The Administrator or his or her designee shall administer the Office.~~

~~2. The Administrator or his or her designee shall adopt regulations to carry out the provisions of sections 2 to 20, inclusive, of this act, which may include, without limitation, regulations to establish:~~

~~(a) Standards for the qualification and operation of a patient centered medical home;~~

~~(b) Standards for submitting claims to an insurer for health services received by an insured at a patient centered medical home;~~

~~(c) Standards for any payment for services associated with the coordination of care or incentive that may be provided by an insurer to a patient centered medical home pursuant to section 15 of this act;~~

~~(d) A method to measure the effectiveness in the delivery of health services to patients at a patient centered medical home; and~~

~~(e) A process for an insured to determine whether to receive health services from a patient centered medical home when such services are available.~~

~~3. In adopting regulations pursuant to this section, the Administrator or his or her designees may adopt the standards of the National Committee for Quality Assurance, or its successor organization, and the certification process of that organization which relate to patient centered medical homes.~~

~~4. In adopting regulations pursuant to this section, the Administrator or his or her designee shall:~~

~~(a) Ensure that the Office carries out its duties in the public interest and in such a manner as to promote the efficient and effective provision of health services;~~

~~(b) Consider the use of health information technology, including, without limitation, electronic medical records;~~

~~(c) Consider the relationship between patient centered medical homes and other practitioners and health facilities;~~

~~(d) Consider the ability of patient centered medical homes to foster partnerships with insureds and provide health services to insureds in a timely manner; and~~

~~(e) Consider the use of comprehensive management of medication to improve outcomes.~~

~~5. The Administrator shall monitor insurers and patient centered medical homes and adopt such regulations as necessary to ensure that the insurers and patient centered medical homes may engage in the activities authorized pursuant to sections 2 to 20, inclusive, of this act and any regulations adopted pursuant thereto to the greatest extent possible without violating federal antitrust laws. Any act of an insurer or a patient centered medical home which is in compliance with sections 2 to 20, inclusive, of this act and any regulations adopted pursuant thereto does not constitute an~~

~~unfair trade practice for the purposes of chapter 598A of NRS.] (Deleted by amendment.)~~

Sec. 14. ~~[1. Before a primary care practice may operate as a patient centered medical home, the primary care practice must be certified by the Office. 2. The Office must certify a primary care practice for the purpose of operating as a patient centered medical home if the primary care practice demonstrates to the Office that:~~

~~— (a) Insureds will receive health services from a team of medical professionals who are directed by one or more physicians who practice in the area of family practice, internal medicine or pediatrics;~~

~~— (b) The provision of health services at the patient centered medical home will be evidence based and provided on a comprehensive and ongoing basis;~~

~~— (c) Insureds who receive services at the patient centered medical home will have enhanced access to health services and improved communication with practitioners and coordination of health services;~~

~~— (d) Health information technology will be used to improve the delivery of health services to insureds at the patient centered medical home;~~

~~— (e) Improved outcomes for insureds will be possible and provided in a more cost effective manner; and~~

~~— (f) The practice complies with any other requirements established by the Administrator by regulation.~~

~~3. The Administrator shall adopt any regulations necessary to carry out the provisions of this section, which may include, without limitation, regulations establishing:~~

~~— (a) A fee for certification by the Office which may be set in an amount not to exceed the costs related to certification;~~

~~— (b) The manner in which to apply for certification; and~~

~~— (c) The expiration and renewal of certification.] (Deleted by amendment.)~~

Sec. 15. ~~[1. An insurer that registers with the Office may provide an incentive to a patient centered medical home that offers health services to its insureds in the manner and amount authorized by the Administrator by regulation.~~

~~2. An insurer that registers with the Office pursuant to subsection 1 may:~~

~~— (a) Pay a patient centered medical home for services associated with the coordination of care for any health services provided to an insured; and~~

~~— (b) Except as otherwise provided in subsection 3, share health care records and other related information about an insured who has elected to receive services from a patient centered medical home with the patient centered medical home and any other practitioner or health facility that provides health services to the insured.~~

~~3. An insurer that registers with the Office, a patient centered medical home and any other practitioner or health facility may share health care records and other related information about an insured only if the insured provides authorization to share such information. An authorization to share information pursuant to this subsection:~~

~~— (a) Must be made on a form prescribed by the Administrator or his or her designee that is signed by the insured;~~

~~— (b) Expires 1 year after the date on which the insured signed the form; and~~

~~— (c) May be renewed.~~

~~— 4. The Administrator shall adopt any regulations necessary to carry out the provisions of this section, which may include, without limitation, regulations establishing:~~

~~— (a) A fee for registering with the Office which may be set at an amount not to exceed the costs related to registration;~~

~~— (b) The manner in which to apply for registration; and~~

~~— (c) The expiration and renewal of registration.~~

~~— 5. As used in this section, "health care records" has the meaning ascribed to it in NRS 629.021.] (Deleted by amendment.)~~

Sec. 16. ~~[1. Within the limits of available money, the Division shall establish the Advisory Council on Patient Centered Medical Homes to advise and make recommendations to the Division concerning the Office.~~

~~— 2. The Administrator shall appoint to the Advisory Council the following six voting members:~~

~~— (a) The Chief Medical Officer or his or her designee;~~

~~— (b) The Commissioner of Insurance or his or her designee;~~

~~— (c) The Director or his or her designee;~~

~~— (d) The Administrator of the Division of Health Care Financing and Policy of the Department or his or her designee;~~

~~— (e) One representative of the health insurance industry who serves at the pleasure of the Administrator; and~~

~~— (f) One provider of health care who serves at the pleasure of the Administrator.~~

~~— 3. The Legislative Commission shall appoint to the Advisory Council the following two voting members:~~

~~— (a) One member of the Senate; and~~

~~— (b) One member of the Assembly.~~

~~— 4. In addition to the members appointed pursuant to subsections 2 and 3, the following persons shall serve on the Advisory Council as voting members:~~

~~— (a) The Governor or his or her designee; and~~

~~— (b) One representative of consumers of health care who is appointed by and serves at the pleasure of the Governor.~~

~~— 5. A majority of the voting members of the Advisory Council may appoint nonvoting members to the Advisory Council.] (Deleted by amendment.)~~

Sec. 17. ~~[1. The members of the Advisory Council serve for a term of 2 years and may be reappointed. Vacancies must be filled in the same manner as the original appointment.~~

~~2. At its first meeting and annually thereafter, a majority of the voting members of the Advisory Council shall select a Chair and a Vice Chair of the Advisory Council.~~

~~3. A majority of the voting members of the Advisory Council may appoint committees or subcommittees to study issues relating to patient centered medical homes.~~

~~4. The Division shall, within the limits of available money, provide the necessary professional staff and a secretary for the Advisory Council.~~

~~5. A majority of the voting members of the Advisory Council constitutes a quorum to transact all business, and a majority of those voting members present, physically or via telecommunications, must concur in any decision.~~

~~6. The Advisory Council shall, within the limits of available money, meet quarterly at the call of the Administrator, the Chair or a majority of the voting members of the Advisory Council or as is necessary.~~

~~7. A member of the Advisory Council who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that he or she may prepare for and attend meetings of the Advisory Council and perform any work necessary to carry out the duties of the Advisory Council in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Advisory Council to:~~

~~(a) Make up the time the member is absent from work to carry out his or her duties as a member of the Advisory Council; or~~

~~(b) Take annual leave or compensatory time for the absence.~~

~~8. The members of the Advisory Council serve without compensation, except that:~~

~~(a) For each day or portion of a day during which a member of the Advisory Council who is a Legislator attends a meeting of the Advisory Council or is otherwise engaged in the business of the Advisory Council, except during a regular or special session of the Legislature, the Legislator is entitled to receive the:~~

~~(1) Compensation provided for a majority of the members of the Legislature during the first 60 days preceding regular session;~~

~~(2) Per diem allowance provided for state officers generally; and~~

~~(3) Travel expenses provided pursuant to NRS 218.4.655; and~~

~~(b) Each member who is not a Legislator is entitled, while engaged in the business of the Advisory Council and within the limits of available money, to the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~9. The compensation, per diem allowances and travel expenses of the members of the Advisory Council who are Legislators must be paid from the Legislative Fund.~~ (Deleted by amendment.)

Sec. 18. ~~[To assist the Office in carrying out the provisions of sections 2 to 20, inclusive, of this act, the Advisory Council shall, within the limits of available money, investigate, consider and advise the Office on:~~

~~1. Standards that relate to patient centered medical homes; and~~
~~2. Any other issue relating to patient centered medical homes.] (Deleted by amendment.)~~

Sec. 19. ~~[1. On or before January 1 of each odd numbered year, the Administrator or his or her designee shall:~~

~~(a) Conduct an evaluation of the effectiveness of patient centered medical homes in this State and of the efforts of the Office to promote and regulate patient centered medical homes; and~~

~~(b) Submit a written report compiling the results of the evaluation to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.~~

~~2. The evaluation must include, without limitation, information relating to the effects of patient centered medical homes and the Office on:~~

~~(a) The costs and outcomes of health care;~~

~~(b) The delivery of health care;~~

~~(c) The quality of processes for the delivery of health care;~~

~~(d) Access to services for the coordination of health care;~~

~~(e) Whether the enhanced payments allowed to patient centered medical homes provide adequate compensation for the expanded health services provided by patient centered medical homes;~~

~~(f) The satisfaction of insureds with the quality and delivery of health care received from patient centered medical homes;~~

~~(g) The satisfaction of practitioners with the quality and delivery of health care at patient centered medical homes; and~~

~~(h) Any existing disparities in the ability of different groups of persons to obtain health care.] (Deleted by amendment.)~~

Sec. 20. ~~[The Division and the Office may accept gifts, grants, donations and bequests from any source to carry out the provisions of sections 2 to 20, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 20.2. Chapter 439A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A primary care practice shall not represent itself as a patient-centered medical home unless:

(a) The primary care practice is accredited as a patient-centered medical home by a nationally recognized organization for the accrediting of patient-centered medical homes; and

(b) Each physician or advanced practice registered nurse who operates a patient-centered medical home spends at least 60 percent of his or her working hours providing primary health services for the patient-centered medical home.

2. The Department shall post on an Internet website maintained by the Department links to nationally recognized organizations for the accrediting

of patient-centered medical homes and any other information specified by the Department to allow patients to find a patient-centered medical home that meets the requirements of this section and any regulations adopted pursuant thereto.

3. The State Board of Health may, in consultation with the Commissioner of Insurance, adopt regulations governing the operation of patient-centered medical homes. Such regulations must allow for the operation of patient-centered medical homes to the greatest extent authorized by federal and state antitrust laws, and may, without limitation, establish:

(a) An advisory council to provide input to the Department concerning patient-centered medical homes; and

(b) Means of measuring the quality of health services provided by patient-centered medical homes and the effectiveness of patient-centered medical homes at reducing the cost of health services.

4. Any coordination between an insurer and a patient-centered medical home or acceptance of an incentive from an insurer by a patient-centered medical home that is authorized under the regulations adopted pursuant to this section and section 20.7 of this act shall not be deemed to be an unfair method of competition or an unfair or deceptive trade practice or other act or practice prohibited by the provisions of chapter 598 or 686A of NRS.

5. As used in this section:

(a) "Patient-centered medical home" means a primary care practice that:

(1) Offers family centered, culturally competent health services that are coordinated with outside practitioners and health facilities to provide comprehensive health services; and

(2) Emphasizes enhanced access to practitioners and preventive care to improve the outcomes for and experiences of patients and lower the costs of health services.

(b) "Primary care practice" means a federally-qualified health center, as defined in 42 U.S.C. § 1396(l)(2)(B), or a business where health services are provided by one or more advanced practice registered nurses or one or more physicians who are licensed pursuant to chapter 630 or 633 of NRS and who practice in the area of family practice, internal medicine, obstetrics and gynecology or pediatrics.

Sec. 20.7. Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may, in consultation with the State Board of Health, adopt regulations governing insurance coverage for health services provided to patients through a patient-centered medical home. Such regulations must facilitate the operation of patient-centered medical homes and the coverage for health services provided through patient-centered medical homes to the greatest extent authorized by federal and state antitrust laws. Such regulations must not require an insurer to cover health services provided through patient-centered medical homes and may, without limitation, authorize an insurer to:

(a) Provide an incentive to a patient-centered medical home that offers health services to its insureds. The regulations may prescribe the manner in which such an incentive must be provided and the maximum amount of the incentive.

(b) Pay a patient-centered medical home for services associated with the coordination of care for any health services provided to an insured.

(c) With the authorization of an insured, share health care records and other related information about an insured who has elected to receive health services from a patient-centered medical home with the patient-centered medical home and any other practitioner or health facility that provides health services to the insured.

2. Any coordination between an insurer and a patient-centered medical home or provision of an incentive by an insurer to a patient-centered medical home that is authorized under the regulations adopted pursuant to this section and section 20.2 of this act shall not be deemed to be an unfair method of competition or an unfair or deceptive trade practice or other act or practice prohibited by the provisions of chapter 598 or 686A of NRS.

3. As used in this section:

(a) "Health services" has the meaning ascribed to it in NRS 439A.017.

(b) "Patient-centered medical home" means a primary care practice that:

(1) Offers family centered, culturally competent health services that are coordinated with outside practitioners and health facilities to provide comprehensive health services; and

(2) Emphasizes enhanced access to practitioners and preventive care to improve outcomes and experience for patients and lower the costs of health services.

Sec. 21. NRS 686A.110 is hereby amended to read as follows:

686A.110 Except as otherwise expressly provided by law ~~[, including, without limitation,]~~ and any regulations adopted pursuant to section [15] 20.7 of this act, no person shall knowingly:

1. Permit to be made or offer to make or make any contract of life insurance, life annuity or health insurance, or agreement as to such contract, other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow or give, directly or indirectly, or knowingly accept, as an inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the contract; or

2. Directly or indirectly give or sell or purchase or offer or agree to give, sell, purchase, or allow as an inducement to such insurance or annuity or in connection therewith, whether or not to be specified in the policy or contract, any agreement of any form or nature promising returns and profits, or any stocks, bonds or other securities, or interest present or contingent therein or

as measured thereby, of any insurer or other corporation, association or partnership, or any dividends or profits accrued or to accrue thereon.

Sec. 21.5. NRS 690C.120 is hereby amended to read as follows:

690C.120 1. Except as otherwise provided in this chapter, the marketing, issuance, sale, offering for sale, making, proposing to make and administration of service contracts are not subject to the provisions of title 57 of NRS, except, when applicable, the provisions of:

- (a) NRS 679B.020 to 679B.152, inclusive ~~[.]~~, *and section 20.7 of this act;*
- (b) NRS 679B.159 to 679B.300, inclusive;
- (c) NRS 679B.310 to 679B.370, inclusive;
- (d) NRS 679B.600 to 679B.690, inclusive;
- (e) NRS 685B.090 to 685B.190, inclusive;
- (f) NRS 686A.010 to 686A.095, inclusive;
- (g) NRS 686A.160 to 686A.187, inclusive; and
- (h) NRS 686A.260, 686A.270, 686A.280, 686A.300 and 686A.310.

2. A provider, person who sells service contracts, 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 service contracts.

~~Sec. 22. [The Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services shall:~~

~~1. To the extent that money is available for that purpose and as soon as practicable, adopt the regulations necessary to carry out the provisions of paragraph (c) of subsection 2 of section 13 of this act and subsection 5 of that section.~~

~~2. Carry out the provisions of sections 2 to 20, inclusive, of this act, other than the adoption of regulations described in subsection 1, as soon as practicable after adopting the regulations described in subsection 1 and receiving money through gifts, grants, donations or bequests or other money made available to cover the costs necessary to carry out those provisions.]~~
(Deleted by amendment.)

Sec. 23. ~~[1.]~~ This ~~[section and sections 20 and 22 of this]~~ act ~~[become]~~ becomes effective upon passage and approval.

~~[2. Sections 1 to 19, inclusive, and 21 of this act become effective on the date on which the Administrator of the Division of Public and Behavioral Health of the Department of Health and Human Services determines that sufficient money has been received to carry out the provisions of sections 2 to 20, inclusive, of this act.~~

~~3. Sections 1 to 21, inclusive, of this act expire by limitation on June 30, 2021.]~~

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 453 to Senate Bill No. 6 replaces the current provisions of the measure with the following provisions. The amendment defines the term "patient-centered medical home" to mean a primary care practice that: 1) offers family-centered, culturally-competent health care

that is coordinated with outside practitioners and health facilities to provide comprehensive health services; and 2) emphasizes enhanced access to practitioners and preventive care to patients by improving outcomes and experiences and by lowering the cost of health services.

It prohibits a primary care practice from representing itself as a patient-centered medical home unless it is accredited as such by a nationally recognized organization for accrediting patient-centered medical homes; each physician or advanced practice registered nurse who operates a patient centered medical home spends at least 60 percent of his or her working hours providing primary health services for the patient-centered medical home; authorizes the State Board of Health and the Commissioner of Insurance to adopt regulations that govern the operation of patient-centered medical homes and insurance coverage for health services provided through patient-centered medical homes and exempt insurance coverage for health services provided through patient-centered medical homes from certain prohibitions on inducements to insurance.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 192.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 131.

SUMMARY—Revises provisions relating to sexual conduct between certain persons. (BDR 14-731)

AN ACT relating to crimes; providing that certain employees of or volunteers at a school who are convicted of engaging in sexual conduct with certain pupils are subject to various statutory provisions relating to sex offenders; providing that certain employees of a college or university who are convicted of engaging in sexual conduct with certain students are also subject to various statutory provisions relating to sex offenders; revising provisions relating to certain employees of or volunteers at a school who engage in sexual conduct with certain pupils; prohibiting certain employees of or volunteers at a school from engaging in sexual conduct with a pupil who is 18 years of age; prohibiting certain employees of a college or university from engaging in sexual conduct with ~~a student who is 18 years of age;~~ certain students; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) requires a court to include a special sentence of lifetime supervision for any person convicted of certain sexual offenses; and (2) provides certain conditions of lifetime supervision. (NRS 176.0931, 213.1243) Sections 1 and 12 of this bill add to the list of sexual offenses that require a sentence of lifetime supervision and for which certain conditions of lifetime supervision apply: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

Existing law also: (1) requires a person convicted of certain sexual offenses to undergo a psychosexual evaluation as part of the presentence

investigation and report prepared by the Division of Parole and Probation of the Department of Public Safety; and (2) prohibits the court from granting probation to or suspending the sentence of a person convicted of certain sexual offenses, unless the person who conducts the psychosexual evaluation certifies that the person convicted of the sexual offense does not represent a high risk to reoffend. (NRS 176.133, 176.135, 176A.110) Sections 2 and 3 of this bill add to the list of sexual offenses which require a psychosexual evaluation as part of the presentence investigation and report and a certification that the person convicted does not represent a high risk to reoffend before the person may be granted probation or have his or her sentence suspended: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

Existing law requires the prosecuting attorney, sheriff or chief of police, upon request, to inform a victim or witness of certain sexual offenses: (1) when the defendant is released from custody at any time before or during the defendant's trial; and (2) of the final disposition of the case involving the victim or witness. (NRS 178.5698) Section 4 of this bill adds to the list of sexual offenses that are subject to such requirements concerning notification of a victim or witness: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

Existing law allows a person convicted of certain offenses to petition the court for the sealing of all records relating to the conviction, but does not authorize the sealing of records relating to a conviction of certain sexual offenses. (NRS 179.245) Section 5 of this bill adds to the list of sexual offenses for which the sealing of records is not authorized: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

Existing law also defines the term "sexual offense" for the purpose of requiring persons convicted of certain sexual offenses to register as a sex offender, to comply with certain mandatory conditions of probation or parole and to fulfill certain other requirements. (NRS 118A.335, 176A.410, 179D.097, 213.1099, 213.1245) Section 6 of this bill revises the list of sexual offenses to which these statutory provisions apply to include: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

~~[Existing law establishes three tier levels, based on the severity of the crime, for purposes of determining the period in which a sex offender or an offender convicted of a crime against a child is subject to registration and community notification. (NRS 179D.113, 179D.115, 179D.117) Section 7 of~~

~~this bill makes a person a Tier II offender if the person is convicted of: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; or (2) an offense involving sexual conduct between certain employees of a college or university and certain students.~~

~~Existing law provides an enhanced penalty for certain repeat offenders who are convicted of sexual assault or lewdness with a child under 14 years. (NRS 200.366, 201.230) Section 9 of this bill adds to the list of offenses for which an enhanced penalty is provided: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.]~~

Existing law requires the Department of Corrections to assess each prisoner who has been convicted of a sexual offense to determine the prisoner's risk to reoffend in a sexual manner. The State Board of Parole Commissioners must consider the assessment before determining whether to grant or revoke the parole of a person convicted of a sexual offense. (NRS 213.1214) Section 13 of this bill adds to the list of sexual offenses which require such an assessment: (1) an offense involving sexual conduct between certain employees of or volunteers at a school and certain pupils; and (2) an offense involving sexual conduct between certain employees of a college or university and certain students.

Existing law generally provides that a person who: (1) is 21 years of age or older; (2) is or was employed in a position of authority by or is or was volunteering in a position of authority at a public or private school; and (3) engages in sexual conduct with a pupil, is guilty of a category C felony if the pupil is 16 or 17 years of age or a category B felony if the pupil is 14 or 15 years of age. (NRS 201.540) Section 10 of this bill: (1) removes the requirement that such a person be employed or volunteer in a position of authority; and (2) prohibits such a person from engaging in sexual conduct with a pupil who is 18 years of age. Similarly, existing law generally provides that a person who: (1) is 21 years of age or older; (2) is employed in a position of authority by a college or university; and (3) engages in sexual conduct with a student who is 16 or 17 years of age and enrolled in or attending the college or university, is guilty of a category C felony. (NRS 201.550) Section 11 of this bill prohibits such a person from engaging in sexual conduct with a student who is 18 years of age. Section 11 additionally provides that such a prohibition on engaging in sexual conduct with a student only applies if the student is enrolled in or attending the college or university but has not received a high school diploma, a general educational development certificate or an equivalent document.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 176.0931 is hereby amended to read as follows:

176.0931 1. If a defendant is convicted of a sexual offense, the court shall include in sentencing, in addition to any other penalties provided by law, a special sentence of lifetime supervision.

2. The special sentence of lifetime supervision commences after any period of probation or any term of imprisonment and any period of release on parole.

3. A person sentenced to lifetime supervision may petition the sentencing court or the State Board of Parole Commissioners for release from lifetime supervision. The sentencing court or the Board shall grant a petition for release from a special sentence of lifetime supervision if:

(a) The person has complied with the requirements of the provisions of NRS 179D.010 to 179D.550, inclusive;

(b) The person has not been convicted of an offense that poses a threat to the safety or well-being of others for an interval of at least 10 consecutive years after the person's last conviction or release from incarceration, whichever occurs later; and

(c) The person is not likely to pose a threat to the safety of others, as determined by a person professionally qualified to conduct psychosexual evaluations, if released from lifetime supervision.

4. A person who is released from lifetime supervision pursuant to the provisions of subsection 3 remains subject to the provisions for registration as a sex offender and to the provisions for community notification, unless the person is otherwise relieved from the operation of those provisions pursuant to the provisions of NRS 179D.010 to 179D.550, inclusive.

5. As used in this section:

(a) "Offense that poses a threat to the safety or well-being of others" includes, without limitation:

(1) An offense that involves:

(I) A victim less than 18 years of age;

(II) A crime against a child as defined in NRS 179D.0357;

(III) A sexual offense as defined in NRS 179D.097;

(IV) A deadly weapon, explosives or a firearm;

(V) The use or threatened use of force or violence;

(VI) Physical or mental abuse;

(VII) Death or bodily injury;

(VIII) An act of domestic violence;

(IX) Harassment, stalking, threats of any kind or other similar acts;

(X) The forcible or unlawful entry of a home, building, structure, vehicle or other real or personal property; or

(XI) The infliction or threatened infliction of damage or injury, in whole or in part, to real or personal property.

(2) Any offense listed in subparagraph (1) that is committed in this State or another jurisdiction, including, without limitation, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(b) "Person professionally qualified to conduct psychosexual evaluations" has the meaning ascribed to it in NRS 176.133.

(c) "Sexual offense" means:

(1) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230, ~~for~~ 201.450, 201.540 or 201.550 or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;

(2) An attempt to commit an offense listed in subparagraph (1); or

(3) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.

Sec. 2. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.161, inclusive, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS; or

(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(h) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

(i) Lewdness with a child pursuant to NRS 201.230;

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

(k) *Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540;*

(l) *Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550;*

(m) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

~~[(4)]~~ (n) An attempt to commit an offense listed in paragraphs (a) to ~~[(k)]~~, inclusive, if punished as a felony; or

~~[(m)]~~ (o) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 3. NRS 176A.110 is hereby amended to read as follows:

176A.110 1. The court shall not grant probation to or suspend the sentence of a person convicted of an offense listed in subsection 3 unless:

(a) If a psychosexual evaluation of the person is required pursuant to NRS 176.139, the person who conducts the psychosexual evaluation certifies in the report prepared pursuant to NRS 176.139 that the person convicted of the offense does not represent a high risk to reoffend based upon a currently accepted standard of assessment; or

(b) If a psychosexual evaluation of the person is not required pursuant to NRS 176.139, a psychologist licensed to practice in this State who is trained to conduct psychosexual evaluations or a psychiatrist licensed to practice medicine in this State who is certified by the American Board of Psychiatry and Neurology, Inc., and is trained to conduct psychosexual evaluations certifies in a written report to the court that the person convicted of the offense does not represent a high risk to reoffend based upon a currently accepted standard of assessment.

2. This section does not create a right in any person to be certified or to continue to be certified. No person may bring a cause of action against the State, its political subdivisions, or the agencies, boards, commissions, departments, officers or employees of the State or its political subdivisions for not certifying a person pursuant to this section or for refusing to consider a person for certification pursuant to this section.

3. The provisions of this section apply to a person convicted of any of the following offenses:

(a) Attempted sexual assault of a person who is 16 years of age or older pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(d) Abuse or neglect of a child pursuant to NRS 200.508.

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

- (f) Incest pursuant to NRS 201.180.
- (g) Open or gross lewdness pursuant to NRS 201.210.
- (h) Indecent or obscene exposure pursuant to NRS 201.220.
- (i) Sexual penetration of a dead human body pursuant to NRS 201.450.
- (j) *Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.*
- (k) *Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.*
- (l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.
- ~~[(k)]~~ (m) A violation of NRS 207.180.
- ~~[(l)]~~ (n) An attempt to commit an offense listed in paragraphs (b) to ~~[(k)],~~ (m), inclusive.
- ~~[(m)]~~ (o) Coercion or attempted coercion that is determined to be sexually motivated pursuant to NRS 207.193.

Sec. 4. NRS 178.5698 is hereby amended to read as follows:

178.5698 1. The prosecuting attorney, sheriff or chief of police shall, upon the request of a victim or witness, inform the victim or witness:

- (a) When the defendant is released from custody at any time before or during the trial, including, without limitation, when the defendant is released pending trial or subject to electronic supervision;
- (b) If the defendant is so released, the amount of bail required, if any; and
- (c) Of the final disposition of the criminal case in which the victim or witness was directly involved.

2. A request for information pursuant to subsection 1 must be made:

- (a) In writing; or
- (b) By telephone through an automated or computerized system of notification, if such a system is available.

3. If an offender is convicted of a sexual offense or an offense involving the use or threatened use of force or violence against the victim, the court shall provide:

- (a) To each witness, documentation that includes:
 - (1) A form advising the witness of the right to be notified pursuant to subsection 5;
 - (2) The form that the witness must use to request notification in writing; and
 - (3) The form or procedure that the witness must use to provide a change of address after a request for notification has been submitted.
- (b) To each person listed in subsection 4, documentation that includes:
 - (1) A form advising the person of the right to be notified pursuant to subsection 5 or 6 and NRS 176.015, 176A.630, 178.4715, 209.392, 209.3925, 209.521, 213.010, 213.040, 213.095 and 213.131 or NRS 213.10915;
 - (2) The forms that the person must use to request notification; and

(3) The forms or procedures that the person must use to provide a change of address after a request for notification has been submitted.

4. The following persons are entitled to receive documentation pursuant to paragraph (b) of subsection 3:

(a) A person against whom the offense is committed.

(b) A person who is injured as a direct result of the commission of the offense.

(c) If a person listed in paragraph (a) or (b) is under the age of 18 years, each parent or guardian who is not the offender.

(d) Each surviving spouse, parent and child of a person who is killed as a direct result of the commission of the offense.

(e) A relative of a person listed in paragraphs (a) to (d), inclusive, if the relative requests in writing to be provided with the documentation.

5. Except as otherwise provided in subsection 6, if the offense was a felony and the offender is imprisoned, the warden of the prison shall, if the victim or witness so requests in writing and provides a current address, notify the victim or witness at that address when the offender is released from the prison.

6. If the offender was convicted of a violation of subsection 3 of NRS 200.366 or a violation of subsection 1, paragraph (a) of subsection 2 or subparagraph (2) of paragraph (b) of subsection 2 of NRS 200.508, the warden of the prison shall notify:

(a) The immediate family of the victim if the immediate family provides their current address;

(b) Any member of the victim's family related within the third degree of consanguinity, if the member of the victim's family so requests in writing and provides a current address; and

(c) The victim, if the victim will be 18 years of age or older at the time of the release and has provided a current address,

➡ before the offender is released from prison.

7. The warden must not be held responsible for any injury proximately caused by the failure to give any notice required pursuant to this section if no address was provided to the warden or if the address provided is inaccurate or not current.

8. As used in this section:

(a) "Immediate family" means any adult relative of the victim living in the victim's household.

(b) "Sexual offense" means:

(1) Sexual assault pursuant to NRS 200.366;

(2) Statutory sexual seduction pursuant to NRS 200.368;

(3) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(4) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(5) Incest pursuant to NRS 201.180;

- (6) Open or gross lewdness pursuant to NRS 201.210;
- (7) Indecent or obscene exposure pursuant to NRS 201.220;
- (8) Lewdness with a child pursuant to NRS 201.230;
- (9) Sexual penetration of a dead human body pursuant to NRS 201.450;
- (10) *Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540;*
- (11) *Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550;*
- (12) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;
- ~~[(11)]~~ (13) An offense that, pursuant to a specific statute, is determined to be sexually motivated; or
- ~~[(12)]~~ (14) An attempt to commit an offense listed in this paragraph.

Sec. 5. NRS 179.245 is hereby amended to read as follows:

179.245 1. Except as otherwise provided in subsection 5 and NRS 176A.265, 176A.295, 179.259, 453.3365 and 458.330, a person may petition the court in which the person was convicted for the sealing of all records relating to a conviction of:

- (a) A category A or B felony after 15 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;
- (b) A category C or D felony after 12 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;
- (c) A category E felony after 7 years from the date of release from actual custody or discharge from parole or probation, whichever occurs later;
- (d) Any gross misdemeanor after 5 years from the date of release from actual custody or discharge from probation, whichever occurs later;
- (e) A violation of NRS 484C.110 or 484C.120 other than a felony, or a battery which constitutes domestic violence pursuant to NRS 33.018 other than a felony, after 7 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later; or
- (f) Any other misdemeanor after 2 years from the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.

2. A petition filed pursuant to subsection 1 must:

- (a) Be accompanied by the petitioner's current, verified records received from:
 - (1) The Central Repository for Nevada Records of Criminal History; and
 - (2) All agencies of criminal justice which maintain such records within the city or county in which the conviction was entered;
- (b) If the petition references NRS 453.3365 or 458.330, include a certificate of acknowledgment or the disposition of the proceedings for the records to be sealed from all agencies of criminal justice which maintain such records;

(c) Include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed; and

(d) Include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed, including, without limitation, the:

- (1) Date of birth of the petitioner;
- (2) Specific conviction to which the records to be sealed pertain; and
- (3) Date of arrest relating to the specific conviction to which the records to be sealed pertain.

3. Upon receiving a petition pursuant to this section, the court shall notify the law enforcement agency that arrested the petitioner for the crime and:

(a) If the person was convicted in a district court or justice court, the prosecuting attorney for the county; or

(b) If the person was convicted in a municipal court, the prosecuting attorney for the city.

➡ The prosecuting attorney and any person having relevant evidence may testify and present evidence at the hearing on the petition.

4. If, after the hearing, the court finds that, in the period prescribed in subsection 1, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the court may order sealed all records of the conviction which are in the custody of any agency of criminal justice or any public or private agency, company, official or other custodian of records in the State of Nevada, and may also order all such records of the petitioner returned to the file of the court where the proceeding was commenced from, including, without limitation, the Federal Bureau of Investigation, the California Bureau of Criminal Identification and Information and all other agencies of criminal justice which maintain such records and which are reasonably known by either the petitioner or the court to have possession of such records.

5. A person may not petition the court to seal records relating to a conviction of:

- (a) A crime against a child;
- (b) A sexual offense;
- (c) A violation of NRS 484C.110 or 484C.120 that is punishable as a felony pursuant to paragraph (c) of subsection 1 of NRS 484C.400;
- (d) A violation of NRS 484C.430;
- (e) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484C.110, 484C.130 or 484C.430;

(f) A violation of NRS 488.410 that is punishable as a felony pursuant to NRS 488.427; or

(g) A violation of NRS 488.420 or 488.425.

6. If the court grants a petition for the sealing of records pursuant to this section, upon the request of the person whose records are sealed, the court may order sealed all records of the civil proceeding in which the records were sealed.

7. As used in this section:

(a) "Crime against a child" has the meaning ascribed to it in NRS 179D.0357.

(b) "Sexual offense" means:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368, if punishable as a felony.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Open or gross lewdness pursuant to NRS 201.210, if punishable as a felony.

(11) Indecent or obscene exposure pursuant to NRS 201.220, if punishable as a felony.

(12) Lewdness with a child pursuant to NRS 201.230.

(13) Sexual penetration of a dead human body pursuant to NRS 201.450.

(14) *Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.*

(15) *Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.*

(16) Luring a child or a person with mental illness pursuant to NRS 201.560, if punishable as a felony.

~~{{(15)}}~~ (17) An attempt to commit an offense listed in this paragraph.

Sec. 6. NRS 179D.097 is hereby amended to read as follows:

179D.097 1. "Sexual offense" means any of the following offenses:

(a) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(b) Sexual assault pursuant to NRS 200.366.

(c) Statutory sexual seduction pursuant to NRS 200.368.

(d) Battery with intent to commit sexual assault pursuant to subsection 4 of NRS 200.400.

(e) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this subsection.

(f) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this section.

(g) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(h) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(i) Incest pursuant to NRS 201.180.

(j) Open or gross lewdness pursuant to NRS 201.210.

(k) Indecent or obscene exposure pursuant to NRS 201.220.

(l) Lewdness with a child pursuant to NRS 201.230.

(m) Sexual penetration of a dead human body pursuant to NRS 201.450.

(n) *Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.*

(o) *Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.*

(p) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

~~{{(q)}}~~ (q) Sex trafficking pursuant to NRS 201.300.

~~{{(p)}}~~ (r) Any other offense that has an element involving a sexual act or sexual conduct with another.

~~{{(q)}}~~ (s) An attempt or conspiracy to commit an offense listed in paragraphs (a) to ~~{{(p)}}~~ (r), inclusive.

~~{{(r)}}~~ (t) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

~~{{(s)}}~~ (u) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this subsection. This paragraph includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

~~[(t)]~~ (v) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this section, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This paragraph includes, without limitation, an offense prosecuted in:

(1) A tribal court.

(2) A court of the United States or the Armed Forces of the United States.

(3) A court having jurisdiction over juveniles.

2. ~~[The]~~ Except for the offenses described in paragraphs (n) and (o) of subsection 1, the term does not include an offense involving consensual sexual conduct if the victim was:

(a) An adult, unless the adult was under the custodial authority of the offender at the time of the offense; or

(b) At least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.

Sec. 7. ~~NRS 179D.115 is hereby amended to read as follows:~~

~~179D.115 "Tier II offender" means an offender convicted of a crime against a child or a sex offender, other than a Tier III offender, whose crime against a child is punishable by imprisonment for more than 1 year or whose sexual offense:~~

~~1. If committed against a child, constitutes:~~

~~(a) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540;~~

~~(b) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550;~~

~~(c) Luring a child pursuant to NRS 201.560, if punishable as a felony;~~

~~[(b)] (d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;~~

~~[(c)] (e) An offense involving sex trafficking pursuant to NRS 201.300 or prostitution pursuant to NRS 201.320;~~

~~[(d)] (f) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive; or~~

~~[(e)] (g) Any other offense that is comparable to or more severe than the offenses described in 42 U.S.C. § 16911(3);~~

~~2. Involves an attempt or conspiracy to commit any offense described in subsection 1;~~

~~3. If committed in another jurisdiction, is an offense that, if committed in this State, would be an offense listed in this section. This subsection includes, without limitation, an offense prosecuted in:~~

~~(a) A tribal court; or~~

~~— (b) A court of the United States or the Armed Forces of the United States;
or~~

~~— 4. Is committed after the person becomes a Tier I offender if any of the person's sexual offenses constitute an offense punishable by imprisonment for more than 1 year.] (Deleted by amendment.)~~

Sec. 8. NRS 179D.495 is hereby amended to read as follows:

179D.495 If a person who is required to register pursuant to NRS 179D.010 to 179D.550, inclusive, has been convicted of an offense described in paragraph ~~[(p)]~~ (r) of subsection 1 of NRS 179D.097, paragraph (e) ~~[(g)]~~ of subsection 1 or subsection 3 of NRS 179D.115 or subsection 7 or 9 of NRS 179D.117, the Central Repository shall determine whether the person is required to register as a Tier I offender, Tier II offender or Tier III offender.

Sec. 9. ~~[NRS 200.366 is hereby amended to read as follows:~~

~~— 200.366 1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or herself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct, is guilty of sexual assault.~~

~~— 2. Except as otherwise provided in subsections 3 and 4, a person who commits a sexual assault is guilty of a category A felony and shall be punished:~~

~~— (a) If substantial bodily harm to the victim results from the actions of the defendant committed in connection with or as a part of the sexual assault, by imprisonment in the state prison:~~

~~— (1) For life without the possibility of parole; or~~

~~— (2) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served.~~

~~— (b) If no substantial bodily harm to the victim results, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served.~~

~~— 3. Except as otherwise provided in subsection 4, a person who commits a sexual assault against a child under the age of 16 years is guilty of a category A felony and shall be punished:~~

~~— (a) If the crime results in substantial bodily harm to the child, by imprisonment in the state prison for life without the possibility of parole.~~

~~— (b) Except as otherwise provided in paragraph (c), if the crime does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 25 years has been served.~~

~~— (c) If the crime is committed against a child under the age of 14 years and does not result in substantial bodily harm to the child, by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 35 years has been served.~~

~~4. A person who commits a sexual assault against a child under the age of 16 years and who has been previously convicted of:~~

~~— (a) A sexual assault pursuant to this section or any other sexual offense against a child; or~~

~~— (b) An offense committed in another jurisdiction that, if committed in this State, would constitute a sexual assault pursuant to this section or any other sexual offense against a child;~~

~~→ is guilty of a category A felony and shall be punished by imprisonment in the state prison for life without the possibility of parole.~~

~~5. For the purpose of this section, "other sexual offense against a child" means any act committed by an adult upon a child constituting:~~

~~— (a) Incest pursuant to NRS 201.180;~~

~~— (b) Lewdness with a child pursuant to NRS 201.220;~~

~~— (c) Sado masochistic abuse pursuant to NRS 201.262; [or]~~

~~— (d) Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540;~~

~~— (e) Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550; or~~

~~— (f) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.] (Deleted by amendment.)~~

Sec. 10. NRS 201.540 is hereby amended to read as follows:

201.540 1. Except as otherwise provided in subsection [4,] 3, a person who:

(a) Is 21 years of age or older;

(b) Is or was employed [in a position of authority] by a public school or private school or is or was volunteering [in a position of authority] at a public or private school; and

(c) Engages in sexual conduct with a pupil who is 16 , [or] 17 or 18 years of age and:

(1) Who is or was enrolled in or attending the public school or private school at which the person is or was employed or volunteering; or

(2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,

→ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. Except as otherwise provided in subsection [4,] 3, a person who:

(a) Is 21 years of age or older;

(b) Is or was employed [in a position of authority] by a public school or private school or is or was volunteering [in a position of authority] at a public or private school; and

(c) Engages in sexual conduct with a pupil who is 14 or 15 years of age and:

(1) Who is or was enrolled in or attending the public school or private school at which the person is or was employed or volunteering; or

(2) With whom the person has had contact in the course of performing his or her duties as an employee or volunteer,

↪ is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than \$5,000.

3. ~~For the purposes of subsections 1 and 2, a person shall be deemed to be or have been employed in a position of authority by a public school or private school or deemed to be or have been volunteering in a position of authority at a public or private school if the person is or was employed or volunteering as:~~

~~— (a) A teacher or instructor;~~

~~— (b) An administrator;~~

~~— (c) A head or assistant coach; or~~

~~— (d) A teacher's aide or an auxiliary, nonprofessional employee who assists licensed personnel in the instruction or supervision of pupils pursuant to NRS 391.100.~~

~~4.]~~ The provisions of this section do not apply to a person who is married to the pupil.

4. The provisions of this section must not be construed to apply to sexual conduct between two pupils.

Sec. 11. NRS 201.550 is hereby amended to read as follows:

201.550 1. Except as otherwise provided in subsection 3, a person who:

(a) Is 21 years of age or older;

(b) Is employed in a position of authority by a college or university; and

(c) Engages in sexual conduct with a student who is 16 , ~~for~~ 17 or 18 years of age , ~~and~~ who has not received a high school diploma, a general educational development certificate or an equivalent document and who is enrolled in or attending the college or university at which the person is employed,

↪ is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. For the purposes of subsection 1, a person shall be deemed to be employed in a position of authority by a college or university if the person is employed as:

(a) A teacher, instructor or professor;

(b) An administrator; or

(c) A head or assistant coach.

3. The provisions of this section do not apply to a person who is married to the student.

4. The provisions of this section must not be construed to apply to sexual conduct between two students.

Sec. 12. NRS 213.107 is hereby amended to read as follows:

213.107 As used in NRS 213.107 to 213.157, inclusive, unless the context otherwise requires:

1. "Board" means the State Board of Parole Commissioners.
2. "Chief" means the Chief Parole and Probation Officer.
3. "Division" means the Division of Parole and Probation of the Department of Public Safety.
4. "Residential confinement" means the confinement of a person convicted of a crime to his or her place of residence under the terms and conditions established by the Board.
5. "Sex offender" means any person who has been or is convicted of a sexual offense.
6. "Sexual offense" means:
 - (a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, 201.230 , ~~for~~ 201.450, *201.540 or 201.550* or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;
 - (b) An attempt to commit any offense listed in paragraph (a); or
 - (c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.
7. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.

Sec. 13. NRS 213.1214 is hereby amended to read as follows:

213.1214 1. The Department of Corrections shall assess each prisoner who has been convicted of a sexual offense to determine the prisoner's risk to reoffend in a sexual manner using a currently accepted standard of assessment. The completed assessment must return a risk level of low, moderate or high. The Director shall ensure a completed assessment is provided to the Board before, but not sooner than 120 days before, a scheduled parole hearing.

2. The Director shall:

(a) Ensure that any employee of the Department who completes an assessment pursuant to subsection 1 is properly trained to assess the risk of an offender to reoffend in a sexual manner.

(b) Establish a procedure to:

(1) Ensure the accuracy of each completed assessment provided to the Board; and

(2) Correct any error occurring in a completed assessment provided to the Board.

3. This section does not create a right in any prisoner to be assessed or reassessed more frequently than the prisoner's regularly scheduled parole hearings or under a current or previous standard of assessment and does not restrict the Department from conducting additional assessments of a prisoner if such assessments may assist the Board in determining whether parole should be granted or continued. No cause of action may be brought against the State, its political subdivisions, or the agencies, boards, commissions,

departments, officers or employees of the State or its political subdivisions for assessing, not assessing or considering or relying on an assessment of a prisoner, if such decisions or actions are made or conducted in compliance with the procedures set forth in this section.

4. The Board shall consider an assessment prepared pursuant to this section before determining whether to grant or revoke the parole of a person convicted of a sexual offense.

5. The Board may adopt by regulation the manner in which the Board will consider an assessment prepared pursuant to this section in conjunction with the standards adopted by the Board pursuant to NRS 213.10885.

6. As used in this section:

(a) "Director" means the Director of the Department of Corrections.

(b) "Reoffend in a sexual manner" means to commit a sexual offense.

(c) "Sex offender" means a person who, after July 1, 1956, is or has been:

(1) Convicted of a sexual offense; or

(2) Adjudicated delinquent or found guilty by a court having jurisdiction over juveniles of a sexual offense listed in subparagraph ~~[(18)]~~ (20) of paragraph (d).

➡ The term includes, but is not limited to, a sexually violent predator or a nonresident sex offender who is a student or worker within this State.

(d) "Sexual offense" means any of the following offenses:

(1) Murder of the first degree committed in the perpetration or attempted perpetration of sexual assault or of sexual abuse or sexual molestation of a child less than 14 years of age pursuant to paragraph (b) of subsection 1 of NRS 200.030.

(2) Sexual assault pursuant to NRS 200.366.

(3) Statutory sexual seduction pursuant to NRS 200.368.

(4) Battery with intent to commit sexual assault pursuant to NRS 200.400.

(5) An offense involving the administration of a drug to another person with the intent to enable or assist the commission of a felony pursuant to NRS 200.405, if the felony is an offense listed in this paragraph.

(6) An offense involving the administration of a controlled substance to another person with the intent to enable or assist the commission of a crime of violence pursuant to NRS 200.408, if the crime of violence is an offense listed in this paragraph.

(7) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation.

(8) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive.

(9) Incest pursuant to NRS 201.180.

(10) Open or gross lewdness pursuant to NRS 201.210.

(11) Indecent or obscene exposure pursuant to NRS 201.220.

(12) Lewdness with a child pursuant to NRS 201.230.

(13) Sexual penetration of a dead human body pursuant to NRS 201.450.

(14) *Sexual conduct between certain employees of a school or volunteers at a school and a pupil pursuant to NRS 201.540.*

(15) *Sexual conduct between certain employees of a college or university and a student pursuant to NRS 201.550.*

(16) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony.

~~[(15)]~~ (17) An attempt or conspiracy to commit an offense listed in subparagraphs (1) to ~~[(14),]~~ (16), inclusive.

~~[(16)]~~ (18) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

~~[(17)]~~ (19) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this paragraph. This subparagraph includes, but is not limited to, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

~~[(18)]~~ (20) An offense of a sexual nature committed in another jurisdiction, whether or not the offense would be an offense listed in this paragraph, if the person who committed the offense resides or has resided or is or has been a student or worker in any jurisdiction in which the person is or has been required by the laws of that jurisdiction to register as a sex offender because of the offense. This subparagraph includes, but is not limited to, an offense prosecuted in:

(I) A tribal court.

(II) A court of the United States or the Armed Forces of the United States.

(III) A court having jurisdiction over juveniles.

➔ ~~[(The)]~~ Except for the offenses described in subparagraphs 14 and 15, the term does not include an offense involving consensual sexual conduct if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years of age and the offender was not more than 4 years older than the victim at the time of the commission of the offense.

Sec. 14. The amendatory provisions of:

1. Sections 1 to 4, inclusive, ~~and 9,~~ 10 and 11 of this act apply to offenses committed on or after October 1, 2015.

2. Sections 5 to 8, inclusive, 12 and 13 of this act apply to offenses committed before, on or after October 1, 2015.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 192 does the following: deletes section 7, which provided that the crimes set forth in the bill constituted a Tier II offense; deletes section 9, thereby removing these crimes as an enhancement for a subsequent mandatory sentence of life without

the possibility of parole for sexual assault against a child; clarifies that these provisions do not apply to sexual conduct between students; revises language in section 11 to clarify that the provisions in this section apply only to students who are attending a college or university but who are still working toward their high school degree or its equivalent.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 208.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 187.

SUMMARY—Requires certain notice to be provided to certain parents and legal guardians when a new charter school will begin accepting applications ~~for~~ or an existing charter school expands enrollment or opens a new facility. (BDR 34-729)

AN ACT relating to education; requiring the governing body of a new charter school or a charter school that is expanding enrollment or opening a new facility to provide notice concerning the application and enrollment process to parents or legal guardians who live within a certain distance from the charter school; revising provisions governing a lottery held to determine which applicants may enroll in a charter school; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the formation and operation of charter schools. (NRS 386.490-386.610) Existing law authorizes a charter school to enroll certain children before enrolling children who are otherwise eligible for enrollment and requires a charter school to determine which applicants to enroll on the basis of a lottery system in the event that more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available. (NRS 386.580) ~~Section~~ With certain exceptions, section 1 of this bill requires the governing body of a new charter school to send notice at least ~~90~~ 45 days before the charter school begins accepting applications for enrollment to the home of the parent or legal guardian of any child who resides within ~~3~~ 2 miles of the charter school stating when the charter school will begin accepting applications for enrollment and providing certain information concerning the application and enrollment process. Section 3.5 of this bill requires a lottery held to determine which applicants may enroll in a charter school to occur not sooner than 45 days after the date on which the charter school begins accepting applications for enrollment unless the sponsor of a charter school determines there is good cause to hold it sooner.

Existing law authorizes the parent or legal guardian of any child who resides in this State to submit an application for enrollment in a charter school to the governing body of the charter school. (NRS 386.580)

Section 3.5 clarifies that a parent or legal guardian is authorized to submit such an application annually.

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

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

1. ~~1.4. Except as otherwise provided in this section, at least 90 45 days before a new charter school for which a contract has been executed pursuant to NRS 386.527 begins accepting applications for enrollment pursuant to NRS 386.580, or at least 45 days before a charter school that is expanding enrollment or opening a new facility begins accepting applications for enrollment pursuant to NRS 386.580, the governing body of the charter school shall make a reasonable effort to notify the parent or legal guardian of any child who resides in each household located within 3 2 miles from the charter school, regarding:~~

(a) When the charter school will begin accepting applications for enrollment;

(b) How to apply for enrollment; and

(c) The process for enrollment of pupils.

2. ~~The notice provided pursuant to subsection 1 must be provided. If notifying each household within 2 miles from a charter school does not provide a sufficient population density, the governing body of the charter school and the sponsor of the charter school may agree to notify households that are located more than 2 miles from the home address of each parent or legal guardian of the charter school.~~

3. A charter school that is not authorized to enroll more than 250 pupils for all facilities that the charter school operates is not required to comply with the provisions of subsection 1. If the charter school does not comply with these provisions, the charter school must develop an alternative plan to inform households located in the area served by the charter school that it is accepting applications for enrollment.

4. If the governing body of a charter school has not acquired a facility to operate the charter school at least 45 days before the date on which the charter school begins accepting applications for enrollment pursuant to NRS 386.580, the sponsor of the charter school may identify a location reasonably believed to be close to where the facility will be located and provide the notification required pursuant to subsection 1 to each household located within two miles from this location.

5. The sponsor of a charter school may require the charter school to provide documentation of any effort to inform households located in the area served by the charter school that the charter school is accepting applications for enrollment, expanding enrollment or opening a new facility.

6. The sponsor of a charter school may revise the timeline for notification prescribed in subsection 1 for good cause.

Sec. 2. NRS 386.490 is hereby amended to read as follows:

386.490 As used in NRS 386.490 to 386.649, inclusive, *and section 1 of this act*, the words and terms defined in NRS 386.492 to 386.503, inclusive, have the meanings ascribed to them in those sections.

Sec. 2.5. NRS 386.505 is hereby amended to read as follows:

386.505 The Legislature declares that by authorizing the formation of charter schools it is not authorizing:

1. The conversion of an existing public school, homeschool or other program of home study to a charter school.

2. A means for providing financial assistance for private schools or programs of home study. The provisions of this subsection do not preclude:

(a) A private school from ceasing to operate as a private school and reopening as a charter school in compliance with the provisions of NRS 386.490 to 386.649, inclusive.

(b) The payment of money to a charter school for the enrollment of children in classes at the charter school pursuant to subsection ~~5~~ 6 of NRS 386.580 who are enrolled in a public school of a school district or a private school or who are homeschooled.

3. The formation of charter schools on the basis of a single race, religion or ethnicity.

Sec. 3. NRS 386.551 is hereby amended to read as follows:

386.551 The provisions of NRS 386.490 to 386.649, inclusive, *and section 1 of this act*, and any other statute or regulation applicable to a charter school or its officers or employees govern the formation and operation of charter schools in this State.

Sec. 3.5. NRS 386.580 is hereby amended to read as follows:

386.580 1. An application for enrollment in a charter school may be submitted annually to the governing body of the charter school by the parent or legal guardian of any child who resides in this State. Except as otherwise provided in this subsection and subsection 2, a charter school shall enroll pupils who are eligible for enrollment in the order in which the applications are received. If the board of trustees of the school district in which the charter school is located has established zones of attendance pursuant to NRS 388.040, the charter school shall, if practicable, ensure that the racial composition of pupils enrolled in the charter school does not differ by more than 10 percent from the racial composition of pupils who attend public schools in the zone in which the charter school is located. If a charter school is sponsored by the board of trustees of a school district located in a county whose population is 100,000 or more, except for a program of distance education provided by the charter school, the charter school shall enroll pupils who are eligible for enrollment who reside in the school district in which the charter school is located before enrolling pupils who reside outside the school district. Except as otherwise provided in subsection 2, if more pupils who are eligible for enrollment apply for enrollment in the charter school than the number of spaces which are available, the charter school shall

determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

2. Before a charter school enrolls pupils who are eligible for enrollment, a charter school may enroll a child who:

- (a) Is a sibling of a pupil who is currently enrolled in the charter school;
- (b) Was enrolled, free of charge and on the basis of a lottery system, in a prekindergarten program at the charter school or any other early childhood educational program affiliated with the charter school;
- (c) Is a child of a person who is:
 - (1) Employed by the charter school;
 - (2) A member of the committee to form the charter school; or
 - (3) A member of the governing body of the charter school;
- (d) Is in a particular category of at-risk pupils and the child meets the eligibility for enrollment prescribed by the charter school for that particular category; or
- (e) Resides within the school district and within 2 miles of the charter school if the charter school is located in an area that the sponsor of the charter school determines includes a high percentage of children who are at risk. If space is available after the charter school enrolls pupils pursuant to this paragraph, the charter school may enroll children who reside outside the school district but within 2 miles of the charter school if the charter school is located within an area that the sponsor determines includes a high percentage of children who are at risk.

➔ If more pupils described in this subsection who are eligible apply for enrollment than the number of spaces available, the charter school shall determine which applicants to enroll pursuant to this subsection on the basis of a lottery system.

3. Except as otherwise provided in subsection ~~[8.]~~ 9 a charter school shall not accept applications for enrollment in the charter school or otherwise discriminate based on the:

- (a) Race;
- (b) Gender;
- (c) Religion;
- (d) Ethnicity; or
- (e) Disability,

➔ of a pupil.

4. A lottery held pursuant to subsection 1 or 2 must be held not sooner than 45 days after the date on which a charter school begins accepting applications for enrollment unless the sponsor of the charter school determines there is good cause to hold it sooner.

5. If the governing body of a charter school determines that the charter school is unable to provide an appropriate special education program and related services for a particular disability of a pupil who is enrolled in the charter school, the governing body may request that the board of trustees of

the school district of the county in which the pupil resides transfer that pupil to an appropriate school.

~~{5-}~~ 6. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a child who is enrolled in a public school of a school district or a private school, or a parent or legal guardian of a homeschooled child, the governing body of the charter school shall authorize the child to participate in a class that is not otherwise available to the child at his or her school or homeschool or participate in an extracurricular activity at the charter school if:

- (a) Space for the child in the class or extracurricular activity is available;
- (b) The parent or legal guardian demonstrates to the satisfaction of the governing body that the child is qualified to participate in the class or extracurricular activity; and
- (c) The child is a homeschooled child and a notice of intent of a homeschooled child to participate in programs and activities is filed for the child with the school district in which the child resides for the current school year pursuant to NRS 392.705.

➔ If the governing body of a charter school authorizes a child to participate in a class or extracurricular activity pursuant to this subsection, the governing body is not required to provide transportation for the child to attend the class or activity. A charter school shall not authorize such a child to participate in a class or activity through a program of distance education provided by the charter school pursuant to NRS 388.820 to 388.874, inclusive.

~~{6-}~~ 7. The governing body of a charter school may revoke its approval for a child to participate in a class or extracurricular activity at a charter school pursuant to subsection ~~{5-}~~ 6 if the governing body determines that the child has failed to comply with applicable statutes, or applicable rules and regulations. If the governing body so revokes its approval, neither the governing body nor the charter school is liable for any damages relating to the denial of services to the child.

~~{7-}~~ 8. The governing body of a charter school may, before authorizing a homeschooled child to participate in a class or extracurricular activity pursuant to subsection ~~{5-}~~ 6, require proof of the identity of the child, including, without limitation, the birth certificate of the child or other documentation sufficient to establish the identity of the child.

~~{8-}~~ 9. This section does not preclude the formation of a charter school that is dedicated to provide educational services exclusively to pupils:

- (a) With disabilities;
- (b) Who pose such severe disciplinary problems that they warrant a specific educational program, including, without limitation, a charter school specifically designed to serve a single gender that emphasizes personal responsibility and rehabilitation; or
- (c) Who are at risk.

➔ If more eligible pupils apply for enrollment in such a charter school than the number of spaces which are available, the charter school shall determine

which applicants to enroll pursuant to this subsection on the basis of a lottery system.

Sec. 3.7. NRS 387.123 is hereby amended to read as follows:

387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, and pupils who are enrolled in a university school for profoundly gifted pupils located in the county, for:

- (a) Pupils in the kindergarten department.
- (b) Pupils in grades 1 to 12, inclusive.
- (c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive.
- (d) Pupils who reside in the county and are enrolled part-time in a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.
- (e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.
- (f) Pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.560 and pupils who are enrolled in classes pursuant to subsection ~~5~~ 6 of NRS 386.580.
- (g) Pupils who are enrolled in classes pursuant to subsection 3 of NRS 392.070.
- (h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:

- (a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.
- (b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.
- (c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.

3. Except as otherwise provided in subsection 4 and NRS 388.700, the State Board shall establish by regulation the maximum pupil-teacher ratio in each grade, and for each subject matter wherever different subjects are taught

in separate classes, for each school district of this State which is consistent with:

- (a) The maintenance of an acceptable standard of instruction;
- (b) The conditions prevailing in the school district with respect to the number and distribution of pupils in each grade; and
- (c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.

➔ If the Superintendent of Public Instruction finds that any school district is maintaining one or more classes whose pupil-teacher ratio exceeds the applicable maximum, and unless the Superintendent finds that the board of trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, the Superintendent shall, with the approval of the State Board, reduce the count of pupils for apportionment purposes by the percentage which the number of pupils attending those classes is of the total number of pupils in the district, and the State Board may direct the Superintendent to withhold the quarterly apportionment entirely.

4. The provisions of subsection 3 do not apply to a charter school, a university school for profoundly gifted pupils or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

Sec. 3.8. NRS 387.1233 is hereby amended to read as follows:

387.1233 1. Except as otherwise provided in subsection 2, basic support of each school district must be computed by:

(a) Multiplying the basic support guarantee per pupil established for that school district for that school year by the sum of:

(1) Six-tenths the count of pupils enrolled in the kindergarten department on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year.

(2) The count of pupils enrolled in grades 1 to 12, inclusive, on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year and the count of pupils who are enrolled in a university school for profoundly gifted pupils located in the county.

(3) The count of pupils not included under subparagraph (1) or (2) who are enrolled full-time in a program of distance education provided by that school district or a charter school located within that school district on the last day of the first school month of the school district for the school year.

(4) The count of pupils who reside in the county and are enrolled:

(I) In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school on the last day of the first school month of

the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(5) The count of pupils not included under subparagraph (1), (2), (3) or (4), who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive, on the last day of the first school month of the school district for the school year, excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.475 on that day.

(6) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of NRS 388.475 on the last day of the first school month of the school district for the school year.

(7) The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570 on the last day of the first school month of the school district for the school year.

(8) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 5 of NRS 386.560, subsection ~~5~~ 6 of NRS 386.580 or subsection 3 of NRS 392.070, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(b) Multiplying the number of special education program units maintained and operated by the amount per program established for that school year.

(c) Adding the amounts computed in paragraphs (a) and (b).

2. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the largest number from among the immediately preceding 2 school years must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

3. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is more than 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the larger enrollment number from the current year or the immediately preceding school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

4. If the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils in the school district or charter school to receive a higher apportionment pursuant to subsection 2 or 3, including, without limitation, by eliminating grades or moving into smaller facilities, the enrollment number from the current school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

5. Pupils who are excused from attendance at examinations or have completed their work in accordance with the rules of the board of trustees must be credited with attendance during that period.

6. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.

7. Pupils who are enrolled in courses which are approved by the Department as meeting the requirements for an adult to earn a high school diploma must not be counted for the purpose of computing basic support pursuant to this section.

Sec. 4. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment to Senate Bill No. 208 reduces the timeframe and geographic area in which application notices must be provided; authorizes alternative outreach plans to be developed between a charter school and its sponsor; clarifies that "reasonable efforts" be made to provide notice to "households" instead of parents or legal guardians; augments the bill to include charter schools that are expanding enrollment or opening a new facility; provides other clarifications related to student applications, enrollment lotteries and charter sponsor oversight.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 225.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 330.

SUMMARY—Revises provisions relating to the sale and distribution of tobacco products ~~[and liquid nicotine]~~, vapor products and alternative nicotine products. (BDR 15-796)

AN ACT relating to crimes; ~~[defining the term "liquid nicotine" as it relates to provisions concerning the prohibition against the sale thereof to minors; defining the term " smokeless product made or derived from tobacco" as it relates to the prohibition against selling, distributing or offering to sell such a product in certain forms;]~~ prohibiting a person from selling, distributing or offering to sell ~~[liquid nicotine]~~ vapor products and alternative nicotine products to any child under the age of 18 years; requiring the owner of a retail establishment to display a notice containing certain information whenever ~~[liquid nicotine is]~~ vapor products or alternative nicotine products are being sold or offered for sale at the establishment; requiring the Attorney General to conduct inspections at locations where ~~[liquid nicotine is]~~ vapor products or alternative nicotine products are sold, distributed or offered for sale as necessary to comply with any applicable federal law; imposing certain fines; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from selling, distributing or offering to sell cigarettes or smokeless products made or derived from tobacco in any form other than in an unopened package which originated with the manufacturer and bears any health warning required by federal law. (NRS 202.2493) Section 2 of this bill applies such a prohibition to alternative nicotine products. Section 2 also defines the term "smokeless product made or derived from tobacco."

Existing law also prohibits a person from selling, distributing or offering to sell cigarettes, cigarette paper, tobacco or products made or derived from tobacco to any child under the age of 18 years. A person who violates such a provision must pay a fine of not more than \$500 and a civil penalty of not more than \$500. (NRS 202.2493) Section 2 prohibits a person from selling, distributing or offering to sell ~~[liquid nicotine]~~ vapor products or alternative nicotine products to any child under the age of 18 years, and requires a person who violates such a provision to pay the same fine and civil penalty.

Existing law further requires the owner of a retail establishment to display a notice containing information relating to the prohibition against selling cigarettes and other tobacco products to minors whenever any product made or derived from tobacco is being sold or offered for sale at the establishment. A person who violates such a provision must pay a fine of not more than \$100. (NRS 202.2493) Section 2 requires the owner of a retail establishment to display a notice containing information relating to the prohibition against selling ~~[liquid nicotine]~~ vapor products and alternative nicotine products to minors whenever ~~[liquid nicotine is]~~ vapor products or alternative nicotine products are being sold or offered for sale at the establishment, and requires a person who violates such a provision to pay the same fine.

Additionally, existing law requires the Attorney General, as necessary to comply with applicable federal law, to conduct random, unannounced inspections at locations where tobacco and products made or derived from tobacco are sold, distributed or offered for sale to inspect for and enforce compliance with certain provisions of law, including the prohibition against selling such products to a child under the age of 18 years. (NRS 202.2493, 202.2496) Section 3 of this bill requires the Attorney General, as necessary to comply with any applicable federal law, to conduct such an inspection at locations where ~~liquid nicotine is~~ vapor products or alternative nicotine products are sold, distributed or offered for sale to inspect for and enforce compliance with certain provisions of law relating to the prohibition against selling ~~liquid nicotine~~ vapor products and alternative nicotine products to a child under the age of 18 years, as set forth in section 2.

Section 1 of this bill defines the ~~term "liquid nicotine"~~ terms "vapor product" and "alternative nicotine product" for the purposes of sections 2 and 3.

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

Section 1. NRS 202.2485 is hereby amended to read as follows:

202.2485 As used in NRS 202.2485 to 202.2497, inclusive:

1. "Alternative nicotine product" means any noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved or ingested by any other means. The term does not include:

(a) A vapor product;

(b) A product made or derived from tobacco; or

(c) Any product regulated by the United States Food and Drug Administration under Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

2. "Distribute" includes furnishing, giving away or providing products made or derived from tobacco or samples thereof at no cost to promote the product, whether or not in combination with a sale.

~~2.~~ 3. "Health authority" means the district health officer in a district, or his or her designee, or, if none, the Chief Medical Officer, or his or her designee.

~~3. "Liquid nicotine" means any liquid or other solution containing any form of nicotine, including, without limitation, any salt or complex thereof, regardless of whether the nicotine is naturally or synthetically derived.~~

4. "Product made or derived from tobacco" does not include any product regulated by the United States Food and Drug Administration pursuant to ~~Chapter~~ Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

5. "Vapor product":

(a) Means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic,

chemical or mechanical means, regardless of the shape or size thereof, that can be used to produce vapor from nicotine in a solution or other form.

(b) Includes, without limitation:

(1) An electronic cigarette, cigar, cigarillo or pipe or a similar product or device; and

(2) A vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, cigar, cigarillo or pipe or a similar product or device.

(c) Does not include any product regulated by the United States Food and Drug Administration pursuant to Subchapter V of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 351 et seq.

Sec. 2. NRS 202.2493 is hereby amended to read as follows:

202.2493 1. A person shall not sell, distribute or offer to sell cigarettes ~~, for~~ any smokeless ~~[products]~~ product made or derived from tobacco or any alternative nicotine product in any form other than in an unopened package which originated with the manufacturer and bears any health warning required by federal law. A person who violates this subsection shall be punished by a fine of \$100 and a civil penalty of \$100. *As used in this subsection, "smokeless product made or derived from tobacco" means any product that consists of cut, ground, powdered or leaf tobacco and is intended to be placed in the oral or nasal cavity.*

2. Except as otherwise provided in subsections 3, 4 and 5, it is unlawful for any person to sell, distribute or offer to sell cigarettes, cigarette paper, tobacco of any description, ~~for~~ products made or derived from tobacco ~~for liquid nicotine~~, vapor products or alternative nicotine products to any child under the age of 18 years. A person who violates this subsection shall be punished by a fine of not more than \$500 and a civil penalty of not more than \$500.

3. A person shall be deemed to be in compliance with the provisions of subsection 2 if, before the person sells, distributes or offers to sell to another, cigarettes, cigarette paper, tobacco of any description, ~~for~~ products made or derived from tobacco ~~, for liquid nicotine,~~ vapor products or alternative nicotine products, the person:

(a) Demands that the other person present a valid driver's license or other written or documentary evidence which shows that the other person is 18 years of age or older;

(b) Is presented a valid driver's license or other written or documentary evidence which shows that the other person is 18 years of age or older; and

(c) Reasonably relies upon the driver's license or written or documentary evidence presented by the other person.

4. The employer of a child who is under 18 years of age may, for the purpose of allowing the child to handle or transport tobacco, ~~for~~ products made or derived from tobacco ~~for liquid nicotine~~, vapor products or alternative nicotine products, in the course of the child's lawful employment,

provide tobacco , ~~for~~ products made or derived from tobacco , vapor products or alternative nicotine products to the child.

5. With respect to any sale made by an employee of a retail establishment, the owner of the retail establishment shall be deemed to be in compliance with the provisions of subsection 2 if the owner:

- (a) Had no actual knowledge of the sale; and
- (b) Establishes and carries out a continuing program of training for employees which is reasonably designed to prevent violations of subsection 2.

6. The owner of a retail establishment shall, whenever any product made or derived from tobacco ~~for liquid nicotine~~ , vapor product or alternative nicotine product is being sold or offered for sale at the establishment, display prominently at the point of sale:

- (a) A notice indicating that:
 - (1) The sale of cigarettes , ~~and~~ other tobacco products ~~and liquid nicotine~~ , vapor products and alternative nicotine products to minors is prohibited by law; and

- (2) The retailer may ask for proof of age to comply with this prohibition; and

- (b) At least one sign that complies with the requirements of NRS 442.340.

↪ A person who violates this subsection shall be punished by a fine of not more than \$100.

7. It is unlawful for any retailer to sell cigarettes through the use of any type of display:

- (a) Which contains cigarettes and is located in any area to which customers are allowed access; and

- (b) From which cigarettes are readily accessible to a customer without the assistance of the retailer,

↪ except a vending machine used in compliance with NRS 202.2494. A person who violates this subsection shall be punished by a fine of not more than \$500.

8. Any money recovered pursuant to this section as a civil penalty must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2494.

Sec. 3. NRS 202.2496 is hereby amended to read as follows:

202.2496 1. As necessary to comply with *any* applicable federal law, the Attorney General shall conduct random, unannounced inspections at locations where tobacco , ~~and~~ products made or derived from tobacco ~~and liquid nicotine~~ , vapor products and alternative nicotine products are sold, distributed or offered for sale to inspect for and enforce compliance with NRS 202.2493 and 202.2494 ~~[-]~~ , *as applicable*. For assistance in conducting any such inspection, the Attorney General may contract with:

- (a) Any sheriff's department;
- (b) Any police department; or

(c) Any other person who will, in the opinion of the Attorney General, perform the inspection in a fair and impartial manner.

2. If the inspector desires to enlist the assistance of a child under the age of 18 for such an inspection, the inspector shall obtain the written consent of the child's parent for such assistance.

3. A child assisting in an inspection pursuant to this section shall, if questioned about his or her age, state his or her true age and that he or she is under 18 years of age.

4. If a child is assisting in an inspection pursuant to this section, the person supervising the inspection shall:

(a) Refrain from altering or attempting to alter the child's appearance to make the child appear to be 18 years of age or older.

(b) Photograph the child immediately before the inspection is to occur and retain any photographs taken of the child pursuant to this paragraph.

5. The person supervising an inspection using the assistance of a child shall, within a reasonable time after the inspection is completed:

(a) Inform a representative of the business establishment from which the child attempted to purchase tobacco, ~~{or}~~ products made or derived from tobacco ~~for liquid nicotine~~, vapor products or alternative nicotine products that an inspection has been performed and the results of that inspection.

(b) Prepare a report regarding the inspection. The report must include the following information:

(1) The name of the person who supervised the inspection and that person's position;

(2) The age and date of birth of the child who assisted in the inspection;

(3) The name and position of the person from whom the child attempted to purchase tobacco, ~~{or}~~ products made or derived from tobacco ~~for liquid nicotine~~, vapor products or alternative nicotine products;

(4) The name and address of the establishment at which the child attempted to purchase tobacco, ~~{or}~~ products made or derived from tobacco ~~for liquid nicotine~~, vapor products or alternative nicotine products;

(5) The date and time of the inspection; and

(6) The result of the inspection, including whether the inspection resulted in the sale, distribution or offering for sale of tobacco, ~~{or}~~ products made or derived from tobacco ~~for liquid nicotine~~, vapor products or alternative nicotine products to the child.

6. No civil or criminal action based upon an alleged violation of NRS 202.2493 or 202.2494 may be brought as a result of an inspection for compliance in which the assistance of a child has been enlisted unless the inspection has been conducted in accordance with the provisions of this section.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment to Senate Bill No. 225 replaces the term "liquid nicotine" throughout the bill with the more accurate "vapor products and alternative nicotine products" and then defines the new terms for the purposes of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 260.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 329.

SUMMARY—Revises provisions governing common-interest communities. (BDR 10-726)

AN ACT relating to common-interest communities; requiring the establishment of an impound account for the payment of certain assessments under certain circumstances; providing for the payment of assessments for common expenses from the impound account; revising provisions governing liens of a unit-owners' association; authorizing the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations to carry out the requirement for impound accounts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a unit-owners' association has a lien on a unit for certain amounts due to the association and may foreclose its lien through a nonjudicial foreclosure sale. (NRS 116.3116-116.31168) Generally, the association's lien is not prior to a first security interest on the unit recorded before the date on which the amount sought to be enforced became delinquent. However, the association's lien is prior to the first security interest on the unit to the extent of certain maintenance and abatement charges and a certain amount of assessments for common expenses. The portion of the association's lien that is prior to the first security interest on the unit is commonly referred to as the "super-priority lien."

Under existing law, the holder of the first security interest on the unit may establish an impound account for advance contributions for the payment of assessments, if the unit's owner and the holder of the first security interest consent to the establishment of such an account. (NRS 116.3116) Section 1 of this bill ~~requires~~ provides that if the holder of the first security interest has obtained the consent of the unit's owner for the establishment of such account and there is an impound account established for the payment of property taxes or insurance premiums, the holder of the first security interest is required to establish such an impound account for advance contributions for the payment of certain assessments. ~~Section 1~~ requires payments to be made from the account for assessments for common expenses in accordance with the same due dates as apply to the payment of assessments by a unit's owner or in quarterly installments that are due on the first day of

each calendar quarter. Under section 1, if the assessments for common expenses are paid in quarterly installments from the impound account, the due date of the assessments is deemed to be the first day of the calendar quarter. Section 1 provides that: (1) if payments for assessments are timely made to an impound account, the super-priority lien does not arise; and (2) if an impound account is established, the association must provide notice of delinquency in the payment of assessments to the holder of the first security interest.

Section 1.3 of this bill authorizes the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations to carry out the provisions of section 1 relating to impound accounts, including, without limitation, requirements for bonding, servicing costs and conflicts of interest for entities servicing such accounts.

Section 2 of this bill provides that the requirement to establish an impound account and to make payments of assessments for common expenses from the impound account becomes effective on January 1, 2016. Section 1.7 of this bill provides that the requirement to establish an impound account applies only to a holder of a first security interest on a unit that is recorded on or before January 1, 2016.

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

Section 1. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

↪ ~~{The}~~ Unless payments for assessments described in subsection 3 are made timely to an escrow account, loan trust account or other impound account established pursuant to subsection 3, the lien is also prior to all security interests described in paragraph (b) to the extent of any charges incurred by the association on a unit pursuant to NRS 116.310312 and to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 9 months immediately preceding institution of an action to enforce the lien, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. ~~{The}~~ If the holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent ~~{may}~~ has obtained the consent of a unit's owner and there is an escrow account, loan trust account or other impound account established for advance contributions for the payment of property taxes on the unit or premiums for insurance on the unit, the holder or his or her authorized agent shall establish an escrow account, loan trust account or other impound account for advance contributions for the payment of ~~{assessments}~~ :

(a) Assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 ~~{if the unit's owner and the holder of that security interest consent to the establishment of such an account. If such an account is established, payments}~~ ;

(b) Special assessments to establish adequate reserves for the association pursuant to paragraph (b) of subsection 2 ~~{,}~~ of NRS 116.3115; and

(c) ~~{Contributions}~~ Assessments for capital expenditures based on the periodic budget adopted by the association pursuant to NRS 116.3115.

4. Payments from ~~{the}~~ an escrow account, loan trust account or impound account for assessments ~~{for common expenses}~~ described in subsection 3 must be made in ~~{accordance}~~ :

(a) Accordance with the same due dates as apply to payments of such assessments by a unit's owner ~~{~~

~~—4.}~~ ; or

(b) Quarterly installments that are due the first day of each calendar quarter. Notwithstanding any other provision of law or the governing

documents to the contrary, if assessments for common expenses are paid in quarterly installments pursuant to this paragraph, the due date of the assessments is deemed to be the first day of each calendar quarter.

5. If an escrow account, loan trust account or other impound account is established pursuant to subsection 3, not later than 30 days after a payment of an assessment described in subsection 3 is delinquent, the association must provide the holder of the security interest described in paragraph (b) of subsection 2 with a notice of delinquent assessment which states the amount of the assessments which are due, a description of the unit against which the assessment is imposed and the name of the record owner of the unit.

6. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

~~{5.-6.}~~ 7. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

~~{6.-7.}~~ 8. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

~~{7.-8.}~~ 9. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

~~{8.-9.}~~ 10. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~{9.-10.}~~ 11. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

~~{10.-11.}~~ 12. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~{11. 12.}~~ 13. In an action by an association to collect assessments or to foreclose a lien created under this section, the court may appoint a receiver to collect all rents or other income from the unit alleged to be due and owing to a unit's owner before commencement or during pendency of the action. The receivership is governed by chapter 32 of NRS. The court may order the receiver to pay any sums held by the receiver to the association during pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to NRS 116.3115.

Sec. 1.3. NRS 116.615 is hereby amended to read as follows:

116.615 1. The provisions of this chapter must be administered by the Division, subject to the administrative supervision of the Director of the Department of Business and Industry.

2. The Commission and the Division may do all things necessary and convenient to carry out the provisions of this chapter, including, without limitation, prescribing such forms and adopting such procedures as are necessary to carry out the provisions of this chapter.

3. The Commission, or the Administrator with the approval of the Commission, may adopt such regulations as are necessary to carry out ~~the~~:

(a) The provisions of subsections 3 and 4 of NRS 116.3116 relating to escrow accounts, loan trust accounts or other impound accounts, including, without limitation, regulations relating to bonding of entities servicing such accounts, the cost of servicing such accounts and conflicts of interest for entities servicing such accounts; and

(b) Any other provisions of this chapter.

4. The Commission may by regulation delegate any authority conferred upon it by the provisions of this chapter to the Administrator to be exercised pursuant to the regulations adopted by the Commission.

5. When regulations are proposed by the Administrator, in addition to other notices required by law, the Administrator shall provide copies of the proposed regulations to the Commission not later than 30 days before the next meeting of the Commission. The Commission shall approve, amend or disapprove any proposed regulations at that meeting.

6. All regulations adopted by the Commission, or adopted by the Administrator with the approval of the Commission, must be published by the Division, posted on its website and offered for sale at a reasonable fee.

Sec. 1.7. The amendatory provisions of section 1 of this act apply to a security interest described in paragraph (b) of subsection 2 of NRS 116.3116, as amended by section 1 of this act, that is recorded on or after January 1, 2016.

Sec. 2. This act becomes effective ~~on~~:

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

(b) On January 1, 2016, ~~for~~, for all other purposes.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

Amendment No. 329 to Senate Bill No. 260 provides that if the holder of a first security interest has obtained the unit owner's consent and if an impound account is established for property tax or insurance payments, the lender is required to establish an account to pay home owner association assessments.

Provides that if an impound account for assessments exists and is in good standing, no HOA association super priority lien arises. However, if there is no account or an account is not kept in good standing, a super priority lien does arise and an association may proceed with foreclosure, accordingly.

It requires that an association must be notified by a lender within 30 days of a delinquent assessment; authorizes the Commission on Common Interest Communities to adopt regulations necessary to implement impound accounts, including regulating entities that would service these accounts and provides that the bill's provisions are applicable only to a security interest that is recorded on or after January 1, 2016.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 274.

Bill read second time.

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

Amendment No. 557.

SUMMARY—Enacts provisions governing the State's delegates to any federal constitutional conventions. (BDR 24-600)

AN ACT relating to federal constitutional conventions; enacting provisions governing the State's delegates to any federal constitutional conventions called pursuant to Article V of the United States Constitution; providing for the appointment, qualifications, duties, terms, recall and replacement of the delegates; prescribing oaths, rules, instructions and limitations for the delegates; prohibiting the delegates from acting or voting outside the scope of the rules, instructions and limitations; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Article V of the United States Constitution provides that on the application of the state legislatures of two-thirds of the states, Congress shall call a convention for proposing amendments to the Constitution. Based on the records from the state ratifying conventions in 1788, the Founders of our Nation understood that when "amendments be generally wished for by the people, two thirds of the legislatures of the different states may require a general convention for [that] purpose, in which case Congress [is] under the necessity of convening one." (Debate in North Carolina Ratifying Convention (July 29, 1788) (statement of Mr. Iredell), reprinted in 4 *The Founders' Constitution* 582-83 (Philip B. Kurland & Ralph Lerner eds., 1987)) The Founders also understood that "[t]he conventions which shall be so called will have their deliberations confined to a few points." (Debate in Virginia Ratifying Convention (June 5-6, 1788) (statement of Mr. Nicholas),

reprinted in 4 *The Founders' Constitution* 582 (Philip B. Kurland & Ralph Lerner eds., 1987)) Therefore, the Founders understood that when the state legislatures make applications to Congress to call a federal constitutional convention, the state legislatures are authorized in their applications to limit the subjects and amendments which may be considered by the delegates to the convention. (Robert M. Rhodes, *A Limited Federal Constitutional Convention*, 26 U. Fla. L. Rev. 1 (1973))

Even though the state legislatures are empowered to make such applications, the power of Congress to call the convention is a federal function, and Congress may regulate the process of proposing amendments to the United States Constitution. (*Hawke v. Smith*, 253 U.S. 221, 224-31 (1920); *Leser v. Garnett*, 258 U.S. 130, 137 (1922); *Coleman v. Miller*, 307 U.S. 433, 451-56 (1939)) However, Congress has not enacted any federal laws regulating the process of state legislatures making applications to Congress to call a federal constitutional convention. In the absence of any federal laws preempting this field of regulation, it must be presumed that state legislatures may enact their own state laws governing their delegates to a federal constitutional convention. (*Gregory v. Ashcroft*, 501 U.S. 452, 458-64 (1991); John A. Jameson, *A Treatise on Constitutional Conventions* §§ 376-396 (4th ed. 1887))

This bill is modeled on several laws governing delegates to a federal constitutional convention which have been enacted by other states, including Florida, Georgia, Indiana, South Dakota, Tennessee and Utah. (Fla. Stat. §§ 11.93 et seq.; Ga. Code Ann. § 28-6-8; Ind. Code §§ 2-8.2-1-1 et seq.; S.D. H.B. 1069, 90th Leg., Reg. Sess., approved Feb. 24, 2015; Tenn. Code Ann. §§ 3-18-101 et seq.; Utah Code Ann. § 20A-18-101)

Sections 5 and 11 of this bill provide for the appointment of delegates and alternate delegates by the Legislature when it is in a regular or special session or by the Legislative Commission when the Legislature is not in a regular or special session. Section 11 also provides for the recall and replacement of the delegates by the appointing authority. Sections 12 and 13 of this bill establish qualifications and terms of office for the delegates and state that they serve without compensation but are entitled to receive from the Legislative Fund per diem allowances and travel expenses while engaged in the business of the convention.

Sections 14 and 15 of this bill require the delegates to take an oath to faithfully perform their duties and abide by and implement all: (1) limits placed on the subjects and amendments which may be considered by the delegates that are set forth in the Legislature's application calling for the convention; and (2) all instructions provided to the delegates by the appointing authority, including all internal rules of procedure for Nevada's delegation, which the delegates must follow when acting or voting on behalf of Nevada at the convention.

Section 16 of this bill prohibits the delegates from acting or voting in a manner that conflicts with or is outside the scope of any limits placed on the subjects and amendments which may be considered by the delegates or any instructions provided to the delegates by the appointing authority. Section 16 also imposes certain criminal penalties and civil sanctions against the delegates for such violations of their duties.

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

Section 1. Chapter 304 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *The Legislature hereby finds and declares that:*

1. *Article V of the United States Constitution provides that on the application of the state legislatures of two-thirds of the states, Congress shall call a federal constitutional convention for proposing amendments to the United States Constitution.*

2. *The Founders of our Nation understood that when the state legislatures make applications to Congress to call an Article V convention, the state legislatures are empowered through their applications to limit the subjects and amendments which may be considered by the delegates to the Article V convention.*

3. *The provisions of sections 2 to 16, inclusive, of this act are intended to:*

(a) *Give full meaning and effect to the Legislature's power under Article V of the United States Constitution to make applications to Congress to call an Article V convention; and*

(b) *Ensure that this State's delegates to an Article V convention faithfully abide by and implement all limits placed by the Legislature on the subjects and amendments which may be considered by the delegates that are set forth in the Legislature's application calling for an Article V convention.*

Sec. 3. *As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Alternate delegate" means a person appointed to represent the State of Nevada at an Article V convention by fulfilling the duties of his or her paired delegate when necessary pursuant to sections 2 to 16, inclusive, of this act.*

Sec. 5. *"Appointing authority" means:*

1. *The Legislature when it is in a regular session or when it is in a special session convened by:*

(a) *The members of the Legislature pursuant to Section 2A of Article 4 of the Nevada Constitution; or*

(b) *The Governor pursuant to Section 9 of Article 5 of the Nevada Constitution; or*

2. *The Legislative Commission when the Legislature is not in a regular or special session.*

Sec. 6. *"Article V convention" means a convention called for by the states pursuant to Article V of the United States Constitution for the purpose of proposing amendments to the United States Constitution.*

Sec. 7. *"Delegate" means a person appointed to represent the State of Nevada at an Article V convention by fulfilling the duties of a delegate pursuant to sections 2 to 16, inclusive, of this act.*

Sec. 8. *"Legislature" means the Legislature of the State of Nevada.*

Sec. 9. *"Paired delegate" means the delegate with whom an alternate delegate is paired.*

Sec. 10. *The provisions of sections 2 to 16, inclusive, of this act must not be interpreted to authorize the State of Nevada to participate in an Article V convention unless the rules and procedures of the Article V convention provide that each state of the United States possesses one vote equal to the vote of each of the other states at the Article V convention.*

Sec. 11. 1. *Unless the rules and procedures of an Article V convention are otherwise provided by federal law, when an Article V convention is called, the appointing authority shall appoint the number of delegates allocated to represent the State of Nevada and an equal number of alternate delegates.*

2. *At the time of appointment, each alternate delegate shall be paired with a delegate. An alternate delegate shall:*

(a) *Act in place of his or her paired delegate when the paired delegate is absent from the Article V convention; and*

(b) *Replace his or her paired delegate if the appointing authority directs the alternate delegate to replace the paired delegate because the paired delegate vacates the office or is recalled from the office by the appointing authority pursuant to sections 2 to 16, inclusive, of this act.*

3. *The appointing authority shall fill a vacancy in the office of a delegate or an alternate delegate because of death, incapacity, resignation, ineligibility, recall or any other reason in the same manner as the original appointment.*

4. *The appointing authority may recall a delegate or an alternate delegate at any time and replace that delegate or alternate delegate with another person in the same manner as the original appointment.*

5. *As soon as is practicable after taking any action relating to a delegate or an alternate delegate pursuant to sections 2 to 16, inclusive, of this act, the appointing authority shall certify the action in writing to the Article V convention, including, without limitation, each action:*

(a) *Appointing a delegate or an alternate delegate.*

(b) *Recalling a delegate or an alternate delegate.*

(c) *Filling a vacancy in the office of a delegate or an alternate delegate.*

(d) *Certifying that a delegate or an alternate delegate acted or voted unlawfully and that the unlawful act or vote is void by operation of law and must be treated as having no legal effect.*

Sec. 12. 1. A person is not eligible to be appointed or to serve as a delegate or an alternate delegate unless the person:

- (a) Is 18 years of age or older;
- (b) Is a qualified elector in this State;
- (c) Is a registered voter in this State;
- (d) Has been an actual, as opposed to constructive, citizen resident of this State for at least 1 year immediately preceding the appointment; and
- (e) Meets all other qualifications for the office as required by law.

2. Each delegate and alternate delegate who are paired must be residents of the same county.

3. Each pair of delegates and alternate delegates must be residents of a different county from each of the other pairs of delegates and alternate delegates, unless application of this residency requirement is impracticable because of the number of delegates allocated to represent the State of Nevada at the Article V convention.

4. The appointing authority shall not appoint a person to serve as a delegate or an alternate delegate if the person:

~~(a) During the immediately preceding 2 years, was registered or required to be registered as a lobbyist pursuant to chapter 218H of NRS for any regular or special session;~~

~~—(b) Is registered or required to be registered as a lobbyist pursuant to 2 U.S.C. § 1603, as amended, or any regulations or rules adopted pursuant thereto;~~

~~—(c) Holds or will hold an elective or appointed office of the United States at the time of appointment or while serving as a delegate or an alternate delegate; or~~

~~—(d)~~ (b) Has been recalled from the office by the appointing authority or has violated the provisions of section 16 of this act.

Sec. 13. 1. The term of office of each delegate and alternate delegate expires upon the adjournment sine die of the Article V convention, except that the term of office may not exceed 4 years regardless of the duration of the Article V convention.

2. A delegate or an alternate delegate may be reappointed in the same manner as the original appointment, unless the delegate or alternate delegate has been recalled from the office by the appointing authority or has violated the provisions of section 16 of this act.

3. The delegates and alternate delegates serve without compensation. While engaged in the business of the Article V convention, each delegate and alternate delegate is entitled to receive from the Legislative Fund the:

(a) Per diem allowance provided for state officers and employees generally; and

(b) Travel expenses for Legislators provided pursuant to NRS 218A.655.

Sec. 14. 1. Before a person who is appointed to serve as a delegate or an alternate delegate enters upon the duties of the office, the person shall take an oath, in writing, that he or she will:

- (a) Support the United States Constitution and the Nevada Constitution;*
- (b) Faithfully abide by and implement all limits placed by the Legislature on the subjects and amendments which may be considered by the delegates and alternate delegates that are set forth in the Legislature's application calling for the Article V convention;*
- (c) Faithfully abide by and implement all instructions provided to the delegates and alternate delegates by the appointing authority pursuant to section 15 of this act; and*
- (d) Otherwise faithfully discharge the duties of the office.*

2. The oath of each delegate and alternate delegate must be filed in the Office of the Secretary of State.

3. After the oath is filed in the Office of the Secretary of State, the Governor shall issue a commission to the delegate or alternate delegate pursuant to NRS 281.020.

Sec. 15. 1. At the time the delegates and alternate delegates are appointed, the appointing authority shall adopt instructions to provide to the delegates and alternate delegates regarding:

(a) The internal rules of procedure for this State's delegation which the delegates and alternate delegates must follow when acting or voting as members of this State's delegation to the Article V convention; and

(b) Any other matters that the appointing authority considers necessary for this State's delegation which the delegates and alternate delegates must follow when acting or voting as members of this State's delegation to the Article V convention.

2. The appointing authority may amend the instructions at any time.

Sec. 16. 1. When exercising the power to act or vote as a member of this State's delegation to an Article V convention, a delegate or an alternate delegate shall not knowingly or intentionally act or vote, or attempt to act or vote, in a manner that conflicts with or is outside the scope of any of the:

(a) Instructions provided to the delegates and alternate delegates by the appointing authority pursuant to section 15 of this act; or

(b) Limits placed by the Legislature on the subjects and amendments which may be considered by the delegates and alternate delegates that are set forth in the Legislature's application calling for the Article V convention.

2. If a delegate or alternate delegate violates the provisions of this section:

(a) The unlawful act or vote of the delegate or alternate delegate is void by operation of law and must be treated as having no legal effect; and

(b) The delegate or alternate delegate forfeits and vacates the office by operation of law.

3. If, when exercising its collective power to act or vote on behalf of the State of Nevada at an Article V convention, this State's delegation acts or votes, or attempts to act or vote, in a manner that conflicts with or is outside the scope of any of the:

(a) Instructions provided to the delegates and alternate delegates by the appointing authority pursuant to section 15 of this act; or

(b) Limits placed by the Legislature on the subjects and amendments which may be considered by the delegates and alternate delegates that are set forth in the Legislature's application calling for the Article V convention, ➔ the delegation's act or vote is void by operation of law and must be treated as having no legal effect, and the Legislature's application calling for the Article V convention ceases to be a continuing application and must be treated as having no legal effect thereafter.

4. A delegate or an alternate delegate who violates the provisions of this section is guilty of a misdemeanor and, for a period of 5 years after conviction, is disqualified from and ineligible for any appointment to or employment in a position in the public service or a public office in this State.

5. In addition to any other remedy or penalty provided by law, a delegate or an alternate delegate who violates the provisions of this section is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

Sec. 17. This act becomes effective on July 1, 2015.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 557 to Senate Bill No. 274 deletes provisions in section 12 that would have prohibited a registered lobbyist from serving as a delegate or alternate delegate to an Article V Constitutional Convention.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 419.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 387.

SUMMARY—Revises provisions relating to services for persons with disabilities. (BDR 38-978)

AN ACT relating to persons with disabilities; creating the Nevada ABLE Savings Program as a qualified ABLE program under the federal Achieving a Better Life Experience Act of 2014; authorizing the creation of a program within the Aging and Disability Services Division of the Department of Health and Human Services to provide services of independent living and assistive technology for persons ~~[who have recently become disabled;]~~ with disabilities who need independent living services; revising the terms of

members of the Nevada Commission on Services for Persons with Disabilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Recently enacted federal law allows for the creation of tax-advantaged savings accounts for persons who have certain qualifying disabilities. Under the program, any person, including family members, may make a contribution to the account of a person with a qualified disability. Any interest or other growth in the value of the account and distributions taken from the account are tax free. The maximum amount that can be contributed tax free to the account of a qualified person is \$14,000 per year. Distributions from the account may only be used to pay expenses related to living a life with a disability and may include such things as education, housing, transportation and employment training and support. Money in the account or distributions from the account do not affect the eligibility of a person for certain public benefits such as Social Security disability payments, Supplemental Nutrition Assistance Program benefits and Medicaid. To qualify for these benefits, the savings account into which contributions are made on behalf of a qualified person must be established and maintained by the qualified person's state of residence. If a state chooses not to establish its own program, it may contract with another state that has adopted a qualified program. (Achieving a Better Life Experience Act of 2014, 26 U.S.C. § 529A) Sections 2-15 of this bill require the Aging and Disability Services Division of the Department of Health and Human Services, in cooperation with the State Treasurer, to establish the Nevada ABLE Savings Program as a qualified program pursuant to 26 U.S.C. § 529A.

Existing law creates the Aging and Disability Services Division within the Department of Health and Human Services and requires the Division to work with persons with disabilities, persons interested in matters relating to persons with disabilities and state and local governmental agencies to develop and improve policies of this State concerning programs and services for persons with disabilities. (NRS 427A.040) Sections ~~[3]~~ 18 and ~~[4]~~ 19 of this bill ~~[create]~~ authorize the Division to establish a program ~~[within the Division]~~ to provide services of independent living and assistive technology for persons ~~[who have recently become disabled.]~~ with a disability who need independent living services.

Existing law creates the Nevada Commission on Services for Persons with Disabilities, which consists of 11 members appointed by the Director of the Department of Health and Human Services. (NRS 427A.1211) Sections ~~[5]~~ 21 and ~~[6]~~ 22 of this bill make revisions to the terms of the members of the Commission to ensure that the terms of the members of the Commission are staggered.

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

Section 1. Title 38 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 15, inclusive, of this act.

Sec. 2. As used in sections 2 to 15, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "Department" means the Department of Health and Human Services.

Sec. 4. "Division" means the Aging and Disability Services Division of the Department.

Sec. 5. "Nevada ABLE Savings Program" means the program established by the State Treasurer pursuant to section 8 of this act.

Sec. 6. "Qualified ABLE program" has the meaning ascribed to it in the Achieving a Better Life Experience Act of 2014, 26 U.S.C. § 529A, as amended.

Sec. 7. "Trust Fund" means the Nevada ABLE Savings Program Trust Fund created by section 11 of this act.

Sec. 8. 1. The State Treasurer shall adopt regulations to establish and carry out the Nevada ABLE Savings Program which must comply with the requirements of a qualified ABLE program pursuant to 26 U.S.C. § 529A, as amended.

2. The regulations must be consistent with the provisions of the Internal Revenue Code set forth in Title 26 of the United States Code, and any regulations adopted pursuant thereto, to ensure that the Nevada ABLE Savings Program meets all criteria for federal tax-deferred or tax-exempt benefits, or both.

3. The regulations must provide for the use of savings trust agreements and savings trust accounts to apply distributions toward qualified disability expenses in accordance with 26 U.S.C. § 529A, as amended.

4. The regulations may include any other provisions not inconsistent with federal law that the State Treasurer determines are necessary for the efficient and effective administration of the Nevada ABLE Savings Program and the Trust Fund.

Sec. 9. The Division may delegate any of its administrative powers and duties specified in sections 2 to 15, inclusive, of this act if the Division determines that such delegation is necessary for the efficient and effective administration of the Nevada ABLE Savings Program and the Trust Fund.

Sec. 10. Savings trust accounts used and savings trust agreements entered into pursuant to sections 2 to 15, inclusive, of this act are not guaranteed by the full faith and credit of the State of Nevada.

Sec. 11. 1. The Nevada ABLE Savings Program Trust Fund is hereby created.

2. The Trust Fund is an instrumentality of this State, and its property and income are exempt from all taxation by this State and any political subdivision thereof.

3. The Trust Fund consists of:
- (a) All money deposited in accordance with savings and trust agreements;
and
- (b) All earnings on the money in the Trust Fund.
4. Money in the Trust Fund:
- (a) Is not the property of this State, and this State has no claim to or interest in such money; and
- (b) Must not be commingled with money of this State.
5. A savings trust agreement or any other contract entered into by or on behalf of the Trust Fund does not constitute a debt or obligation of this State, and no account owner is entitled to any money in the Trust Fund except for that money on deposit in or accrued to his or her account.
6. The money in the Trust Fund must be preserved, invested and expended solely pursuant to and for the purposes authorized by sections 2 to 15, inclusive, of this act and must not be loaned or otherwise transferred or used by this State for any other purpose.
- Sec. 12. 1. The Trust Fund and any account established by the State Treasurer pursuant to this section must be administered by the State Treasurer.
2. The State Treasurer shall establish such accounts as he or she determines necessary to carry out his or her duties pursuant to sections 2 to 15, inclusive, of this act, including, without limitation:
- (a) A Program Account in the Trust Fund; and
- (b) An Administrative Account and an Endowment Account in the State General Fund.
3. The Program Account must be used for the receipt, investment and disbursement of money pursuant to savings trust agreements.
4. The Administrative Account must be used for the deposit and disbursement of money to administer and market the Nevada ABLE Savings Program.
5. The Endowment Account must be used for the deposit of any money received by the Nevada ABLE Savings Program that is not received pursuant to a savings trust agreement and, in the determination of the State Treasurer, is not necessary for the use of the Administrative Account. The money in the Endowment Account may be expended for any purpose related to the Nevada ABLE Savings Program or in any other manner which assists residents of this state who are eligible individuals as defined in 26 U.S.C. § 529A, as amended.
- Sec. 13. The State Treasurer may accept and expend on behalf of the Trust Fund money provided by private entities for direct expenses or marketing. Such money is not a part of the Trust Fund.
- Sec. 14. The Division may endorse insurance coverage written exclusively to protect the Trust Fund, and account owners and beneficiaries of the Trust Fund, which may be issued in the form of a group life policy. The

provisions of title 57 of NRS are not applicable to the Division in carrying out the provisions of this section.

Sec. 15. 1. The Division shall establish a comprehensive investment plan for the money in the Trust Fund.

2. Notwithstanding the provisions of any specific statute to the contrary, the Division may invest or cause to be invested any money in the Trust Fund, including, without limitation, the money in the Program Account described in paragraph (a) of subsection 2 of section 12 of this act, in any manner reasonable and appropriate to achieve the objectives of the Nevada ABLE Savings Program, exercising the discretion and care of a prudent person in similar circumstances with similar objectives. The Division shall consider the risk, expected rate of return, term or maturity, diversification of total investments, liquidity and anticipated investments in and withdrawals from the Trust Fund.

3. The Division may establish criteria and select investment managers, mutual funds or other such entities to act as investment managers for the Nevada ABLE Savings Program.

4. The Division may employ or contract with investment managers, evaluation services or other services as determined by the Division to be necessary for the effective and efficient operation of the Nevada ABLE Savings Program.

5. The Division may employ personnel and contract for goods and services necessary for the effective and efficient operation of the Nevada ABLE Savings Program.

6. The marketing plan and materials for the Nevada ABLE Savings Program must be approved by the Division.

7. The Division may prescribe terms and conditions of savings trust agreements.

8. The Division may contract with one or more qualified entities for the day-to-day operation of the Nevada ABLE Savings Program as the program administrator for the management of the marketing of the Nevada ABLE Savings Program, the administration of the comprehensive investment plan established pursuant to subsection 1 and the Trust Fund, the selection of investment managers for the Nevada ABLE Savings Program and the performance of similar activities.

~~{Section 1.}~~ Sec. 16. Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections ~~{2, 3 and 4}~~ 17-20, inclusive, of this act.

~~{Sec. 2.}~~ Sec. 17. As used in ~~{this section and}~~ sections ~~{3 and 4}~~ 17 to 20, inclusive, of this act, unless the context otherwise requires, "person ~~{who has recently become disabled}~~" with a disability who needs independent living services" means a person with a physical disability, as that term is defined in NRS 427A.791, including, without limitation, a person who is blind, as that term is defined in NRS 426.082, who ~~has had such a~~

~~disability for a period of less than 18 months.] is in need of independent living services and who does not have a vocational goal.~~

~~[Sec. 3.]~~ Sec. 18. 1. The Division ~~[shall]~~ may, pursuant to this section and section ~~[4]~~ 19 of this act, establish a program to provide services of independent living and assistive technology for persons ~~[who have recently become disabled]~~ with disabilities who need independent living services.

2. ~~[To carry out the program referenced in]~~ If the Division establishes a program pursuant to subsection 1, the Division shall adopt regulations:

(a) Establishing the procedures for a person to apply for services of independent living and assistive technology;

(b) Prescribing the criteria for determining the eligibility of such an applicant;

(c) Prescribing the nature of the services of independent living and assistive technology which may be provided and the conditions imposed on the provision of such services; and

(d) Setting forth such other provisions as the Division considers necessary to administer the program.

3. The decision of the Division regarding the eligibility of an applicant to participate in the program is a final decision for the purpose of judicial review.

~~[Sec. 4.]~~ Sec. 19. 1. The services of independent living that the Division may, pursuant to this section and section ~~[3]~~ 18 of this act, provide to a person ~~[who has recently become disabled]~~ with a disability who needs independent living services may include, without limitation, assistance and training as to how to perform skills of daily living, including, without limitation:

(a) The preparation and eating of meals;

(b) Home management, including, without limitation, paying bills;

(c) Communication, including, without limitation, the use of services of assistive technology;

(d) Orientation and mobility; and

(e) Any other skills that will allow a person who has recently become disabled to function and live in a more independent manner.

2. The services of assistive technology that the Division may, pursuant to this section and section ~~[3]~~ 18 of this act, provide to a person ~~[who has recently become disabled]~~ with a disability who needs independent living services may include, without limitation:

(a) Large-print signs and reading materials;

(b) Voice recognition or Braille technology installed on a computer or handheld device;

(c) Global positioning satellite technology with voice output;

(d) Mechanical lifts or similar mobility enhancing devices;

(e) Telecommunications devices specially designed for persons with impaired vision, speech or hearing; and

(f) *Any other technology that provides significant assistance in performing daily tasks to a person ~~who has recently become disabled.~~ with a disability who needs independent living services.*

Sec. 20. The Division may:

1. Periodically research and determine the cost of providing services in this State for people who are blind or visually impaired and who do not have a vocational goal; and

2. Present a report of the findings of the research to the Nevada Commission on Services for Persons with Disabilities created by NRS 427A.1211.

~~{Sec. 5.}~~ Sec. 21. NRS 427A.1211 is hereby amended to read as follows:

427A.1211 1. The Nevada Commission on Services for Persons with Disabilities, consisting of 11 voting members and 2 or more nonvoting members, is hereby created within the Division.

2. The Director shall appoint as voting members of the Commission 11 persons who have experience with or an interest in and knowledge of the problems of and services for persons with disabilities. The majority of the voting members of the Commission must be persons with disabilities or the parents or family members of persons with disabilities.

3. The Director and the Administrator shall serve as nonvoting, ex officio members of the Commission and each may designate an alternate within his or her office to attend any meeting of the Commission in his or her place.

4. The Director may appoint as nonvoting members of the Commission such other representatives of State Government as the Director deems appropriate.

5. After the initial term of an appointed member, the term of an appointed member is 3 years. An appointed member may be reappointed for an additional term of 3 years. An appointed member may not serve more than two terms ~~{-}~~ *or 6 years, whichever is greater.* A vacancy on the Commission must be filled in the same manner as the original appointment. An appointed member who serves for more than 1 year of a term to which another person was appointed may be appointed to serve only one additional full term as an appointed member ~~{-}~~ *; however, at the completion of the additional full-term, the member may be appointed to the remaining term of another member who has resigned or otherwise left the Commission before completing his or her term if the total combined service of the member being appointed, after serving the remaining term of the member who resigned or otherwise left the Commission, will not exceed 6 years.*

6. The Director may remove an appointed member of the Commission for malfeasance in office or neglect of duty. Absence from two consecutive meetings of the Commission constitutes good and sufficient cause for removal of an appointed member by the Director.

~~{Sec. 6.}~~ Sec. 22. 1. Notwithstanding any provision of subsection 5 of NRS 427A.1211, as amended by section ~~{5}~~ 21 of this act, to the contrary,

the existing terms of the voting members of the Nevada Commission on Services for Persons with Disabilities whose terms have not expired before July 1, 2015, must expire as follows:

(a) The terms of four voting members of the Commission must expire on June 30, 2016;

(b) The terms of four voting members of the Commission must expire on June 30, 2017; and

(c) The terms of three voting members of the Commission must expire on June 30, 2018.

2. The Director shall, at his or her sole discretion, determine the allocation of existing members of the Commission to the particular groupings established for the expiration of terms in subsection 1.

3. The terms of members of the Commission appointed after the expiration of the terms of the existing members of the Commission pursuant to subsection 1 must begin on July 1 of the year in which the member was appointed.

~~[Sec. 7.]~~ Sec. 23. This act becomes effective on July 1, 2015.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment No. 387 to Senate Bill No. 419 requires the Aging and Disability Services Division, in cooperation with the State Treasurer, to establish the Nevada ABLE (Achieving a Better Life Experience) Savings Program as a qualified program pursuant to 26 U.S. Code § 529A; and authorizes the Division to establish a program to provide services of independent living and assistive technology for persons with a disability who need independent living services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 241.

Bill read third time.

The following amendment was proposed by Senator Brower:

Amendment No. 608.

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; revising the definition of "local government employer" to exclude certain courts from the provisions governing collective bargaining; reducing the amount of time within which the Local Government Employee-Management Relations Board must conduct a hearing relating to certain complaints; excluding certain deputy marshals from membership in an employee organization; 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 defines "local government employer" for certain purposes governing relations between governments and public employees and excludes certain persons from membership in an employee organization for negotiation. (NRS 288.060, 288.140) Section 1.05 of this bill revises the definition of "local government employer" to exclude district courts and justice courts from the provisions of existing law governing collective bargaining. Section 1.15 of this bill excludes deputy marshals who are appointed or employed by a district court or justice court from membership in an employee organization.

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 1.4 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. 1.05. NRS 288.060 is hereby amended to read as follows:

288.060 "Local government employer" means any political subdivision of this State or any public or quasi-public corporation organized under the laws of this State and includes, without limitation, counties, cities, unincorporated towns, school districts, charter schools, hospital districts, irrigation districts and other special districts. The term does not include district courts and justice courts.

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. 1.15. NRS 288.140 is hereby amended to read as follows:

288.140 1. It is the right of every local government employee, subject to the limitations provided in subsections 3 and 4, to join any employee organization of the employee's choice or to refrain from joining any employee organization. A local government employer shall not discriminate in any way among its employees on account of membership or nonmembership in an employee organization.

2. The recognition of an employee organization for negotiation, pursuant to this chapter, does not preclude any local government employee who is not a member of that employee organization from acting for himself or herself with respect to any condition of his or her employment, but any action taken on a request or in adjustment of a grievance shall be consistent with the terms of an applicable negotiated agreement, if any.

3. A police officer, sheriff, deputy sheriff or other law enforcement officer may be a member of an employee organization only if such employee organization is composed exclusively of law enforcement officers.

4. The following persons may not be a member of an employee organization:

(a) A supervisory employee described in paragraph (b) of subsection 1 of NRS 288.075, including but not limited to appointed officials and department heads who are primarily responsible for formulating and administering management, policy and programs.

(b) A doctor or physician who is employed by a local government employer.

(c) A deputy marshal who is appointed pursuant to NRS 3.310 or 4.353 or employed in support of a district court or justice court.

(d) Except as otherwise provided in this paragraph, an attorney who is employed by a local government employer and who is assigned to a civil law division, department or agency. The provisions of this paragraph do not apply with respect to an attorney for the duration of a collective bargaining agreement to which the attorney is a party as of July 1, 2011.

5. As used in this section, "doctor or physician" means a doctor, physician, homeopathic physician, osteopathic physician, chiropractic physician, practitioner of Oriental medicine, podiatric physician or practitioner of optometry, as those terms are defined or used, respectively, in NRS 630.014, 630A.050, 633.091, chapter 634 of NRS, chapter 634A of NRS, chapter 635 of NRS or chapter 636 of NRS.

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.

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 [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]~~ *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. ~~[[H]]~~ *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 . ~~for 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 agreement entered into on or after the effective date of this act. For the purposes of this section, the term of 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 Brower moved the adoption of the amendment.

Remarks by Senators Brower and Segerblom.

SENATOR BROWER:

Amendment No. 608 to Senate Bill No. 241 is intended to codify a recent decision by the State Employee Management Relations Board. The amendment has the support of both the 8th Judicial District Court in Clark County and Clark County itself. I urge our adoption of this amendment.

SENATOR SEGERBLOM:

I rise in opposition to this amendment. I like this bill, but in checking with the folks in Clark County, it turns out the decision the Senator referenced is actually on appeal and this issue is going to be heard by the Supreme Court probably later this year. My understanding is this Body does not try to get involved in litigation so I am opposed to this for that reason. Secondly, I oppose it based on the fact we have not had a hearing on this issue. It is a big issue because it could deal with all employees in the court system throughout the State. For those reasons, I oppose this amendment.

SENATOR BROWER:

To clarify, the appeal is not with the Supreme Court. It has not moved past the district court level. It is clear this issue applies only to the Deputy Marshals that work for the court system of Clark County. It does not apply to other counties. It is, again, supported by Clark County itself—the Clark County Commission and the 8th Judicial District Court. It was a unanimous decision by the EMRB, and everyone seems confident this decision will be affirmed. It is, as Clark County recognizes, good policy.

Amendment adopted.

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

Senate Bill No. 242.

Bill read third time.

Remarks by Senators Roberson and Smith.

SENATOR ROBERSON:

Senate Bill No. 242 enacts the Payday Lender Best Practices Act, which adopts certain provisions of the Community Financial Services Association of America's Best Practices for the Payday Loan Industry. The provisions of this bill apply to a licensee operating a deferred deposit loan service, a high-interest loan service or a title loan service. This bill is effective on October 1, 2015.

SENATOR SMITH:

Thank you to the Majority Leader for allowing us another opportunity to take a look at this bill and consider it. Since we have put much of this in statute in previous sessions, I want to ask if we can put on the record that if there is any conflict with what is already there, the consumer will always be protected. We have passed major legislation in past Sessions on payday lenders, and while I appreciate the fact we are doing a "best practices," I would like to be assure if there is any conflict with what we currently have in statute, the consumer will always prevail.

SENATOR ROBERSON:

The assurance is in black and white in section 3 where it says: "...in addition to the requirements of any other provisions of this chapter or any applicable law or regulation of this State or federal law or regulation." This is in addition to existing law. I am happy to go through each section of this bill in order to demonstrate how it adds to existing requirements already in law or that are missing from the law with regard to payday lenders. This has been vetted by our legal department. It has been vetted in committee. I would hope the members are satisfied.

SENATOR SMITH:

I did not intend to cause offense by asking my question.

Roll call on Senate Bill No. 242:

YEAS—21.

NAYS—None.

Senate Bill No. 242 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 5:20 p.m.

SENATE IN SESSION

At 5:35 p.m.

President Hutchison presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Senate Bill No. 108 be taken from the Secretary's desk and placed at the bottom of the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 153.

Bill read third time.

Remarks by Senator Hardy.

Senate Bill No. 153 limits the period under which heart and lung diseases are, for purposes of industrial insurance claims, conclusively presumed to be occupationally related. Specifically, a person must have been employed in a full-time continuous, uninterrupted and salaried occupation as a police officer, firefighter or arson investigator for two years or more before the date of disablement if the disease is diagnosed and causes the disablement: 1) during the course of that employment; 2) if the person ceases employment before completing 20 years of service as a police officer, firefighter or arson investigator, during the period after separation from employment which is equal to the number of years worked; or 3) if the person ceases employment after completing 20 years or more of service as a police officer, firefighter or arson investigator, at any time during the person's life. Service credit purchased in a retirement system must not be calculated towards the years of service.

The measure also prevents these persons who use tobacco products or fail to follow a physician's prescribed plan of care from claiming these presumptions under certain circumstances. Provisions relating to the use of tobacco products or departure from a physician's prescribed plan of care are effective on January 1, 2017. All other provisions of this bill are effective upon passage and approval.

The amendatory provisions of this bill apply only to disablement that occurs on or after the date upon which the bill is approved by the Governor and do not apply to any person who, upon that date, has completed at least 20 years of creditable service as a police officer, firefighter, volunteer firefighter or arson investigator in this State.

Roll call on Senate Bill No. 153:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 153 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 224.

Bill read third time.

Remarks by Senator Settelmeyer.

Senate Bill No. 224 was worked out in conjunction with the unions and corporations trying to find and establish a definition of independent contractor they could agree with. We have done that with this bill, and we hope someday to finally not have to deal with this issue, but that is the gist of the bill.

Roll call on Senate Bill No. 224:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 224 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 261.

Bill read third time.

Remarks by Senator Manendo.

Senate Bill No. 261 authorizes a research facility that intends to euthanize a dog or cat to instead offer the animal for adoption through a program of the facility or through an agreement with an animal shelter or animal rescue organization, if the dog or cat is appropriate for adoption. The bill also provides that the research facility and any officer, director, employee or agent of the facility is immune from civil liability for any act or omission relating to the adoption of the dog or cat. This bill is effective on October 1, 2015.

Roll call on Senate Bill No. 261:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 261 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 289.

Bill read third time.

Remarks by Senator Denis.

Senate Bill No. 289 requires the Information Technology Advisory Board to conduct a study of peering, including an analysis of potential benefits of peering arrangements to the State and its political subdivisions. The Board is further required to submit a report of its findings, including any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature. This measure is effective on July 1, 2015.

Roll call on Senate Bill No. 289:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 289 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 293.

Bill read third time.

Remarks by Senator Brower.

Senate Bill No. 293 closes a long standing loophole in the law, in the campaign finance laws that provide, specifically, that a person, including a former public officer, who qualifies as a candidate by receiving one or more contributions in excess of \$100, to dispose of all contributions that have not been spent or committed for expenditure if, within four years after receipt of the contribution, he or she does not file a declaration or acceptance of candidacy or appear on the ballot at any election.

The bill also provides that a former public officer who has any unspent campaign contributions as of October 1, 2015, shall, on or before September 30, 2017: 1) file a declaration

or acceptance of candidacy; 2) appear on a ballot at any election; or 3) dispose of his or her unspent contributions as set forth in Nevada law. The bill specifies that such former public officers are subject to campaign finance reporting requirements for as long as they have unspent campaign contributions. The bill is effective on October 1, 2015.

The measure clarifies the definition of "candidate" to mean a person who receives one or more contributions in excess of \$100. The contributions identified in Senate Bill No. 293 must be disposed of not later than the fifteenth day of the month after the end of the four-year period during which the candidate or public officer did not file a declaration of candidacy or appear on the ballot.

Roll call on Senate Bill No. 293:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 293 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 303.

Bill read third time.

Remarks by Senators Hammond and Kieckhefer.

SENATOR HAMMOND:

Senate Bill No. 303 specifies that there is no immediate 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. However, the measure further clarifies that a child may be determined to be in need of protection even if the person responsible for the welfare of the child has successfully completed such a plan.

The measure requires a court to 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. In addition, the measure 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.

Finally, the measure expands the jurisdiction of the Legislative Committee on Child Welfare and Juvenile Justice to include: 1) the evaluation and review of issues relating to the provision of foster care, including reunification of foster children with a birth parent and adoption of foster children by a foster parent; and 2) the ability to propose related legislation. This measure is effective on July 1, 2015.

SENATOR KIECKHEFER:

I rise in support of Senate Bill No. 303. I believe one of the core functions of government is protecting children, and this is a bill that errs on the side of protecting children when they are in their most vulnerable place. I encourage the Body to support it.

Roll call on Senate Bill No. 303:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Senate Bill No. 303 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 312.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 312 requires the governing body of a city that has created a certain taxing district to improve and maintain publicly owned facilities for tourism and entertainment to impose: 1) a surcharge of \$2 on the per night charge for the rental of a room in a hotel in the district, other than a hotel that holds a nonrestricted gaming license; and 2) an additional surcharge of \$1 per night for the rental of a room in all hotels in the district. The measure further requires the board of county commissioners of a county in which is located a city that has created such a district to prescribe, by ordinance, the boundaries of a new district and impose a \$3 surcharge on the per night charge for the rental of a room in a hotel in the new district, but outside of the district currently existing, and located within 20 miles of the boundaries of the existing district. The money from these surcharges must be deposited in a new account to be used by the county fair and recreation board, or the city, if such a board does not exist, to implement a strategic plan for the promotion of tourism in the region.

These surcharges are not owed on any room that is provided to a guest free of charge.

A county fair and recreation board that receives any money from these surcharges must submit a report to the Legislature on or before January 15, 2021, and on or before January 15 of each fifth year thereafter. This measure is effective on July 1, 2015.

Roll call on Senate Bill No. 312:

YEAS—19.

NAYS—Gustavson.

EXCUSED—Smith.

Senate Bill No. 312 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 386.

Bill read third time.

Senator Kieckhefer moved that the bill be taken from the General File and placed on 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 5:48 p.m.

SENATE IN SESSION

At 6:21 p.m.

President pro Tempore Hardy presiding.

Quorum present.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Brower, the privilege of the floor of the Senate Chamber for this day was extended to Bianca Arelleno, Arturo Ayala, Efrain Cervantes, Nathan Cervantes, Brandon Corral, Victor Corral, Cade Davidson, Diana Dominguez, Carli Delchini, Brandon Egan Daisy Flores,

Victoria Gomez, Brandon Jacobo, Lila Leigh, Kalolaine Malafu, Evelyn Mendoza, Yahir Mendoza, Milly Nemendez, Sarah Nicholson, Kimberly Ochoa, Ilse Ortega, Leo Ramierez, Brandon Reyes, Diland Perez, Leslie Perez, Arturo Rodriguez, Wendy Rojas, Daniela Ruiz, Stephanie Serafin, Daisy Tamayo, Manuel Terriquez and Lizette Valencia.

On request of Senator Farley, the privilege of the floor of the Senate Chamber for this day was extended to Marla Letizia.

On request of Senator Kieckhefer, the privilege of the floor of the Senate Chamber for this day was extended to Ali Cooper.

On request of Senator Parks, the privilege of the floor of the Senate Chamber for this day was extended to Revan Adams, Kemji Agu, Jenna Allen, Gabrail Batz, Paige Beaumier, Elizabeth Biek, Gina Bielich, Dylan Blackwell, Emma Broecker, Ava Carter, Olivia Charron, Emily Cox, Jacob Cox, Ariel Dixon, Noah Fakhouri, Austin Forsythe, Danielle Garza, Scott Gruel, Anthony Hayes, Catelyn Higgins, Laci Hinojosa, Olivia Huang, Michael Kessin, Brennan Killoran, Preston Kim, Liam Lawrence, Malia Lindsey, Emma Madrid, Mackenzi Martinez, Morgan McCoy, Daichi Molde, Maison Nieken, Ava Paonessa, Olivia Pecoraro, Austin Penny, Mia Pereira, Alex Riccio, Keegan Pryer, Casandra Roel, MaKenna Rosselli, Benjamin Smith, Andrew Specht, Francesca Steider, Chloe Torti, Joshua Valencia Michelle Watts and Matthew Woolsey.

On request of Senator Smith, the privilege of the floor of the Senate Chamber for this day was extended to Susie Lee.

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to Jodi Tyson.

Senator Roberson moved that the Senate adjourn until Friday, April 17, 2015, at 11:00 a.m.

Motion carried.

Senate adjourned at 6:23 p.m.

Approved:

JOSEPH P. HARDY

President pro Tempore of the Senate

Attest: CLAIRE J. CLIFT

Secretary of the Senate