

THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 22, 2015

Senate called to order at 1:25 p.m.

President Hutchison presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Nick Emery.

Father God, we are so grateful for all that You are doing for our great State, Nevada.

Today, I pray for these men and women who serve in our State Senate. I pray, Lord, that they would know You, and that they would know Your peace and love in powerful and personal ways. Speak to them, God, flood their hearts and minds with Your gracious love and mercy. Renew them this day. Strengthen them this day. I am so grateful for their service and their sacrifice. As they wait on You, as they serve and lead, may they be encouraged this day, I pray in the mighty Name of Jesus.

God bless, and may God bless Nevada.

AMEN.

Pledge of Allegiance to the Flag.

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

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 93, 409, 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 was referred Assembly Bill No. 178, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Education, to which were referred Assembly Bills Nos. 117, 328, 341, 421, 447, 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 Finance, to which were referred Assembly Bills Nos. 437, 467, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 122, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Commerce, Labor and Energy.

BEN KIECKHEFER, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Senate Bill No. 475, 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 Judiciary, to which were referred Assembly Bills Nos. 49, 51, 128, 325, 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 Revenue and Economic Development, to which was referred Assembly Bill No. 83, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL ROBERSON, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 21, 2015

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 12, 33, 39, 54, 129, 162, 176, 197, 241, 245, 306, 394.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 199, 234.

I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 7, Amendment No. 837; Senate Bill No. 25, Amendment No. 654; Senate Bill No. 29, Amendment No. 740; Senate Bill No. 59, Amendment No. 691; Senate Bill No. 138, Amendment No. 788; Senate Bill No. 174, Amendment No. 742; Senate Bill No. 192, Amendment No. 855; Senate Bill No. 240, Amendment No. 790, and respectfully requests your honorable body to concur in said amendments.

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senator Roberson.

For: Assembly Bill No. 252.

To Waive:

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

Has been granted effective: Thursday, May 21, 2015.

MICHAEL ROBERSON

Senate Majority Leader

JOHN HAMBRICK

Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Assembly Bill No. 460.

To Waive:

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

Has been granted effective: Thursday, May 21, 2015.

MICHAEL ROBERSON

Senate Majority Leader

JOHN HAMBRICK

Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Senate Bill No. 122, just reported out of Committee, be re-referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Senator Roberson moved that Assembly Bills Nos. 163, 172 be taken from the General File and placed on the General File on the fourth Agenda.

Motion carried.

Senator Roberson moved that Assembly Bills Nos. 94, 167 be taken from the Secretary's desk and placed at the bottom of the General File on the second Agenda.

Motion carried.

Senator Roberson moved that Assembly Bill No. 141 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 199.

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

Motion carried.

Assembly Bill No. 234.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 238.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 842.

SUMMARY—~~[Makes various changes to]~~ Revises provisions relating to the solicitation of bids for a homeowners' association project. (BDR 10-808)

AN ACT relating to common-interest communities; ~~[revising provisions authorizing a homeowners' association to direct the removal of vehicles from property owned or leased by the association; revising provisions governing eligibility to be a member of the executive board or an officer of a homeowners' association;]~~ revising provisions relating to the solicitation of bids for a homeowners' association project; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law establishes the Uniform Common Interest Ownership Act, which governs common interest communities. (Chapter 116 of NRS) Under existing law, a homeowners' association is authorized, under certain circumstances, to direct the removal of a vehicle improperly parked on property owned or leased by the association. Unless a vehicle is blocking a certain area of the association property or the vehicle poses a threat to the health, safety or welfare of the units' owners or residents, an association must provide certain written or oral notice to the owner or operator of a vehicle at least 48 hours before the association may direct the removal of the vehicle. (NRS 116.3102) Section 1 of this bill removes these requirements. Existing law also provides that unless a person is appointed by the declarant, a person~~

~~may not be a member of the executive board or an officer of a homeowners' association if the person or certain other persons perform the duties of a community manager for that association. (NRS 116.31034) Section 1.5 of this bill additionally excludes a person, other than a person appointed by the declarant, from eligibility as a candidate for, or as a member of, the executive board or an officer of a homeowners' association if: (1) except under certain circumstances, the person resides with, is married to or is related within the third degree of consanguinity to a member of the board or an officer of the association; (2) the person stands to gain any personal profit or compensation from a matter before the board; or (3) the person is a business associate of, or a co owner of a business co owned by, a person who is a member of the executive board or is an officer of the association or who performs the duties of a community manager for that association. Additionally, section 1.5 provides that if a person is not eligible to be a candidate for, or a member of, an executive board or an officer of the association, the association: (1) must not place the name of the person on any ballot as a candidate; and (2) must prohibit the person from serving as a member of the executive board or as an officer of the association.~~

~~Existing~~ Under existing law ~~[also requires]~~ a homeowners' association is required to open and consider bids for an association project at a meeting of its executive board. (NRS 116.31086) ~~[Section 2 of this]~~ This bill requires an association to solicit, whenever reasonably possible, at least three bids if the association project is expected to cost: (1) in a common-interest community that consists of less than 1,000 units, ~~[\$2,500]~~ 3 percent or more ~~[-]~~ of the annual budget of the association; or (2) in a common-interest community that consists of 1,000 or more units, ~~[\$5,000]~~ 1 percent or more ~~[- Section 2]~~ of the annual budget of the association. This bill further specifies that the contents of bids which are opened at a meeting of the executive board must be read aloud.

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

Section 1. ~~[NRS 116.3102 is hereby amended to read as follows:~~

~~116.3102 1. Except as otherwise provided in this chapter, and subject to the provisions of the declaration, the association:~~

~~(a) Shall adopt and, except as otherwise provided in the bylaws, may amend bylaws and may adopt and amend rules and regulations;~~

~~(b) Shall adopt and may amend budgets in accordance with the requirements set forth in NRS 116.31151, may collect assessments for common expenses from the units' owners and may invest funds of the association in accordance with the requirements set forth in NRS 116.311395.~~

~~(c) May hire and discharge managing agents and other employees, agents and independent contractors.~~

~~(d) May institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself~~

~~or two or more units' owners on matters affecting the common interest community.~~

~~— (e) May make contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.~~

~~— (f) May regulate the use, maintenance, repair, replacement and modification of common elements.~~

~~— (g) May cause additional improvements to be made as a part of the common elements.~~

~~— (h) May acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:~~

~~— (1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and~~

~~— (2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.~~

~~— (i) May grant easements, leases, licenses and concessions through or over the common elements.~~

~~— (j) May impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.~~

~~— (k) May impose charges for late payment of assessments pursuant to NRS 116.3115.~~

~~— (l) May impose construction penalties when authorized pursuant to NRS 116.310305.~~

~~— (m) May impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.~~

~~— (n) May impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.~~

~~— (o) May provide for the indemnification of its officers and executive board and maintain directors and officers liability insurance.~~

~~— (p) May assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.~~

~~— (q) May exercise any other powers conferred by the declaration or bylaws.~~

~~— (r) May exercise all other powers that may be exercised in this State by legal entities of the same type as the association.~~

~~—(s) May direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common interest community in violation of the governing documents. [In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:~~

~~—(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or~~

~~—(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common interest community.]~~

~~—(t) May exercise any other powers necessary and proper for the governance and operation of the association.~~

~~—2. The declaration may not limit the power of the association to deal with the declarant if the limit is more restrictive than the limit imposed on the power of the association to deal with other persons.~~

~~—3. The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:~~

~~—(a) The association's legal position does not justify taking any or further enforcement action;~~

~~—(b) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;~~

~~—(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or~~

~~—(d) It is not in the association's best interests to pursue an enforcement action.~~

~~—4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.~~

~~—5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common interest community that is exempt from taxation~~

~~pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common interest community that is exempt from taxation pursuant to NRS 361.125.} (Deleted by amendment.)~~

~~Sec. 1.5. [NRS 116.31034 is hereby amended to read as follows:~~

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

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

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

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

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

~~4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of the unit's owner's eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his or her name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.~~

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

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

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

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

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

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

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

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

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

~~— 7. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:~~

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

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

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

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

~~— (b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good~~

standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

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

~~9. Unless a person is appointed by the declarant:~~

~~(a) A person [may] is not eligible to be a candidate for, or a member of, the executive board or an officer of the association if [the]:~~

~~(1) Unless there is an insufficient number of candidates to fill one or more vacancies as a member of the executive board or as an officer of the association, the person resides with another person in a unit, is married to that other person or is related by blood or adoption within the third degree of consanguinity or affinity, and if the other person is also a member of the executive board or is an officer of the association;~~

~~(2) The person stands to gain any personal profit or compensation of any kind from a matter before the executive board of the association;~~

~~(3) The person is a business associate of, or a co-owner of a business co-owned by, a person who is a member of the executive board or is an officer of the association or who performs the duties of a community manager for that association; or~~

~~(4) The person, the person's spouse or the person's parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.~~

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

~~(1) That master association; or~~

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

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

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

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

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

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

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

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

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

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

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

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

~~— 13. A candidate who has submitted a nomination form for election as a member of the executive board may request that the association or its agent either:~~

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

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

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

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

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

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

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

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

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

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

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

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

~~16. If a person is not eligible to be a candidate for, or a member of, an executive board or an officer of the association pursuant to this section or any other provision of this chapter, the association:~~

~~(a) Must not place the name of the person on any ballot as a candidate; and~~

~~(b) Must prohibit the person from serving as a member of the executive board or as an officer of the association.~~ (Deleted by amendment.)

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

116.31086 1. If an association solicits bids for an association project ~~the~~ :

(a) The association must, whenever reasonably possible, solicit at least three bids if the association project is expected to cost:

(1) In a common-interest community that consists of less than 1,000 units, ~~3 percent or more of the annual budget of the association;~~ or

(2) In a common-interest community that consists of 1,000 or more units, ~~1 percent or more of the annual budget of the association;~~ and

(b) The bids must be opened and read aloud during a meeting of the executive board.

2. As used in this section, "association project" includes, without limitation, a project that involves the maintenance, repair, replacement or restoration of any part of the common elements or which involves the provision of professional services to the association ~~the~~ , including, without limitation, accounting, engineering and legal services.

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

Senator Brower moved the adoption of the amendment.

Remarks by Senators Brower and Harris.

SENATOR BROWER:

Amendment No. 842 to Assembly Bill No. 238 deletes all provisions of the bill, except those addressing the bidding process for projects within a homeowner's association, which are revised to provide that bids must be sought according to the following provisions: for an association of less than 1,000 units, when the project is expected to cost 3 percent or more of the association's annual budget; and for an association of 1,000 or more units, when the project is expected to cost 1 percent or more of the association's annual budget.

SENATOR HARRIS:

There was a concern with the way the amendment looked and we were making sure the ability to get notice if your vehicle is improperly parked was preserved. That has been resolved and is the case.

Amendment adopted.

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

GENERAL FILE AND THIRD READING

Senate Bill No. 227.

Bill read third time.

Remarks by Senators Kieckhefer, Kihuen and Denis.

SENATOR KIECKHEFER:

Senate Bill No. 227 creates the Silver State Opportunity Grant Program. Under the Program, the Board of Regents of the University of Nevada is required to award grants to eligible students who are enrolled in community colleges and State colleges that are part of the Nevada System of Higher Education to pay for a portion of the cost of education at such institutions. To be eligible for a grant awarded under the Program, a student must: be enrolled or accepted to be enrolled during a semester in at least 15 credit hours at a community college or State college within the System. They must be enrolled in a program of study leading to a recognized degree or certificate. They must demonstrate proficiency in English and mathematics sufficient for placement into college-level English and mathematics courses pursuant to regulations adopted by the Board of Regents for such placement; be a bona fide resident of the State of Nevada for the purposes of determining pursuant to NRS 396.540 whether the student is assessed a tuition charge; and complete the Free Application for Federal Student Aid provided for by 20 U.S.C. § 1090.

Senate Bill No. 227 requires the Board of Regents to adopt regulations prescribing the procedures and standards for determining eligibility, the methodology for calculating the financial need of a student and the process by which a student may meet certain requirements for eligibility for a grant. The bill also authorizes the Board of Regents to accept gifts, grants, bequests and donations to fund grants awarded under the program. This is an important bill to ensure the promise of that college is available to all Nevadans. I urge your support and would like to recognize my colleague from District 10 for his help in supporting this. He has been a great team member for me to work with on this program, and I would like to thank him personally.

SENATOR KIHUEN:

I rise in support of Senate Bill No. 227. I would begin by thanking my colleague from Senate District 16 for his collaboration on this bill and his tireless and diligent work. He and I co-hosted the first ever Nevada College Affordability Summit. We brought together college presidents, faculty and other staff and students from all over the State to discuss how to make college more affordable. This bill stems from that meeting.

Nevada is one of the only states in the Country that does not have a needs-based grant for college, meaning we are behind in one more category, higher education. As we all know, creating a clear path to the middle class and ensuring the prosperity of the State and, eventually, the diversity of the economy can only be accomplished by improving our educational system.

You may remember that a few Sessions ago, I had the pleasure of chairing the Economic Growth and Employment Committee. One of the reasons given for our lack of a diversified economy was the lack of a well-trained, well-educated workforce. This bill will help us get to that next level. It will also give low-income students from all over the State, particularly my area of District 10, the opportunity to go to college. They do not come from affluent families or families who are able to afford college tuition. This will fill the gap the Millennium Scholarship or Pell Grants cannot fill. This is a desperately needed piece of legislation. I know my colleague said this during the Committee meetings, but this is, probably, single-handedly, the most important piece of legislation he and I have worked on. In a bipartisan fashion, we know improving education in our State is important. It is not a partisan issue. I am grateful to work with him and all my colleagues and urge your support of this bill.

SENATOR DENIS:

I, too, rise in support of this bill and would like to thank my colleagues for bringing forth something I believe will make a difference, not just in going to college, but in graduating from college. Many of the students that are my constituents have to work. We say, through testimony, that this can make it take longer for them to finish college. The longer it takes, the more chance they may not finish. This legislation will allow them to be able to study, concentrate and be able to graduate. This is going to be great for our State. I appreciate the work of the Senators from Districts 10 and 16 and am looking forward to great things happening because of it.

Roll call on Senate Bill No. 227:

YEAS—20.

NAYS—Gustavson.

Senate Bill No. 227 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Senate Bill No. 276 be taken from the Secretary's desk and placed on the General File on the second Agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 70.

Bill read third time.

Remarks by Senators Kieckhefer and Hardy.

SENATOR KIECKHEFER:

Assembly Bill No. 70 provides for administrative and enforcement provisions related to taxes on the sale of marijuana, edible marijuana products and marijuana-infused products by medical marijuana establishments that were originally approved by the Legislature in Senate Bill 374 of the 2013 Session. The administrative provisions contained within this bill are similar to currently existing provisions used by the Department of Taxation for other taxes and fees currently administered by the Department.

Assembly Bill No. 70 removes provisions requiring the Department of Taxation to periodically review the excise tax rate and to provide recommendations to the Legislature relating to adjustments to the rate; provides for the collection of a fee by an agency of a local government from a medical marijuana establishment for certain costs of the agency; and authorizes an independent contractor to provide labor to a medical marijuana establishment in certain circumstances. This act becomes effective on July 1, 2015.

SENATOR HARDY:

I took a personal tax pledge against this bill so I will be voting “no” on it.

Roll call on Assembly Bill No. 70:

YEAS—19.

NAYS—Gustavson, Hardy—2.

Assembly Bill No. 70 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Settelmeyer moved that Assembly Bill No. 89 be taken from the General File and placed on the General Reading File on the second Agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 115.

Bill read third time.

Remarks by Senator Settelmeyer.

Assembly Bill No. 115 abolishes the Board of Hearing Aid Specialists and transfers the duties of the Board to a newly established Speech-Language Pathology, Audiology and Hearing Aid

Dispensing Board. The measure makes other changes to the practice of these professions. First, it includes speech-language pathologists and audiologists in the definition of "provider of health care," which subjects the two professions to various requirements of Nevada law including requirements for the retention of patient records, requirements for billing, and standards for advertisements and criminal penalties for acquiring certain debts. Next, the bill requires a speech-language pathologist to hold a current certificate of clinical competence issued by the American Speech-Language-Hearing Association or its successor organization. It also prescribes requirements concerning the practice of audiology or speech-language pathology using telemedicine. Finally, the measure revises the composition of the Board from eight members until July 1, 2017, when the number of members will decrease to seven.

The provision of the bill that reduces to seven the number of members of the Board is effective on July 1, 2017. Other provisions are effective upon passage and approval for the purposes of adopting regulations and performing preparatory administrative tasks, and on October 1, 2015, for all other purposes.

Roll call on Assembly Bill No. 115:

YEAS—20.

NAYS—Gustavson.

Assembly Bill No. 115 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 121.

Bill read third time.

Remarks by Senator Gustavson.

Assembly Bill No. 121 prohibits a school from disciplining a pupil enrolled in kindergarten or grades 1 through 8 who is simulating a firearm or other dangerous weapon while playing, or for possessing a toy firearm that is two inches or less in length, or a toy dangerous weapon made of plastic building blocks. In addition, pupils may not be disciplined for wearing clothing or accessories that depict weapons or for expressing an opinion about the constitutional right to keep and bear arms unless it substantially disrupts the educational environment. The bill specifies that discipline may be warranted if the simulation is significantly disruptive to the learning process, causes bodily harm to someone or causes a person to have a reasonable fear of bodily harm. Finally, the provisions of this bill do not prohibit a school from establishing and enforcing a school uniform policy. The bill is effective upon passage and approval.

Roll call on Assembly Bill No. 121:

YEAS—15.

NAYS—Ford, Kihuen, Parks, Smith, Spearman, Woodhouse—6.

Assembly Bill No. 121 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 248.

Bill read third time.

Remarks by Senator Hardy.

Assembly Bill No. 248 removes the requirement that a physician report all diagnosed cases of epilepsy to the State Board of Health who in turn reported such information to the Department of Motor Vehicles (DMV). Instead, when a physician determines a patient's epilepsy severely impairs his or her ability to safely operate a motor vehicle, a physician is required to notify the patient and sign a statement attesting to the notification. The physician is required to provide a

copy of the statement to the patient, include the statement in the patient's health records, and provide a copy of the statement to DMV within 15 days after making a determination.

The measure provides that a cause of action may be brought against a physician who: 1) fails to submit a copy of the statement to DMV within the specified timeframe; or 2) provides a copy of the statement to DMV if the physician acted with malice, intentional misconduct, gross negligence, or intentional or knowing violation of the law.

A cause of action may not be brought against a physician who does not report a patient's epilepsy to DMV in any other circumstances. This bill is effective on October 1, 2015.

Roll call on Assembly Bill No. 248:

YEAS—21.

NAYS—None.

Assembly Bill No. 248 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 451.

Bill read third time.

Remarks by Senator Roberson.

Assembly Bill No. 451 revises provisions relating to the University of Nevada, Las Vegas, Campus Improvement Authority originally approved by the Legislature pursuant to Assembly Bill 335 of the 2013 Session. The bill extends the date by which the Authority must conclude its business by two years, from September 30, 2015, to September 30, 2017, and requires the Authority submit an additional report to the Legislature containing recommendations of the Authority.

Assembly Bill No. 451 additionally changes the boundaries of the Authority area to include all parcels of property that are located not more than 1.5 miles from the current boundary, as well as specifying that the meetings of the Board of Directors of the Authority may be held anywhere within Clark County rather than only within the boundaries of the Authority area. This act becomes effective upon passage and approval.

Roll call on Assembly Bill No. 451:

YEAS—21.

NAYS—None.

Assembly Bill No. 451 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 141.

Bill read third time.

Remarks by Senator Brower.

Assembly No. Bill 141 removes the requirement that a notice of default and election to sell be mailed to security interest holders only if such holders have notified the association of the existence of the security interest 30 days before the recordation of the notice. This bill is effective on October 1, 2015.

Roll call on Assembly Bill No. 141:

YEAS—21.

NAYS—None.

Assembly Bill No. 141 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senator Roberson moved that the Senate recess until 4:00 p.m.

Motion carried.

Senate in recess at 1:54 p.m.

SENATE IN SESSION

At 6:38 p.m.

President Hutchison presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Assembly Joint Resolution No. 8 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Harris moved that Assembly Bill No. 240 be taken from the Secretary's desk and placed on the General File on the third Agenda.

Motion carried.

Senator Roberson moved that Assembly Bill No. 167 be taken from the General File on the second Agenda and placed on the General File on the fourth Agenda.

Motion carried.

Senator Brower moved that Assembly Bill No. 263 be taken from the Secretary's desk and placed on the General File on the third Agenda.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By Senators Roberson, Kieckhefer, Harris, Ford; Assemblymen Paul Anderson, Kirkpatrick and Hambrick:

Senate Bill No. 511—AN ACT relating to education; making an appropriation to provide grants to universities, colleges and providers of alternative licensure programs in this State to award scholarships to students entering certain teaching programs; prescribing the manner in which such scholarships must be awarded; requiring a college or university that receives a grant to repay a certain amount if a scholarship recipient leaves the teaching program before graduating; providing for the payment of a certain amount to such a college or university if a scholarship recipient graduates on schedule from the teaching program; making an appropriation to provide certain incentives for newly hired teachers who are employed to teach in certain schools; and providing other matters properly relating thereto.

Senator Roberson moved that the bill be referred to the Committee of the Whole.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Joint Resolution No. 8.

Resolution read third time.

Remarks by Senator Settelmeyer.

Assembly Joint Resolution No. 8 proposes to amend the *Nevada Constitution* to require an affirmative vote of not less than two-thirds of the voters voting on any measure that increases revenue through a tax, fee, assessment or rate. This requirement also applies to any measure resulting from an initiative petition or a referendum from the Legislature.

If approved in identical form during the 2017 Legislative Session, the proposal will be submitted to the voters for final approval or disapproval at the 2018 General Election.

Roll call on Assembly Joint Resolution No. 8:

YEAS—11.

NAYS—Atkinson, Denis, Ford, Kihuen, Manendo, Parks, Segerblom, Spearman, Woodhouse—9.

EXCUSED—Smith.

Assembly Joint Resolution No. 8 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which was referred Senate Bill No. 353, 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. SETTELMEYER, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 360, 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 Senate Committee on Senate Parliamentary Rules and Procedures has approved the consideration of: Amendment No. 948 to Senate Bill No. 276; Amendment No. 875 to Assembly Bill No. 89; Amendment No. 949 to Assembly Bill No. 167.

JAMES A. SETTELMEYER, *Chair*

Mr. President:

Your Committee on Transportation, to which was referred Assembly Bill No. 385, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SCOTT HAMMOND, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 22, 2015

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bill No. 429.

CAROL AIELLO-SALA

Assistant Chief Clerk of the Assembly

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

Motion carried.

Senate in recess at 6:46 p.m.

SENATE IN SESSION

At 6:47 p.m.

President Hutchison presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 475.

Bill read second time.

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

Amendment No. 907.

SUMMARY—Authorizes a county or city to file a petition in bankruptcy under certain circumstances. (BDR 31-1021)

AN ACT relating to local financial administration; authorizing a county or city to file a petition in bankruptcy under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the procedures by which certain local governments existing in a severe financial emergency may receive technical financial and other assistance from the Department of Taxation and the Committee on Local Government Finance. (NRS 354.655-354.725) This bill authorizes a county or city found to exist in a severe financial emergency to file a petition in bankruptcy with a federal bankruptcy court if: (1) the Nevada Tax Commission ~~finds~~ determines that the county or city is in severe financial emergency and that the emergency is unlikely to cease within 3 years; and (2) after such a determination by the Commission, the county or city obtains approval from the Governor to file the petition. ~~and the Attorney General.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A county or city may file a petition in bankruptcy with a federal bankruptcy court pursuant to chapter 9 of the United States Bankruptcy*

Code, 11 U.S.C. 901 et seq. for a determination of the composition of or an adjustment to the indebtedness of the county or city, as applicable, if:

(a) The Nevada Tax Commission, after a hearing conducted pursuant to subsection ~~7~~ 9 of NRS 354.685, ~~issues a finding declaring the county or city to exist~~, determines that the county or city exists in a severe financial emergency. ~~+~~

(b) The Nevada Tax Commission, after a hearing conducted pursuant to subsection 3 of NRS 354.723, ~~finds~~, adopts a finding that the severe financial emergency is unlikely to cease within 3 years. ~~+~~ and

(c) The county or city, before filing the petition, submits the proposed petition to the Governor ~~and the Office of the Attorney General~~ for review and receives approval in writing from the Governor ~~and the Office of the Attorney General~~ to file the petition. The county or city shall not submit a proposed petition to the Governor for approval pursuant to this paragraph unless the Nevada Tax Commission has, in accordance with paragraphs (a) and (b), determined that the county or city exists in a severe financial emergency and has adopted a finding that the severe financial emergency is unlikely to cease within 3 years.

2. A county or city that files a petition in bankruptcy pursuant to subsection 1 shall include with the petition a copy of the ~~approval~~ approval received pursuant to paragraph (c) of that subsection.

Sec. 2. NRS 354.655 is hereby amended to read as follows:

354.655 As used in NRS 354.655 to 354.725, inclusive, *and section 1 of this act*, unless the context requires otherwise:

1. "Committee" means the Committee on Local Government Finance.
2. "Department" means the Department of Taxation.
3. "Executive Director" means the Executive Director of the Department of Taxation.
4. "Local government" means any local government subject to the provisions of the Local Government Budget and Finance Act.
5. The words and terms defined in the Local Government Budget and Finance Act have the meanings ascribed to them in that act.

Sec. 3. NRS 354.657 is hereby amended to read as follows:

354.657 1. The purpose of NRS 354.655 to 354.725, inclusive, *and section 1 of this act* is to provide specific methods for the treatment of delinquent documents, payments, technical financial assistance and severe financial emergency.

2. To accomplish the purpose set forth in subsection 1, the provisions of NRS 354.655 to 354.725, inclusive, *and section 1 of this act* must be broadly and liberally construed.

Sec. 4. 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 January 1, 2016, for all other purposes.

Senator Goicoechea moved the adoption of the amendment.

Remarks by Senator Goicoechea.

The amendment deletes the requirement for the county or city to obtain approval from the Attorney General before filing a petition in bankruptcy with a federal bankruptcy court.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 49.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 917.

SUMMARY—Revises provisions governing crimes. (BDR 15-158)

AN ACT relating to crimes; establishing the crime of unlawful dissemination of an intimate image of a person; prohibiting ~~the electronic dissemination or the sale of~~ certain acts relating to an intimate image of another person; ~~in certain circumstances; prohibiting a person from demanding payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view;~~ revising provisions relating to sexual assault and the abuse of a child; setting forth provisions relating to expert testimony in a prosecution for pandering or sex trafficking; revising provisions concerning acts of open or gross lewdness, open and indecent or obscene exposure, ~~and~~ lewdness with a child ~~revising provisions relating to~~ and statutory sexual seduction; revising provisions relating to sexual conduct between certain pupils and certain employees of or volunteers at a school and between certain students and certain employees of a college or university; setting forth various provisions relating to the admissibility of evidence and expert testimony in criminal and juvenile delinquency actions; prohibiting a court from ordering the victim of or a witness to a sexual offense to take or submit to a psychological or psychiatric examination in ~~for~~ certain criminal or juvenile delinquency ~~action relating to the commission of the sexual offense;~~ actions; authorizing the court to exclude in certain circumstances the testimony of a licensed psychologist, psychiatrist or clinical worker ~~who performed a psychological or psychiatric examination on such a victim or witness;~~ providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-6.5 of this bill establish the crime of unlawful dissemination of an intimate image of a person. Section 3 defines the term "intimate image" generally as a photograph, film, videotape or other recorded image, or any reproduction thereof, which depicts: (1) the fully exposed nipple of the female breast of another person; or (2) one or more persons engaged in sexual conduct. Section 3 also provides that an image which would otherwise constitute an intimate image is not an intimate image if the person depicted in

the image: (1) is not clearly identifiable; (2) voluntarily exposed himself or herself in a public or commercial setting; or (3) is a public figure.

Section 5 provides that a person commits the crime of unlawful dissemination of an intimate image and is guilty of a category D felony when, with the intent to harass, harm or terrorize another person, the person electronically disseminates or sells an intimate image which depicts the other person and the other person: (1) did not give prior consent to the electronic dissemination or sale; (2) had a reasonable expectation that the intimate image would be kept private and would not be made visible to the public; and (3) was at least 18 years of age when the intimate image was created. Section 5 also sets forth certain exceptions regarding when an intimate image may be lawfully electronically disseminated. Under section 6, a person is guilty of a category D felony if he or she demands payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view. Section 6.5 provides that the provisions of sections 1-6 must not be construed to impose liability on an interactive computer service, as that term is defined in federal law, for any content provided by another person.

Existing law provides that a person who forces another person under certain circumstances to make a sexual penetration on himself or herself or another, or on a beast, is guilty of sexual assault. (NRS 200.366) Section 8 of this bill additionally provides that a person who commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast, is guilty of sexual assault. Section 8 further provides that, except in certain circumstances, such provisions do not apply to a person who commits any such act upon a child under the age of 14 years if the person committing the act is less than 18 years of age and is not more than 2 years older than the person upon whom the act is committed.

Existing law also provides that a person who commits any act of open or gross lewdness or who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty of a gross misdemeanor for the first offense and a category D felony for any subsequent offense. (NRS 201.210, 201.220) Under sections 13 and 14 of this bill, if a person commits any such offense and he or she has previously been convicted of a sexual offense, or if the person commits any such offense in the presence of a child under the age of 18 years or a vulnerable person, the person is guilty of a category D felony.

Additionally, under existing law, a person who commits certain acts with a child under the age of 14 years is guilty of lewdness with a child and is guilty of a category A felony. (NRS 201.230) Section 15 of this bill ~~increases that age to 16 years and~~ provides that a person is guilty of lewdness with a child if the person: (1) is 18 years of age or older and commits certain acts with a child under the age of 16 years; or (2) is under the age of 18 years and commits certain acts with a child under the age of 14 years. Section 15 also

provides that if a person commits lewdness with: (1) a child under the age of 14, he or she is guilty of a category A felony; and (2) a child who is 14 or 15, he or she is guilty of a category B felony. ~~[Section 15 also provides that, except in certain circumstances, such provisions do not apply to a person who commits any such act if the person is less than 18 years of age and is not more than 2 years older than the person upon whom the act is committed.]~~

Section 7 of this bill revises the definition of the term "statutory sexual seduction," and section 8.5 of this bill revises the penalties imposed for the crime of statutory sexual seduction. ~~[Section 15 provides that an act which constitutes the crime of statutory sexual seduction does not constitute lewdness with a child.]~~

Section 10 of this bill provides that certain persons are guilty of a category A felony if they willfully cause, permit or allow a child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect, and substantial bodily or mental harm results to the child which includes certain severe injuries.

Sections 18 and 19 of this bill revise the punishment imposed for: (1) certain employees of or volunteers at a school who engage in sexual conduct with certain pupils; and (2) certain employees of a college or university who engage in sexual conduct with certain students.

Sections 12, 23 and 24 of this bill revise various provisions relating to the admissibility of expert testimony and evidence in certain criminal and juvenile delinquency cases. Section 12 provides that in a prosecution for pandering or sex trafficking, certain expert testimony that is offered by the prosecution or defense is admissible for any relevant purpose, but certain other expert testimony cannot be offered against the defendant to prove the occurrence of an act which forms the basis of a criminal charge against the defendant. Under section 23, expert testimony offered by the prosecution or defense which concerns the behavior of a defendant in preparing a child under the age of 18 or a vulnerable person for sexual abuse by the defendant is admissible for any purpose. Section 24 prohibits a court in a criminal or juvenile delinquency action relating to the commission of a sexual offense from ordering a victim of or witness to a sexual offense to take or submit to a psychological or psychiatric examination. Section 24 also authorizes the court to exclude the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on a victim or witness in certain circumstances.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6.5, inclusive, of this act.

Sec. 2. *As used in sections 2 to 6.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Intimate image":*

1. *Except as otherwise provided in subsection 2, includes, without limitation, a photograph, film, videotape or other recorded image which depicts:*

(a) The fully exposed nipple of the female breast of another person, including through transparent clothing; or

(b) One or more persons engaged in sexual conduct.

2. *Does not include an image which would otherwise constitute an intimate image pursuant to subsection 1, but in which the person depicted in the image:*

(a) Is not clearly identifiable;

(b) Voluntarily exposed himself or herself in a public or commercial setting; or

(c) Is a public figure.

Sec. 4. *"Sexual conduct" has the meaning ascribed to it in NRS 200.700.*

Sec. 5. 1. *Except as otherwise provided in subsection 3, a person commits the crime of unlawful dissemination of an intimate image when, with the intent to harass, harm or terrorize another person, the person electronically disseminates or sells an intimate image which depicts the other person and the other person:*

(a) Did not give prior consent to the electronic dissemination or the sale of the intimate image;

(b) Had a reasonable expectation that the intimate image would be kept private and would not be made visible to the public; and

(c) Was at least 18 years of age when the intimate image was created.

2. *A person who commits the crime of unlawful dissemination of an intimate image is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

3. *The provisions of this section do not apply to the electronic dissemination of an intimate image for the purpose of:*

(a) A legitimate public interest;

(b) Reporting unlawful conduct;

(c) Any lawful law enforcement or correctional activity;

(d) Investigation or prosecution of a violation of this section; or

(e) Preparation for or use in any legal proceeding.

4. *A person who commits the crime of unlawful dissemination of an intimate image is not considered a sex offender and is not subject to registration or community notification as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.*

Sec. 6. *Any person who demands payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

Sec. 6.5. 1. *The provisions of sections 2 to 6.5, inclusive, of this act must not be construed to impose liability on an interactive computer service for any content provided by another person.*

2. *As used in subsection 1, "interactive computer service" has the meaning ascribed to it in 47 U.S.C. 230(f)(2).*

Sec. 7. NRS 200.364 is hereby amended to read as follows:

200.364 As used in NRS 200.364 to 200.3784, inclusive, unless the context otherwise requires:

1. "Offense involving a pupil" means any of the following offenses:

(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.

2. "Perpetrator" means a person who commits a sexual offense, an offense involving a pupil or sex trafficking.

3. "Sex trafficking" means a violation of subsection 2 of NRS 201.300.

4. "Sexual offense" means any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

5. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. *The term does not include any such conduct for medical purposes.*

6. "Statutory sexual seduction" means ~~:-~~

~~-(a) Ordinary} ordinary sexual intercourse, anal intercourse, [cunnilingus or fellatio] or sexual penetration committed by a person 18 years of age or older with a person [under the age of 16 years; or~~

~~-(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.] who is 14 or 15 years of age and who is at least 4 years younger than the perpetrator.~~

7. "Victim" means a person who is a victim of a sexual offense, an offense involving a pupil or sex trafficking.

Sec. 8. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person ~~[who subjects]~~ is guilty of sexual assault if he or she:

(a) 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 ~~[,]~~ ; or ~~[who commits]~~

(b) Commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast. ~~He 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. *The provisions of this section do not apply to a person who is less than 18 years of age and who commits any of the acts described in paragraph (b) of subsection 1 if the person is not more than 2 years older than the person upon whom the act was committed unless:*

(a) The person committing the act uses force or threatens the use of force;

or

(b) The person ~~upon whom the act is committed suffers from a condition of physical or mental incapacitation because of a developmental disability.~~

~~organic brain damage or mental illness that is apparent or known to the person committing the act; or~~

~~(e) The victim has diminished capacity at the time of the offense as a result of drug or alcohol use.] committing the act knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct.~~

6. 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 201.230;
- (c) Sado-masochistic abuse pursuant to NRS 201.262; or
- (d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

Sec. 8.5. NRS 200.368 is hereby amended to read as follows:

200.368 ~~[Except under circumstances where a greater penalty is provided in NRS 201.540, a]~~ A person who commits statutory sexual seduction shall be punished:

1. If the person is 21 years of age or older ~~[, for a category C felony as provided in NRS 193.130.]~~ at the time of the commission of the offense, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

2. ~~[If]~~ Except as otherwise provided in subsection 3, if the person is under the age of 21 years, for a gross misdemeanor.

3. If the person is under the age of 21 years and has previously been convicted of a sexual offense, as defined in NRS 179D.097, for a category D felony as provided in NRS 193.130.

Sec. 9. NRS 200.400 is hereby amended to read as follows:

200.400 1. As used in this section:

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Strangulation" has the meaning ascribed to it in NRS 200.481.

2. A person who is convicted of battery with the intent to commit mayhem, robbery or grand larceny is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

3. A person who is convicted of battery with the intent to kill is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years.

4. A person who is convicted of battery with the intent to commit sexual assault shall be punished:

(a) If the crime results in substantial bodily harm to the victim or is committed by strangulation, for a category A felony 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 10 years has been served . ~~[-~~

~~→ as determined by the verdict of the jury, or the judgment of the court if there is no jury.]~~

(b) If the crime does not result in substantial bodily harm to the victim and the victim is 16 years of age or older, for a category A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of life with the possibility of parole.

(c) If the crime does not result in substantial bodily harm to the victim and the victim is a child under the age of 16, for a category A felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of life with the possibility of parole.

→ In addition to any other penalty, a person convicted pursuant to this subsection may be punished by a fine of not more than \$10,000.

Sec. 10. NRS 200.508 is hereby amended to read as follows:

200.508 1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(2) *If the child is less than 18 years of age and the resulting harm includes, without limitation, one or more of the following injuries:*

(I) Skull fracture;

(II) Depressed skull fracture;

(III) Cerebral laceration;

(IV) Cerebral contusion;

(V) Subarachnoid hemorrhage;

(VI) Subdural hemorrhage in the brain, neck or spinal cord;

(VII) Epidural hemorrhage;

(VIII) Intracranial hemorrhage;

(IX) Cerebral edema caused by trauma;

(X) Multiple fractures of the skull or face with injuries to other bones of the body;

(XI) Contusion of the cerebellum or brain stem;

(XII) Optic nerve injury;

(XIII) Retinal hemorrhage;

(XIV) *Loss of eyesight;*

(XV) *Loss of hearing; or*

(XVI) *Speech impairment or loss of speech,*

↪ *is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, or for a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.*

(3) In all other such cases to which subparagraph (1) or (2) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, 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; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years,

↪ *unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.*

2. A person who is responsible for the safety or welfare of a child pursuant to NRS 432B.130 and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished 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; or

(2) *If the child is less than 18 years of age and the resulting harm includes, without limitation, one or more of the following injuries:*

(I) *Skull fracture;*

(II) *Depressed skull fracture;*

(III) *Cerebral laceration;*

(IV) *Cerebral contusion;*

(V) *Subarachnoid hemorrhage;*

(VI) *Subdural hemorrhage in the brain, neck or spinal cord;*

(VII) *Epidural hemorrhage;*

(VIII) *Intracranial hemorrhage;*

(IX) *Cerebral edema caused by trauma;*

(X) *Multiple fractures of the skull or face with injuries to other bones of the body;*

(XI) *Contusion of the cerebellum or brain stem;*

(XII) *Optic nerve injury;*

(XIII) *Retinal hemorrhage;*

(XIV) *Loss of eyesight;*

(XV) *Loss of hearing; or*

(XVI) *Speech impairment or loss of speech,*

➔ *is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, or for a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.*

(3) In all other such cases to which subparagraph (1) or (2) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

➔ unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that the person delivers or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

4. As used in this section:

(a) "Abuse or neglect" means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

(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 the child is abused or neglected.

(c) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) "Physical injury" means:

- (1) Permanent or temporary disfigurement; or
- (2) Impairment of any bodily function or organ of the body.

(e) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior.

Sec. 11. NRS 200.604 is hereby amended to read as follows:

200.604 1. Except as otherwise provided in subsection 4, a person shall not knowingly and intentionally capture an image of the private area of another person:

- (a) Without the consent of the other person; and
- (b) Under circumstances in which the other person has a reasonable expectation of privacy.

2. Except as otherwise provided in subsection 4, a person shall not distribute, disclose, display, transmit or publish an image that the person knows or has reason to know was made in violation of subsection 1.

3. ~~{A}~~ *Unless a greater penalty is provided pursuant to section 5 of this act, a person who violates this section:*

- (a) For a first offense, is guilty of a gross misdemeanor.
- (b) For a second or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. This section does not prohibit any lawful law enforcement or correctional activity, including, without limitation, capturing, distributing, disclosing, displaying, transmitting or publishing an image for the purpose of investigating or prosecuting a violation of this section.

5. If a person is charged with a violation of this section, any image of the private area of a victim that is contained within:

- (a) Court records;
- (b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;
- (c) Records of criminal history, as that term is defined in NRS 179A.070; and
- (d) Records in the Central Repository for Nevada Records of Criminal History,

is confidential and, except as otherwise provided in subsections 6 and 7, must not be inspected by or released to the general public.

6. An image that is confidential pursuant to subsection 5 may be inspected or released:

- (a) As necessary for the purposes of investigation and prosecution of the violation;
- (b) As necessary for the purpose of allowing a person charged with a violation of this section and his or her attorney to prepare a defense; and
- (c) Upon authorization by a court of competent jurisdiction as provided in subsection 7.

7. A court of competent jurisdiction may authorize the inspection or release of an image that is confidential pursuant to subsection 5, upon application, if the court determines that:

- (a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the inspection or release; and
- (b) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

8. As used in this section:

- (a) "Broadcast" means to transmit electronically an image with the intent that the image be viewed by any other person.
- (b) "Capture," with respect to an image, means to videotape, photograph, film, record by any means or broadcast.
- (c) "Female breast" means any portion of the female breast below the top of the areola.
- (d) "Private area" means the naked or undergarment clad genitals, pubic area, buttocks or female breast of a person.
- (e) "Under circumstances in which the other person has a reasonable expectation of privacy" means:
 - (1) Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of his or her private area would be captured; or
 - (2) Circumstances in which a reasonable person would believe that his or her private area would not be visible to the public, regardless of whether the person is in a public or private place.

Sec. 12. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

In a prosecution for pandering or sex trafficking pursuant to NRS 201.300, expert testimony concerning:

1. *The prostitution subculture, including, without limitation, the effect of physical, emotional or mental abuse on the beliefs, behavior and perception of the alleged victim of the pandering or sex trafficking that is offered by the prosecution or defense is admissible for any relevant purpose, including, without limitation, to demonstrate:*

- (a) *The dynamics of and the manipulation and psychological control measures used in the relationship between a prostitute and a person who engages in pandering or sex trafficking in violation of NRS 201.300; and*
- (b) *The normal behavior and language used in the prostitution subculture.*

2. *The effect of pandering or sex trafficking may not be offered against a defendant pursuant to subsection 1 to prove the occurrence of an act which forms the basis of a criminal charge against the defendant.*

Sec. 13. NRS 201.210 is hereby amended to read as follows:

201.210 1. A person who commits any act of open or gross lewdness is guilty:

- (a) ~~For~~ *Except as otherwise provided in this subsection, for the first offense, of a gross misdemeanor.*

(b) For any subsequent offense, *or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097*, of a category D felony and shall be punished as provided in NRS 193.130.

(c) *For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.*

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open or gross lewdness.

Sec. 14. NRS 201.220 is hereby amended to read as follows:

201.220 1. A person who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty:

(a) ~~For~~ *Except as otherwise provided in this subsection, for the first offense, of a gross misdemeanor.*

(b) For any subsequent offense, *or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097*, of a category D felony and shall be punished as provided in NRS 193.130.

(c) *For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.*

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open and indecent or obscene exposure of her body.

Sec. 15. NRS 201.230 is hereby amended to read as follows:

201.230 1. A person ~~who~~ *is guilty of lewdness with a child if he or she:*

(a) Is 18 years of age or older and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime ~~for~~ of sexual assault, ~~for statutory sexual seduction,~~ upon or with the body, or any part or member thereof, of a child under the age of ~~14~~ 16 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child, ~~is guilty of lewdness with a child.~~; or

(b) Is under the age of 18 years and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child.

2. Except as otherwise provided in ~~subsection 3,~~ *subsections 4 ~~and~~ and 5,* a person who commits lewdness with a child *under the age of 14 years* is guilty of a category A felony and shall be punished 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, and may be further punished by a fine of not more than \$10,000.

3. *Except as otherwise provided in subsection 4, a person who commits lewdness with a child who is 14 or 15 years of age is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than \$10,000.*

4. ~~[A]~~ *Except as otherwise provided in subsection 5, a person who commits lewdness with a child and who has been previously convicted of:*

(a) Lewdness with a child 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 lewdness with a child 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.*

~~[4.] 5. *The provisions of this section do not apply to a person who is less than 18 years of age and who commits any act described in subsection 1 if the person is not more than 2 years older than the person upon whom the act was committed unless:*~~

~~— (a) *The person committing the act uses force or threatens the use of force;*~~

~~— (b) *The person upon whom the act is committed suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness that is apparent or known to the person committing the act; or*~~

~~— (c) *The victim has diminished capacity at the time of the offense as a result of drug or alcohol use.*~~ *A person who is under the age of 18 years and who commits lewdness with a child under the age of 14 years commits a delinquent act.*

6. For the purpose of this section, "other sexual offense against a child" has the meaning ascribed to it in subsection ~~[5]~~ 6 of NRS 200.366.

Sec. 16. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, *and section 12 of this act*, unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.

2. "Child" means a person less than 18 years of age.

3. "Induce" means to persuade, encourage, inveigle or entice.

4. "Prostitute" means a male or female person who for a fee, monetary consideration or other thing of value engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

5. "Prostitution" means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.

6. "Sexual conduct" means any of the acts enumerated in subsection 4.

7. "Transports" means to transport or cause to be transported, by any means of conveyance, into, through or across this State, or to aid or assist in obtaining such transportation.

Sec. 17. NRS 201.520 is hereby amended to read as follows:

201.520 "Sexual conduct" means:

1. Ordinary sexual intercourse;
2. Anal intercourse;
3. Fellatio, cunnilingus or other oral-genital contact;
4. Physical contact by a person with the unclothed genitals or pubic area of another person for the purpose of arousing or gratifying the sexual desire of either person;
5. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purpose of arousing or gratifying the sexual desire of either person;
6. Masturbation or the lewd exhibition of unclothed genitals; ~~{or}~~
7. Sado-masochistic abuse ~~{-}~~; or
8. *Any lewd or lascivious act upon or with the body, or any part or member thereof, of another person.*

Sec. 18. 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 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, 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}~~ *2 years* and a maximum term of not more than ~~{6}~~ *20 years*, and may be further punished by a fine of not more than ~~[\$5,000.]~~ *\$10,000*.

~~{3.}~~ 2. For the purposes of ~~{subsections}~~ *subsection 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.}~~ 3. The provisions of this section do not apply to a person who is married to the pupil.

Sec. 19. 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 or 17 years of age and who is enrolled in or attending the college or university at which the person is employed,

↪ is guilty of a category ~~{C}~~ *B* felony and shall be punished ~~{as provided in NRS 193.130.}~~ *by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and may be further punished by a fine of not more than \$10,000.*

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.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 48.045 is hereby amended to read as follows:

48.045 1. Evidence of a person's character or a trait of his or her character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, except:

- (a) Evidence of a person's character or a trait of his or her character offered by an accused, and similar evidence offered by the prosecution to rebut such evidence;

(b) Evidence of the character or a trait of character of the victim of the crime offered by an accused, subject to the procedural requirements of NRS 48.069 where applicable, and similar evidence offered by the prosecution to rebut such evidence; and

(c) Unless excluded by NRS 50.090, evidence of the character of a witness, offered to attack or support his or her credibility, within the limits provided by NRS 50.085.

2. Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

3. *Nothing in this section shall be construed to prohibit the admission of evidence in a criminal prosecution for a sexual offense that a person committed another crime, wrong or act that constitutes a separate sexual offense. As used in this subsection, "sexual offense" has the meaning ascribed to it in NRS 179D.097.*

Sec. 22. Chapter 50 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 and 24 of this act.

Sec. 23. 1. *In any criminal or juvenile delinquency action, expert testimony offered by the prosecution or defense which concerns the behavior of a defendant in preparing a child under the age of 18 years or a vulnerable person as defined in NRS 200.5092 for sexual abuse by the defendant is admissible for any relevant purpose. Such expert testimony may concern, without limitation:*

(a) The effect on the victim from the defendant creating a physical or emotional relationship with the victim before the sexual abuse; and

(b) Any behavior of the defendant that was intended to reduce the resistance of the victim to the sexual abuse or reduce the likelihood that the victim would report the sexual abuse.

2. *As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.*

Sec. 24. 1. *In any criminal or juvenile delinquency action relating to the commission of a sexual offense, a court may not order the victim of or a witness to the sexual offense to take or submit to a psychological or psychiatric examination.*

2. *The court may exclude the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on the victim or witness if:*

(a) There is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness by a licensed psychologist, psychiatrist or clinical worker; and

(b) The victim or witness refuses to submit to an additional psychological or psychiatric examination by a licensed psychologist, psychiatrist or clinical worker.

3. *In determining whether there is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness pursuant to subsection 2, the court must consider whether:*

(a) There is a reasonable basis for believing that the mental or emotional state of the victim or witness may have affected his or her ability to perceive and relate events relevant to the criminal prosecution; and

(b) Any corroboration of the offense exists beyond the testimony of the victim or witness.

4. *If the court determines there is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness, the court shall issue a factual finding that details with particularity the reasons why an additional psychological or psychiatric examination of the victim or witness is warranted.*

5. *If the court issues a factual finding pursuant to subsection 4 and the victim or witness consents to an additional psychological or psychiatric examination, the court shall set the parameters for the examination consistent with the purpose of determining the ability of the victim or witness to perceive and relate events relevant to the criminal prosecution.*

6. *As used in this section, "sexual offense" includes, without limitation:*

(a) Sexual assault 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 of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;

(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) Lewdness with a child pursuant to NRS 201.230;

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

(k) 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 section;

(l) 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;

(m) Luring a child or a person with mental illness pursuant to NRS 201.560;

(n) An offense that is found to be sexually motivated pursuant to NRS 175.547 or 207.193;

(o) Pandering of a child pursuant to NRS 201.300;

(p) Any other offense that has an element involving a sexual act or sexual conduct with another person; or

(q) Any attempt or conspiracy to commit an offense listed in this subsection.

Sec. 25. NRS 50.260 is hereby amended to read as follows:

50.260 As used in NRS 50.260 to 50.345, inclusive, and section 23 of this act, unless the context otherwise requires, "prohibited substance" has the meaning ascribed to it in NRS 484C.080.

Sec. 26. NRS 432B.140 is hereby amended to read as follows:

432B.140 Negligent treatment or maltreatment of a child occurs if a child ~~has been subjected to harmful behavior that communicates rejection or is threatening, intimidating, disparaging, terrorizing or humiliating, has been subjected to painful or abusive conduct, or~~ degrading, painful or emotionally traumatic, has been abandoned, is without proper care, control ~~and~~ or supervision or lacks the subsistence, education, shelter, medical care or other care 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.

Sec. 27. 1. The amendatory provisions of sections 1 to 5, inclusive, 6.5 and 11 of this act apply to an intimate image that is electronically disseminated or sold on or after October 1, 2015.

2. The amendatory provisions of section 6 of this act apply to an intimate image that is electronically disseminated or sold before, on or after October 1, 2015, if, on or after October 1, 2015, a person:

(a) Demands payment of money, property, services or anything else of value from a person in exchange for removing the intimate image from public view; or

(b) Directly or indirectly counsels, hires, commands, induces or otherwise procures another person to demand payment of money, property, services or anything else of value from a person in exchange for removing the intimate image from public view.

3. The amendatory provisions of sections 7 to 10, inclusive, 13, 14, 15, 17, 18, 19 and 26 of this act apply to an offense that is committed on or after October 1, 2015.

4. The amendatory provisions of sections 12, 16 and 20 to 25, inclusive, of this act apply to a court proceeding that is commenced on or after October 1, 2015.

5. As used in this section, "intimate image" has the meaning ascribed to it in section 3 of this act.

Sec. 28. (Deleted by amendment.)

Senator Brower moved the adoption of the amendment.

Remarks by Senators Brower and Harris.

SENATOR BROWER:

The amendment revises section 8 to clarify the applicability of provisions addressing sexual assault committed by a person who knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of the conduct. It revises section 15 to clarify provisions addressing lewdness committed by a person who is 18 years of age, or

older, or who is less than 18 years of age and who assaults a child under 14 years of age. It also revises section 26 to clarify language concerning behavior that constitutes maltreatment of a child.

SENATOR HARRIS:

Senator Brower was there another amendment to the bill, or did your reading of the bill encompass the conflict that we had with Senate Bill No. 192.

SENATOR BROWER:

I am looking for the amendment so we can clarify that.

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

Motion carried.

Senate in recess at 6:49 p.m.

SENATE IN SESSION

At 6:50 p.m.

President Hutchison presiding.

Quorum present.

Senator Brower moved that the bill be taken from the Second Reading File and placed on Second Reading File on the third Agenda.

Motion carried.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 6:51 p.m.

SENATE IN SESSION

At 6:52 p.m.

President Hutchison presiding.

Quorum present.

Senator Brower moved that the action whereby Assembly Bill No. 49 was placed on Second Reading File on the third Agenda be rescinded.

Motion carried.

Amendment adopted.

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

Assembly Bill No. 51.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 844.

SUMMARY—Revises provisions relating to securities. (BDR 7-449)

AN ACT relating to securities; requiring broker-dealers and investment advisers to provide training to certain persons concerning identifying the suspected exploitation of an older person or vulnerable person; requiring

certain persons who work for broker-dealers and investment advisers to report the suspected or known exploitation of an older person or vulnerable person; authorizing the Administrator of the Securities Division of the Office of the Secretary of State to adopt regulations relating to the federal Jumpstart Our Business Startups Act; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Uniform Securities Act which sets forth provisions governing the sale and purchase of securities in this State in a manner consistent with federal laws and regulations. (Chapter 90 of NRS) Sections 9.2-9.9 of this bill require broker-dealers and investment advisers to provide training to certain persons concerning the identification and reporting of suspected exploitation of older persons and vulnerable persons. "Older person" is defined in existing law as a person who is 60 years of age or older. "Vulnerable person" is defined in existing law as a person who is 18 years of age or older who: (1) suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or (2) has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living. (NRS 200.5092) Section 9.8 specifies which sales representatives, representatives of an investment adviser and officers and employees of broker-dealers or investment advisers must receive the training, when the training must be provided and the content of the training. Section 9.8 further requires those persons to report incidents that reasonably appear to be exploitation of an older person or vulnerable person. Section 9.9 requires each broker-dealer and investment adviser to designate a person to whom such reports must be made. The person so designated is then responsible for determining when a formal report must be reported to the appropriate agency.

Existing law authorizes the imposition or granting of certain actions and penalties against a person who has violated any provision of state law or a regulation or order of the Administrator of the Securities Division of the Office of the Secretary of State relating to securities, including civil penalties, restitution and costs of investigation and prosecution of such a violation. (NRS 90.630, 90.640, 90.650) Sections 11-13 of this bill revise those provisions to include, if the violation was committed against an older person or vulnerable person, the imposition or granting of civil penalties, restitution and costs of investigation and prosecution in amounts equal to twice the amounts that would otherwise have been imposed or granted.

Section 10 of this bill authorizes the Administrator to adopt regulations consistent with the federal Jumpstart Our Business Startups Act (Pub. L. No. 112-106), including regulations relating to the creation and oversight of funding portals for the purchase of securities.

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

Section 1. Chapter 90 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 9.2. As used in sections 9.2 to 9.9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 9.3 to 9.7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 9.3. "Designated reporter" means a person designated by a broker-dealer or investment adviser to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 9.9 of this act.

Sec. 9.4. "Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.

Sec. 9.5. "Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.

Sec. 9.6. "Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.

Sec. 9.7. "Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.

Sec. 9.8. 1. Each broker-dealer and investment adviser shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each sales representative, representative of the investment adviser and officer and employee of the broker-dealer or investment adviser who may:

(a) As part of his or her regular duties for the broker-dealer or investment adviser, come into direct contact with an older person or vulnerable person;

(b) Review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with the offer, sale or purchase of securities; or

(c) Offer advice as to the value or advisability of investing in, purchasing or selling securities to an older person or vulnerable person.

2. The training required pursuant to subsection 1:

(a) Must be provided as soon as reasonably practicable, but not later than 6 months after the sales representative, representative of the investment adviser or officer or employee is employed by the broker-dealer or investment adviser; and

(b) May be part of any existing continuing education or training program required to be completed by the sales representative, representative of the

investment adviser or officer or employee of the broker-dealer or investment adviser.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation of an older person or vulnerable person are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. A sales representative, representative of an investment adviser or officer or employee of a broker-dealer or investment adviser who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his or her scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to a designated reporter pursuant to section 9.9 of this act.

Sec. 9.9. 1. Each broker-dealer and investment adviser shall designate a person or persons to whom a sales representative, representative of the investment adviser or officer or employee of the broker-dealer or investment adviser must report known or suspected exploitation of an older person or vulnerable person.

2. If a sales representative, representative of an investment adviser or officer or employee of the broker-dealer or investment adviser reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his or her own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected exploitation occurred; or

(4) A toll-free telephone service designated by the Aging and Disability Services Division; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of an older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated

reporter shall make the report to an agency other than the agency alleged to have committed the act or omission.

4. If a sales representative, representative of an investment adviser or officer or employee of a broker-dealer or investment adviser reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his or her own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of a vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the agency alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any fact or information that forms the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. A sales representative, representative of an investment adviser or officer or employee of a broker-dealer or investment adviser and a designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report pursuant to this section in good faith.

Sec. 10. 1. The Administrator may adopt, by regulation or order, any filing requirements, registration exemptions and licensing requirements which are consistent with the Jumpstart Our Business Startups Act, Public Law 112-106, and any regulation adopted pursuant thereto by the United States Securities and Exchange Commission, including, without limitation, regulations relating to the creation and oversight of funding portals.

2. As used in this section, "funding portal" has the meaning ascribed to it in section 3(a)(80) of the Securities Exchange Act of 1934, as amended, 15 U.S.C. 78a et seq.

Sec. 11. NRS 90.630 is hereby amended to read as follows:

90.630 1. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that:

(a) The sale of a security is subject to registration under this chapter and the security is being offered or has been offered or sold by the issuer or another person in violation of NRS 90.460; or

(b) A person is acting as a broker-dealer or investment adviser in violation of NRS 90.310 or 90.330,

↪ the Administrator, in addition to any specific power granted under this chapter and subject to compliance with the requirements of NRS 90.820, may issue, without a prior hearing, a summary order against the person engaged in the prohibited activities, directing the person to desist and refrain from further activity until the security is registered or the person is licensed under this chapter. The summary order to cease and desist must state the section of this chapter or regulation or order of the Administrator under this chapter which the Administrator reasonably believes has been or is being violated.

2. If the Administrator reasonably believes, whether or not based upon an investigation conducted under NRS 90.620, that a person has violated this chapter or a regulation or order of the Administrator under this chapter, the Administrator, in addition to any specific power granted under this chapter, after giving notice by registered or certified mail and conducting a hearing in an administrative proceeding, unless the right to notice and hearing is waived by the person against whom the sanction is imposed, may:

(a) Issue an order against the person to cease and desist;

(b) Censure the person if he or she is a licensed broker-dealer, sales representative, investment adviser or representative of an investment adviser;

(c) Bar or suspend the person from association with a licensed broker-dealer or investment adviser in this State;

(d) Issue an order against an applicant, licensed person or other person who willfully violates this chapter, imposing a civil penalty of not more than \$25,000 for each violation ~~or~~ *or, if the violation was committed against an older person or vulnerable person, a civil penalty equal to twice the amount of the civil penalty that would otherwise have been imposed pursuant to this paragraph, not to exceed \$50,000 for each violation; or*

(e) Initiate one or more of the actions specified in NRS 90.640.

3. If the person to whom the notice is addressed pursuant to subsection 2 does not request a hearing within 45 days after receipt of the notice, the person waives the right to a hearing and the Administrator shall issue a permanent order. If a hearing is requested, the Administrator shall set the matter for hearing not less than 15 days nor more than 60 days after the Administrator receives the request for a hearing. The Administrator shall promptly notify the parties by registered or certified mail of the time and place set for the hearing.

4. Imposition of the sanctions under this section is limited as follows:

(a) If the Administrator revokes the license of a broker-dealer, sales representative, investment adviser or representative of an investment adviser or bars a person from association with a licensed broker-dealer or investment adviser under this section or NRS 90.420, the imposition of that sanction precludes imposition of a civil penalty under subsection 2; and

(b) The imposition by the Administrator of one or more sanctions under subsection 2 with respect to a specific violation precludes the Administrator

from later imposing any other sanctions under paragraphs (a) to (d), inclusive, of subsection 2 with respect to the violation.

5. For the purposes of determining any sanction to be imposed pursuant to paragraphs (a) to (d), inclusive, of subsection 2, the Administrator shall consider, among other factors, the frequency and persistence of the conduct constituting a violation of this chapter, or a regulation or order of the Administrator under this chapter, the number of persons adversely affected by the conduct and the resources of the person committing the violation.

6. If a sanction is imposed pursuant to this section, reimbursement for the costs of the proceeding, including investigative costs and attorney's fees incurred, may be ordered and recovered by the Administrator. Money recovered for reimbursement of the investigative costs and attorney's fees must be deposited in the State General Fund for credit to the Secretary of State's Operating General Fund Budget Account.

7. *As used in this section:*

(a) *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

(b) *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

(c) *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 12. NRS 90.640 is hereby amended to read as follows:

90.640 1. Upon a showing by the Administrator that a person has violated or is about to violate this chapter, or a regulation or order of the Administrator under this chapter, the appropriate district court may grant or impose one or more of the following appropriate legal or equitable remedies:

(a) Upon a showing that a person has violated this chapter, or a regulation or order of the Administrator under this chapter, the court may singly or in combination:

(1) Issue a temporary restraining order, permanent or temporary prohibitory or mandatory injunction or a writ of prohibition or mandamus;

(2) Impose a civil penalty of not more than \$25,000 for each violation ~~[-];~~ *or, if the violation was committed against an older person or vulnerable person, a civil penalty equal to twice the amount of the civil penalty that would otherwise have been imposed pursuant to this subparagraph, not to exceed \$50,000 for each violation;*

(3) Issue a declaratory judgment;

(4) Order restitution to investors ~~[-];~~ *which, if the violation was committed against an older person or vulnerable person, must be in an amount equal to twice the amount of restitution that would otherwise have been ordered pursuant to this subparagraph;*

(5) Provide for the appointment of a receiver or conservator for the defendant or the defendant's assets;

(6) Order payment of the Division's investigative costs ~~[-; or]~~ *which, if the violation was committed against an older person or vulnerable person,*

must be in an amount equal to twice the amount of the Division's investigative costs that would otherwise have been ordered for payment pursuant to this subparagraph; or

(7) Order such other relief as the court deems just.

(b) Upon a showing that a person is about to violate this chapter, or a regulation or order of the Administrator under this chapter, a court may issue:

- (1) A temporary restraining order;
- (2) A temporary or permanent injunction; or
- (3) A writ of prohibition or mandamus.

2. In determining the appropriate relief to grant, the court shall consider enforcement actions taken and sanctions imposed by the Administrator under NRS 90.630 in connection with the transactions constituting violations of this chapter or a regulation or order of the Administrator under this chapter. If a remedial action is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Administrator.

3. The court shall not require the Administrator to post a bond in an action under this section.

4. Upon a showing by the administrator or securities agency of another state that a person has violated the securities act of that state or a regulation or order of the administrator or securities agency of that state, the appropriate district court may grant, in addition to any other legal or equitable remedies, one or more of the following remedies:

(a) Appointment of a receiver, conservator or ancillary receiver or conservator for the defendant or the defendant's assets located in this State; or

(b) Other relief as the court deems just.

5. *As used in this section:*

(a) *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

(b) *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

(c) *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 13. NRS 90.650 is hereby amended to read as follows:

90.650 1. A person who willfully violates:

(a) A provision of this chapter, except NRS 90.600, or who violates NRS 90.600 knowing that the statement made is false or misleading in any material respect;

(b) A regulation adopted pursuant to this chapter; or

(c) An order denying, suspending or revoking the effectiveness of registration or an order to cease and desist issued by the Administrator pursuant to this chapter,

➡ 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 20 years, or by a fine of not more than \$500,000, or by both fine and imprisonment, for each violation. In addition to any other penalty, the court shall order the person to pay restitution and may order the person to repay the costs of investigation and prosecution incurred by the Division and the Office of the Attorney General. *If the violation was committed against an older person or vulnerable person, any restitution and costs of investigation and prosecution imposed by the court must be in an amount equal to twice the amount that would otherwise have been imposed by the court.* Money recovered for reimbursement of the costs of investigation and prosecution must be deposited in the State General Fund for credit to the Secretary of State's Operating General Fund Budget Account.

2. A person convicted of violating a regulation or order under this chapter may be fined, but must not be imprisoned, if the person proves lack of knowledge of the regulation or order.

3. This chapter does not limit the power of the State to punish a person for conduct which constitutes a crime under other law.

Sec. 14. This act becomes effective on July 1, 2015.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment returns the bill to its original version by replacing original sections 2 through 9 as new sections 9.2 through 9.9. These sections require broker-dealers and investment advisors to provide training to employees concerning the exploitation of older or vulnerable persons.

Amendment adopted.

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

Assembly Bill No. 93.

Bill read second time.

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

Amendment No. 753.

SUMMARY—Revises provisions relating to the continuing education required to renew certain licenses ~~and~~ and certificates. (BDR 54-27)

AN ACT relating to public health; requiring or encouraging certain licensed or certified professionals to receive ~~evidence-based~~ suicide prevention and awareness training in order to renew a license ~~or certificate~~; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires psychiatrists, physicians, advanced practice registered nurses, psychologists, clinical professional counselors, marriage and family therapists, and social workers, alcohol and drug abuse counselors, problem gambling counselors and other persons licensed or certified to practice in various related fields to complete certain continuing education as a condition to the renewal of their licenses ~~or certificates~~. (NRS 630.253, 632.343, 633.471, 641.220, 641A.260, 641B.280. ~~This~~ .

641C.450, 641C.500) Sections 1, 2, 3, 4, 5, 5.3 and 5.7 of this bill ~~[requires]~~ require certain of those professionals to receive ~~[at least 2 hours of]~~ instruction on ~~[evidence-based]~~ suicide prevention and awareness as a condition to the renewal of their licenses ~~[,]~~ or certificates beginning on July 1, 2016. Those requirements, however, are temporary and are eliminated or expire by limitation on June 30, 2026.

Sections 1, 1.5 and 2 of this bill require the professional licensing boards for certain physicians and advanced practice registered nurses to encourage their licensees to receive certain training concerning suicide prevention, detection and intervention as part of their continuing education.

Sections 1 and 2 revise provisions concerning compliance with continuing education by physicians to require that they submit evidence of such compliance.

Sections 1, 1.5, 2, 3, 4, 5, 5.3 and 5.7 require certain professional licensing boards to establish their continuing education requirements by regulation.

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

Section 1. NRS 630.253 is hereby amended to read as follows:

630.253 1. The Board shall, as a prerequisite for the:

- (a) Renewal of a license as a physician assistant; or
- (b) Biennial registration of the holder of a license to practice medicine,

↪ require each holder to ~~[comply]~~ submit evidence of compliance with the requirements for continuing education as set forth in regulations adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

- (1) An overview of acts of terrorism and weapons of mass destruction;
- (2) Personal protective equipment required for acts of terrorism;
- (3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;
- (4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and
- (5) An overview of the information available on, and the use of, the Health Alert Network.

(c) *Must provide for the completion by a holder of a license to practice medicine who is a psychiatrist of a course of instruction that provides at least 2 hours of instruction on ~~[evidence-based]~~ clinically-based suicide prevention and awareness.*

↪ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

3. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

4. The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.

5. The Board shall encourage each holder of a license to practice medicine, other than a psychiatrist, to receive as a portion of his or her continuing education training concerning suicide, including, without limitation, such topics as:

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

6. A holder of a license to practice medicine may substitute not more than 2 hours of continuing education credits in the detection of suicidal thoughts and ideations, and the intervention and prevention of suicide, pain management or addiction care for the purposes of satisfying an equivalent requirement for continuing education in ethics.

~~6.~~ 7. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.

(b) "Biological agent" has the meaning ascribed to it in NRS 202.442.

(c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.

(d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.

(e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 1.3. NRS 630.253 is hereby amended to read as follows:

630.253 1. The Board shall, as a prerequisite for the:

(a) Renewal of a license as a physician assistant; or

(b) Biennial registration of the holder of a license to practice medicine,

↪ require each holder to submit evidence of compliance with the requirements for continuing education as set forth in regulations adopted by the Board.

2. These requirements:

(a) May provide for the completion of one or more courses of instruction relating to risk management in the performance of medical services.

(b) Must provide for the completion of a course of instruction, within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

(1) An overview of acts of terrorism and weapons of mass destruction;

(2) Personal protective equipment required for acts of terrorism;

(3) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;

(4) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and

(5) An overview of the information available on, and the use of, the Health Alert Network.

~~[(c) Must provide for the completion by a holder of a license to practice medicine who is a psychiatrist of a course of instruction that provides at least 2 hours of instruction on clinically-based suicide prevention and awareness.]~~

↪ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

3. The Board shall encourage each holder of a license who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

(a) The skills and knowledge that the licensee needs to address aging issues;

(b) Approaches to providing health care to older persons, including both didactic and clinical approaches;

(c) The biological, behavioral, social and emotional aspects of the aging process; and

(d) The importance of maintenance of function and independence for older persons.

4. The Board shall encourage each holder of a license to practice medicine to receive, as a portion of his or her continuing education, training

concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.

5. The Board shall encourage each holder of a license to practice medicine ~~[- other than a psychiatrist,]~~ to receive as a portion of his or her continuing education training concerning suicide, including, without limitation, such topics as:

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

6. A holder of a license to practice medicine may substitute not more than 2 hours of continuing education credits in the detection of suicidal thoughts and ideations, and the intervention and prevention of suicide, pain management or addiction care for the purposes of satisfying an equivalent requirement for continuing education in ethics.

7. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.

(b) "Biological agent" has the meaning ascribed to it in NRS 202.442.

(c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.

(d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.

(e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 1.5. NRS 632.343 is hereby amended to read as follows:

632.343 1. The Board shall not renew any license issued under this chapter until the licensee has submitted proof satisfactory to the Board of completion, during the 2-year period before renewal of the license, of 30 hours in a program of continuing education approved by the Board ~~[-]~~ in accordance with regulations adopted by the Board. The licensee is exempt from this provision for the first biennial period after graduation from:

(a) An accredited school of professional nursing;

(b) An accredited school of practical nursing;

(c) An approved school of professional nursing in the process of obtaining accreditation; or

(d) An approved school of practical nursing in the process of obtaining accreditation.

2. The Board shall review all courses offered to nurses for the completion of the requirement set forth in subsection 1. The Board may approve nursing and other courses which are directly related to the practice of nursing as well as others which bear a reasonable relationship to current developments in the field of nursing or any special area of practice in which a

licensee engages. These may include academic studies, workshops, extension studies, home study and other courses.

3. The program of continuing education required by subsection 1 must include a course of instruction, to be completed within 2 years after initial licensure, relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction. The course must provide at least 4 hours of instruction that includes instruction in the following subjects:

- (a) An overview of acts of terrorism and weapons of mass destruction;
- (b) Personal protective equipment required for acts of terrorism;
- (c) Common symptoms and methods of treatment associated with exposure to, or injuries caused by, chemical, biological, radioactive and nuclear agents;
- (d) Syndromic surveillance and reporting procedures for acts of terrorism that involve biological agents; and
- (e) An overview of the information available on, and the use of, the Health Alert Network.

➡ The Board may thereafter determine whether to include in a program of continuing education additional courses of instruction relating to the medical consequences of an act of terrorism that involves the use of a weapon of mass destruction.

4. The Board shall encourage each licensee who treats or cares for persons who are more than 60 years of age to receive, as a portion of their continuing education, education in geriatrics and gerontology, including such topics as:

- (a) The skills and knowledge that the licensee needs to address aging issues;
- (b) Approaches to providing health care to older persons, including both didactic and clinical approaches;
- (c) The biological, behavioral, social and emotional aspects of the aging process; and
- (d) The importance of maintenance of function and independence for older persons.

5. The Board shall encourage each person licensed as an advanced practice registered nurse to receive as a portion of his or her continuing education at least 2 hours of instruction on clinically-based suicide prevention and awareness.

6. As used in this section:

- (a) "Act of terrorism" has the meaning ascribed to it in NRS 202.4415.
- (b) "Biological agent" has the meaning ascribed to it in NRS 202.442.
- (c) "Chemical agent" has the meaning ascribed to it in NRS 202.4425.
- (d) "Radioactive agent" has the meaning ascribed to it in NRS 202.4437.
- (e) "Weapon of mass destruction" has the meaning ascribed to it in NRS 202.4445.

Sec. 2. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection ~~[6]~~ 8 and NRS 633.491, every holder of a license issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

- (a) Applying for renewal on forms provided by the Board;
- (b) Paying the annual license renewal fee specified in this chapter;
- (c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;
- (d) Submitting ~~[an affidavit]~~ evidence to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board in accordance with regulations adopted by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and
- (e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.

5. The Board shall require, as part of the continuing education requirements approved by the Board, the biennial completion by a holder of a license to practice osteopathic medicine of ~~[at]~~ :

(a) *At least 2 hours of continuing education credits in ethics, pain management or addiction care ~~[and]~~ ; and*

(b) *If the holder of a license to practice osteopathic medicine is a psychiatrist, at least 2 hours of continuing education credits on ~~[evidence-based]~~ clinically-based suicide prevention and awareness.*

6. The Board shall encourage each holder of a license to practice osteopathic medicine, other than a psychiatrist, to receive as a portion of his

or her continuing education training concerning suicide, including, without limitation, such topics as:

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

7. A holder of a license to practice osteopathic medicine may substitute not more than 2 hours of continuing education credits in the detection of suicidal thoughts and ideations, and the intervention and prevention of suicide for the purposes of satisfying an equivalent requirement for continuing education in ethics.

8. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 2.5. NRS 633.471 is hereby amended to read as follows:

633.471 1. Except as otherwise provided in subsection 8 and NRS 633.491, every holder of a license issued under this chapter, except a temporary or a special license, may renew the license on or before January 1 of each calendar year after its issuance by:

(a) Applying for renewal on forms provided by the Board;

(b) Paying the annual license renewal fee specified in this chapter;

(c) Submitting a list of all actions filed or claims submitted to arbitration or mediation for malpractice or negligence against the holder during the previous year;

(d) Submitting evidence to the Board that in the year preceding the application for renewal the holder has attended courses or programs of continuing education approved by the Board in accordance with regulations adopted by the Board totaling a number of hours established by the Board which must not be less than 35 hours nor more than that set in the requirements for continuing medical education of the American Osteopathic Association; and

(e) Submitting all information required to complete the renewal.

2. The Secretary of the Board shall notify each licensee of the requirements for renewal not less than 30 days before the date of renewal.

3. The Board shall request submission of verified evidence of completion of the required number of hours of continuing medical education annually from no fewer than one-third of the applicants for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant. Upon a request from the Board, an applicant for renewal of a license to practice osteopathic medicine or a license to practice as a physician assistant shall submit verified evidence satisfactory to the Board that in the year preceding the application for renewal the applicant attended courses or

programs of continuing medical education approved by the Board totaling the number of hours established by the Board.

4. The Board shall encourage each holder of a license to practice osteopathic medicine to receive, as a portion of his or her continuing education, training concerning methods for educating patients about how to effectively manage medications, including, without limitation, the ability of the patient to request to have the symptom or purpose for which a drug is prescribed included on the label attached to the container of the drug.

5. The Board shall require, as part of the continuing education requirements approved by the Board, the biennial completion by a holder of a license to practice osteopathic medicine of ~~the~~

~~(a) At least 2 hours of continuing education credits in ethics, pain management or addiction care; and~~

~~(b) If the holder of a license to practice osteopathic medicine is a psychiatrist, at least 2 hours of continuing education credits on clinically based suicide prevention and awareness.~~

6. The Board shall encourage each holder of a license to practice osteopathic medicine ~~[other than a psychiatrist]~~ to receive as a portion of his or her continuing education training concerning suicide, including, without limitation, such topics as:

(a) The skills and knowledge that the licensee needs to detect behaviors that may lead to suicide, including, without limitation, post-traumatic stress disorder;

(b) Approaches to engaging other professionals in suicide intervention; and

(c) The detection of suicidal thoughts and ideations and the prevention of suicide.

7. A holder of a license to practice osteopathic medicine may substitute not more than 2 hours of continuing education credits in the detection of suicidal thoughts and ideations, and the intervention and prevention of suicide for the purposes of satisfying an equivalent requirement for continuing education in ethics.

8. Members of the Armed Forces of the United States and the United States Public Health Service are exempt from payment of the annual license renewal fee during their active duty status.

Sec. 3. NRS 641.220 is hereby amended to read as follows:

641.220 1. To renew a license or certificate issued pursuant to this chapter, each person must, on or before the first day of January of each odd-numbered year:

(a) Apply to the Board for renewal;

(b) Pay the biennial fee for the renewal of a license or certificate;

(c) Submit evidence to the Board of completion of the requirements for continuing education ~~[as set forth in regulations adopted by the Board];~~ and

(d) Submit all information required to complete the renewal.

2. Upon renewing his or her license, a psychologist shall declare his or her areas of competence, as determined in accordance with NRS 641.112.

3. The Board shall, as a prerequisite for the renewal of a license or certificate, require each holder to comply with the requirements for continuing education adopted by the Board ~~[]~~, *which must include, without limitation, a requirement that the holder of a license receive at least 2 hours of instruction on evidence-based suicide prevention and awareness.*

Sec. 3.5. NRS 641.220 is hereby amended to read as follows:

641.220 1. To renew a license or certificate issued pursuant to this chapter, each person must, on or before the first day of January of each odd-numbered year:

- (a) Apply to the Board for renewal;
- (b) Pay the biennial fee for the renewal of a license or certificate;
- (c) Submit evidence to the Board of completion of the requirements for continuing education as set forth in regulations adopted by the Board; and
- (d) Submit all information required to complete the renewal.

2. Upon renewing his or her license, a psychologist shall declare his or her areas of competence, as determined in accordance with NRS 641.112.

3. The Board shall, as a prerequisite for the renewal of a license or certificate, require each holder to comply with the requirements for continuing education adopted by the Board ~~[]~~ ~~*which must include, without limitation, a requirement that the holder of a license receive at least 2 hours of instruction on evidence-based suicide prevention and awareness.*~~

Sec. 4. NRS 641A.260 is hereby amended to read as follows:

641A.260 1. To renew a license issued pursuant to this chapter, each person must, on or before the date of expiration of the current license:

- (a) Apply to the Board for renewal;
- (b) Pay the fee for renewal set by the Board;
- (c) Submit evidence to the Board of completion of the requirements for continuing education ~~[]~~ *as set forth in regulations adopted by the Board;* and
- (d) Submit all information required to complete the renewal.

2. The Board shall, as a prerequisite for the renewal of a license, require each holder to comply with the requirements for continuing education adopted by the Board ~~[]~~, *which must include, without limitation, a requirement that the holder receive at least 2 hours of instruction on evidence-based suicide prevention and awareness.*

Sec. 4.5. NRS 641A.260 is hereby amended to read as follows:

641A.260 1. To renew a license issued pursuant to this chapter, each person must, on or before the date of expiration of the current license:

- (a) Apply to the Board for renewal;
- (b) Pay the fee for renewal set by the Board;
- (c) Submit evidence to the Board of completion of the requirements for continuing education as set forth in regulations adopted by the Board; and
- (d) Submit all information required to complete the renewal.

2. The Board shall, as a prerequisite for the renewal of a license, require each holder to comply with the requirements for continuing education adopted by the Board, ~~[, which must include, without limitation, a requirement that the holder receive at least 2 hours of instruction on evidence-based suicide prevention and awareness.]~~

Sec. 5. NRS 641B.280 is hereby amended to read as follows:

641B.280 1. Every holder of a license issued pursuant to this chapter may renew his or her license annually by:

- (a) Applying to the Board for renewal;
- (b) Paying the annual renewal fee set by the Board;
- (c) Submitting evidence to the Board of completion of the required continuing education ~~[,] as set forth in regulations adopted by the Board;~~ and
- (d) Submitting all information required to complete the renewal.

2. The Board shall, as a prerequisite for the renewal of a license, require the holder to comply with the requirements for continuing education adopted by the Board ~~[,] , which must include, without limitation, a requirement that the holder receive at least 2 hours of instruction on evidence-based suicide prevention and awareness.~~

Sec. 5.1. NRS 641B.280 is hereby amended to read as follows:

641B.280 1. Every holder of a license issued pursuant to this chapter may renew his or her license annually by:

- (a) Applying to the Board for renewal;
- (b) Paying the annual renewal fee set by the Board;
- (c) Submitting evidence to the Board of completion of the required continuing education as set forth in regulations adopted by the Board; and
- (d) Submitting all information required to complete the renewal.

2. The Board shall, as a prerequisite for the renewal of a license, require the holder to comply with the requirements for continuing education adopted by the Board, ~~[, which must include, without limitation, a requirement that the holder receive at least 2 hours of instruction on evidence-based suicide prevention and awareness.]~~

Sec. 5.3. NRS 641C.450 is hereby amended to read as follows:

641C.450 Except as otherwise provided in NRS 641C.320, 641C.440 and 641C.530, a person may renew his or her license or certificate by submitting to the Board:

1. An application for the renewal of the license or certificate;
2. The fee for the renewal of a license or certificate prescribed in NRS 641C.470;

3. Evidence of completion of the continuing education required by the Board ~~[,] , which must include, without limitation, a requirement that the applicant receive at least 1 hour of instruction on evidence-based suicide prevention and awareness for each year of the term of the applicant's licensure or certification;~~

4. If the applicant is a certified intern, the name of the licensed or certified counselor who supervises the applicant; and

5. All information required to complete the renewal.

Sec. 5.7. NRS 641C.500 is hereby amended to read as follows:

641C.500 1. The Board may, by regulation, provide for the certification of a person as a detoxification technician.

2. Any regulation adopted pursuant to subsection 1 must be consistent with the provisions of chapter 622A of NRS and must include, without limitation, provisions relating to:

(a) The requirements for submitting an application for a certificate, including, without limitation, the submission of a complete set of fingerprints pursuant to NRS 641C.260;

(b) The scope of practice for a person who is issued a certificate;

(c) The conduct of any investigation or hearing relating to an application for a certificate;

(d) The examination of an applicant for a certificate or a waiver of examination for an applicant;

(e) The requirements for issuing a certificate or provisional certificate;

(f) The duration, expiration, renewal, restoration, suspension, revocation and reinstatement of a certificate;

(g) The grounds for refusing the issuance, renewal, restoration or reinstatement of a certificate;

(h) Requirements for the completion of continuing education which must include, without limitation, a requirement that the applicant receive at least 1 hour of instruction on evidence-based suicide prevention and awareness for each year of the term of the applicant's certification;

~~(i)~~ (i) The conduct of any disciplinary or other administrative proceeding relating to a person who is issued a certificate;

~~(j)~~ (j) The filing of a complaint against a person who is issued a certificate;

~~(k)~~ (k) The issuance of a subpoena for the attendance of witnesses and the production of books, papers and records;

~~(l)~~ (l) The payment of fees for:

(1) Witnesses, mileage and attendance at a hearing or deposition; and

(2) The issuance, renewal, restoration or reinstatement of a certificate;

~~(m)~~ (m) The imposition of a penalty for a violation of any provision of the regulations; and

~~(n)~~ (n) The confidentiality of any record or other information maintained by the Board relating to an applicant or the holder of a certificate.

3. A person shall not engage in any activity for which the Board requires a certificate as a detoxification technician pursuant to this section unless the person is the holder of such a certificate.

4. In addition to the provisions of subsection 2, a regulation adopted pursuant to this section must include provisions that are substantially similar to the requirements set forth in NRS 641C.280 and 641C.710. Any provision included in a regulation pursuant to this subsection remains effective until the provisions of NRS 641C.280 and 641C.710 expire by limitation.

5. Except as otherwise provided in this section and NRS 641C.900, 641C.910 and 641C.950, the provisions of this chapter do not apply to the holder of a certificate that is issued in accordance with a regulation adopted pursuant to this section.

6. As used in this section, "detoxification technician" means a person who is certified by the Board to provide screening for the safe withdrawal from alcohol and other drugs.

Sec. 6. 1. This section and sections 1, 1.5, 2, 3, 4, 5, 5.3 and 5.7 of this act become effective on July 1, 2016.

2. Sections 5.3 and 5.7 of this act expire by limitation on June 30, 2026.

3. Sections 1.3, 2.5, 3.5, 4.5 and 5.1 of this act become effective on July 1, 2026.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 753 makes six changes to Assembly Bill No. 93: 1) requires psychiatrists, psychologists, clinical professional counselors, marriage and family therapists, and social workers to furnish proof of compliance with the requirements for continuing education as set forth in regulations adopted by the appropriate Boards; 2) requires a psychiatrist licensed by the Board of Medical Examiners or the State Board of Osteopathic Medicine to complete at least two hours of instruction on clinically-based, rather than evidence-based, suicide prevention and awareness; 3) requires the Board of Medical Examiners and the State Board of Osteopathic Medicine to encourage each holder of a license to practice medicine, other than a psychiatrist, to receive training concerning suicide as a portion of his or her continuing education; 4) requires an advanced practice registered nurse to complete at least two hours of instruction on clinically-based suicide prevention and awareness in order to renew his or her license; 5) requires a person who is licensed by the Board of Examiners for Alcohol, Drug and Gambling Counselors and detoxification technicians to complete at least one hour of instruction on evidence-based suicide prevention and awareness for each year of the term of the applicant's licensure or certification as set forth in regulations adopted by the Board; and 6) the continuing education requirements for the licensed professionals provided for in this bill become effective on July 1, 2016, and expire by limitation on June 30, 2026.

Amendment adopted.

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

Assembly Bill No. 117.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 851.

SUMMARY—Authorizes a school district to lease school buses or vehicles belonging to the school district in certain circumstances. (BDR 34-510)

AN ACT relating to education; authorizing a school district to lease school buses or vehicles belonging to the school district in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of trustees of a school district to allow school buses or vehicles belonging to the school district to be used for the transportation of public school pupils and children in certain circumstances.

(NRS 392.360) This bill authorizes a board of trustees to enter into a written agreement to lease school buses or vehicles belonging to the school district for special events when a commercial bus is not reasonably available under certain circumstances. This bill further requires such an agreement to include certain provisions.

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The board of trustees of a school district may authorize the school district to enter into a written agreement to lease school buses or vehicles belonging to the school district for special events so long as such an agreement will not interfere with or prevent the school district from providing transportation for pupils for the purposes described in NRS 392.300 and 392.360.*

2. *If a school district enters into an agreement pursuant to this section, the agreement must include, without limitation, a provision:*

(a) Requiring a security deposit in an amount which is not less than 20 percent of the estimated total amount of the fee set forth in the agreement;

(b) Requiring a fee in an amount which is not less than the total cost per mile for the use of a school bus or vehicle to the school district, as determined by the transportation department of the school district, if the school district has such a department, or by the board of trustees, if the school district does not have such a department, and any additional costs or expenses related to the use of the school bus or vehicle, including, without limitation, fuel, wear and tear, maintenance, appropriate staffing, administrative costs and an additional rental service fee;

~~[(b)]~~ *(c) Indemnifying and holding the school district harmless against any claim, demand, judgment or legal action, whatsoever, including, without limitation, any losses, damages, legal costs or expenses incident thereto;*

~~[(c)]~~ *(d) Indemnifying and holding the driver of a school bus or vehicle harmless against any claim, demand, judgment or legal action, whatsoever, including, without limitation, any losses, damages, legal costs or expenses incident thereto incurred when acting in the scope of his or her employment;*

~~[(d)]~~ *(e) Requiring the lessee to accept responsibility for any damage to the school bus or vehicle while leased as determined by the transportation department of the school district, if the school district has such a department, or by the board of trustees, if the school district does not have such a department;*

~~[(e)]~~ *(f) Requiring the lessee to provide proof that the school bus or vehicle leased will be operated by a person licensed under the laws of this State to operate the particular type of bus or vehicle leased;*

~~[(f)]~~ *(g) Requiring the lessee to provide proof of insurance which covers the school bus or vehicle while operated by the lessee up to an amount determined by the transportation department of the school district, if the*

school district has such a department, or by the board of trustees, if the school district does not have such a department; and

~~[(e)]~~ *(h) Requiring the lessee to give preference to a driver of a school bus or vehicle who is employed by the school district before hiring a driver of a school bus or vehicle who is not employed by the school district.*

3. *Except as otherwise provided in this subsection, whenever any school bus or vehicle belonging to a school district is leased, any lettering on the school bus or vehicle designating the vehicle as a school bus or vehicle must be covered and concealed, no signs or wording may be affixed to the school bus or vehicle and any system of flashing red lights or a mechanical device attached to the front of the school bus or vehicle must not be used in the operation of the school bus or vehicle by the lessor except in the case of an emergency. A system of flashing red lights or a mechanical device attached to the front of the school bus or vehicle may be used in the operation of a school bus during an emergency.*

4. *A school district shall place any money collected as a result of an agreement to lease a school bus or vehicle which exceeds the actual cost to the school district in a fund maintained for the replacement of school buses and vehicles belonging to the school district.*

5. *A school district may not enter into an agreement pursuant to this section if it determines that transportation by a commercial bus is reasonably available.*

6. *For the purposes of this section, "special event" means an event or series of events that does not take place during the regular school day and is not an interscholastic contest, school festival or other activity properly a part of a school program.*

Sec. 2. NRS 392.360 is hereby amended to read as follows:

392.360 1. A board of trustees of a school district may permit school buses or vehicles belonging to the school district to be used for the transportation of public school pupils to and from:

- (a) Interscholastic contests;
- (b) School festivals; or
- (c) Other activities properly a part of a school program.

2. In addition to the use of school buses and vehicles authorized pursuant to subsection 1, the board of trustees of a school district may permit school buses and vehicles belonging to the school district to be used for the transportation of children to and from:

- (a) Programs for the supervision of children before and after school; and
- (b) Other programs or activities that the board of trustees deems appropriate,

➡ regardless of whether such programs or activities are part of a school program.

3. The use of school buses or vehicles belonging to the school district for the purposes enumerated in subsections 1 and 2 is governed by regulations made by the board of trustees, which must not conflict with regulations of the

State Board. Proper supervision for each vehicle so used must be furnished by school authorities, and each school bus must be operated by a driver qualified under the provisions of NRS 392.300 to 392.410, inclusive ~~[]~~, *and section 1 of this act.*

4. A driver shall not operate a vehicle for the purposes enumerated in subsections 1 and 2 for more than 10 hours in a 15-hour period. The time spent operating, inspecting, loading, unloading, repairing and servicing the vehicle and waiting for passengers must be included in determining the 15-hour period. After 10 hours of operating a vehicle, the driver must rest for 10 hours before he or she again operates a vehicle for such purposes.

5. Before January 1, 1984, the State Board shall adopt regulations to carry out the provisions of subsection 4.

Sec. 3. This act becomes effective upon passage and approval.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment requires that a bus-lease agreement include a minimum 20 percent security deposit.

Amendment adopted.

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

Assembly Bill No. 128.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 882.

SUMMARY—~~[Creates a power]~~ Revises provisions concerning powers of attorney for health care decisions_ [for adults with intellectual disabilities.] (BDR 13-418)

AN ACT relating to powers of attorney; creating a power of attorney for health care decisions for adults with intellectual disabilities; revising the form for a power of attorney for health care decisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth provisions governing durable powers of attorney for health care decisions. (NRS 162A.700-162A.860) Existing law specifically provides an example of a form for a power of attorney for health care. (NRS 162A.860) Section 3 of this bill provides ~~[examples]~~ an example of a form for a power of attorney for health care for adults with intellectual disabilities_ [and a form for end-of-life decisions for adults with intellectual disabilities.] Sections 3 and 6 of this bill include in the examples of the forms for a power of attorney for health care for adults with intellectual disabilities and a power of attorney for health care, respectively, the same form for end-of-life decisions.

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

Section 1. Chapter 162A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.*

Sec. 3. 1. *The form of a power of attorney for health care for an adult with an intellectual disability may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:*

*DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS*

My name is..... (insert your name) and my address is..... (insert your address). I would like to designate..... (insert the name of the person you wish to designate as your agent for health care decisions for you) as my agent for health care decisions for me if I am sick or hurt and need to see a doctor or go to the hospital. I understand what this means.

If I am sick or hurt, my agent should take me to the doctor. If my agent is not with me when I become sick or hurt, please contact my agent and ask him or her to come to the doctor's office. I would like the doctor to speak with my agent and me about my sickness or injury and whether I need any medicine or other treatment. After we speak with the doctor, I would like my agent to speak with me about the care or treatment. When we have made decisions about the care or treatment, my agent will tell the doctor about our decisions and sign any necessary papers.

If I am very sick or hurt, I may need to go to the hospital. I would like my agent to help me decide if I need to go to the hospital. If I go to the hospital, I would like the people who work at the hospital to try very hard to care for me. If I am able to communicate, I would like the doctor at the hospital to speak with me and my agent about what care or treatment I should receive, even if I am unable to understand what is being said about me. After we speak with the doctor, I would like my agent to help me decide what care or treatment I should receive. Once we decide, my agent will sign any necessary paperwork. If I am unable to communicate because of my illness or injury, I would like my agent to make decisions about my care or treatment based on what he or she thinks I would do and what is best for me.

I would like my agent to help me decide if I need to see a dentist and help me make decisions about what care or treatment I should receive from the dentist. Once we decide, my agent will sign any necessary paperwork.

I would also like my agent to be able to see and have copies of all my medical records. If my agent requests to see or have copies of my medical records, please allow him or her to see or have copies of the records.

I understand that my agent cannot make me receive any care or treatment that I do not want. I also understand that I can take away this power from my agent at any time, either by telling him or her that they are no longer my agent or by putting it in writing.

If my agent is unable to make health care decisions for me, then I designate..... (insert the name of another person you wish to designate as your alternative agent to make health care decisions for you) as my agent to make health care decisions for me as authorized in this document.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on (date) at (city), ... (state)

.....
(Signature)

AGENT SIGNATURE

As agent for..... (insert name of principal), I agree that a physician, health care facility or other provider of health care, acting in good faith, may rely on this power of attorney for health care and the signatures herein, and I understand that pursuant to NRS 162A.815, a physician, health care facility or other provider of health care that in good faith accepts an acknowledged power of attorney for health care is not subject to civil or criminal liability or discipline for unprofessional conduct for giving effect to a declaration contained within the power of attorney for health care or for following the direction of an agent named in the power of attorney for health care.

I also agree that:

1. *I have a duty to act in a manner consistent with the desires of..... (insert name of principal) as stated in this document or otherwise made known by..... (insert name of principal), or if his or her desires are unknown, to act in his or her best interest.*

2. *If..... (insert name of principal) revokes this power of attorney at any time, either verbally or in writing, I have a duty to inform any persons who may rely on this document, including, without limitation, treating physicians, hospital staff or other providers of health care, that I no longer have the authorities described in this document.*

3. *The provisions of NRS 162A.840 prohibit me from being named as an agent to make health care decisions in this document if I am a provider of health care, an employee of the principal's provider of health care or an operator or employee of a health care facility caring for the principal, unless I am the spouse, legal guardian or next of kin of the principal.*

4. *The provisions of NRS 162A.850 prohibit me from consenting to the following types of care or treatments on behalf of the principal, including, without limitation:*

(a) Commitment or placement of the principal in a facility for treatment of mental illness;

(b) Convulsive treatment;

(c) Psychosurgery;

(d) Sterilization;

(e) Abortion;

(f) Aversive intervention, as it is defined in NRS 449.766;

(g) Experimental medical, biomedical or behavioral treatment, or participation in any medical, biomedical or behavioral research program; or

(h) Any other care or treatment to which the principal prohibits the agent from consenting in this document.

5. End-of-life decisions must be made according to the wishes of..... (insert name of principal), as designated in the attached addendum. If his or her wishes are not known, such decisions must be made in consultation with the principal's treating physicians.

Signature: Residence Address:

Print Name:

Date:

Relationship to principal:

Length of relationship to principal:

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO YOU KNOW AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }

}ss.

County of..... }

On this..... day of....., in the year.., before me,..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL

.....

(Signature)

STATEMENT OF WITNESSES

(If you choose to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. The following people cannot be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: Residence Address:

Print Name:

Date:

Signature: Residence Address:

Print Name:

Date:

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature:

Signature:

Names: Address:

Print Name:

Date:

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

2. The form for end-of-life decisions of a power of attorney for health care for an adult with an intellectual disability may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

*END-OF-LIFE DECISIONS ADDENDUM
STATEMENT OF DESIRES*

(You can, but are not required to, state what you want to happen if you get very sick and are not likely to get well. You do not have to complete this form, but if you do, your agent must do as you ask if you cannot speak for yourself.)

..... (Insert name of agent) might have to decide, if you get very sick, whether to continue with your medicine or to stop your medicine, even if it means you might not live..... (Insert name of agent) will talk to you to find out what you want to do, and will follow your wishes.

If you are not able to talk to..... (insert name of agent), you can help him or her make these decisions for you by letting your agent know what you want.

Here are your choices. Please circle yes or no to each of the following statements and sign your name below:

1. I want to take all the medicine and receive any treatment I can to keep me alive regardless of how the medicine or treatment makes me feel. YES NO

2. I do not want to take medicine or receive treatment if my doctors think that the medicine or treatment will not help me. YES NO

3. I do not want to take medicine or receive treatment if I am very sick and suffering and the medicine or treatment will not help me get better. YES NO

4. I want to get food and water even if I do not want to take medicine or receive treatment. YES NO

(YOU MUST DATE AND SIGN THIS END-OF-LIFE DECISIONS ADDENDUM)

I sign my name to this End-of-Life Decisions Addendum on..... (date) at (city), ... (state)

.....

(Signature)

(THIS END-OF-LIFE DECISIONS ADDENDUM WILL NOT BE VALID UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO YOU KNOW AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

*State of Nevada }
 }ss.*

County of..... }

On this..... day of....., in the year..., before me,..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL

.....
(Signature)

STATEMENT OF WITNESSES

(If you choose to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. The following people cannot be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this End-of-Life Decisions Addendum in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by the power of attorney for health care and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: Residence Address:

Print Name:

Date:

Signature: Residence Address:

Print Name:

Date:

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature:

Signature:

Names: Address:

Print Name:

Date:

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

Sec. 4. NRS 162A.700 is hereby amended to read as follows:

162A.700 NRS 162A.700 to ~~162A.860,~~ 162A.850, inclusive, and section 2 of this act apply to any power of attorney containing the authority to make health care decisions.

Sec. 5. NRS 162A.710 is hereby amended to read as follows:

162A.710 As used in NRS 162A.700 to 162A.860, inclusive, and sections 2 and 3 of this act, unless the context otherwise requires, the words and terms defined in NRS 162A.720 to 162A.780, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 6. NRS 162A.860 is hereby amended to read as follows:

162A.860 ~~[The]~~ 1. Except as otherwise provided in section 3 of this act, the form of a power of attorney for health care may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

DURABLE POWER OF ATTORNEY
FOR HEALTH CARE DECISIONS

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY

INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF HEALTH CARE AGENT.

I, ...
(insert your name) do hereby designate and appoint:

Name:

Address:

Telephone Number:

as my agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or ~~(6.)~~ a properly executed End-of-Life Decisions Addendum.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your agent's authority to give consent for or other restrictions you wish to place on his or her agent's authority, you should list them in the space below. If you do not write any limitations, your agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my agent is subject to the following special provisions and limitations:

.....

.....

.....

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date:

6. ~~STATEMENT OF DESIRES.~~

~~(With respect to decisions to withhold or withdraw life sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)~~

~~(If the statement reflects your desires, initial the box next to the statement.)~~

~~1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long term survival, or the cost of the procedures.~~ [.....]

~~2. If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed.)~~ [.....]

~~3. If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if this subparagraph is initialed.)~~ _____ [_____]

~~4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld.~~ _____ [_____]

~~5. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life.~~ _____ [_____]

~~(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)~~

~~Other or Additional Statements of Desires:~~ _____

~~7.] DESIGNATION OF ALTERNATE AGENT.~~

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as

authorized in this document, such persons to serve in the order listed below:

A. First Alternative Agent

Name:

Address:

Telephone Number:

B. Second Alternative Agent

Name:

Address:

Telephone Number:

~~[8.]~~ 7. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

~~[9.]~~ 8. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

~~[10.]~~ 9. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

~~[11.]~~ 10. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, incompetency proceedings are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

~~[12.]~~ 11. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on (date) at (city), ... (state)

.....

(Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1)

SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC
(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }
 }ss.

County of}

On this..... day of....., in the year..., before me,..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL

.....
(Signature of Notary Public)

STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a ~~community~~ health care facility or an employee of an operator of a health care facility.

Signature: Residence Address:

Print Name:

Date:

Signature: Residence Address:

Print Name:

Date:.....

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature:.....

Signature:.....

Names: Address:

Print Name:

Date:.....

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

2. The form for end-of-life decisions of a power of attorney for health care may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

END-OF-LIFE DECISIONS ADDENDUM

STATEMENT OF DESIRES

(You can, but are not required to, state what you want to happen if you get very sick and are not likely to get well. You do not have to complete this form, but if you do, your agent must do as you ask if you cannot speak for yourself.)

..... (Insert name of agent) might have to decide, if you get very sick, whether to continue with your medicine or to stop your medicine, even if it means you might not live..... (Insert name of agent) will talk to you to find out what you want to do, and will follow your wishes.

If you are not able to talk to..... (insert name of agent), you can help him or her make these decisions for you by letting your agent know what you want.

Here are your choices. Please circle yes or no to each of the following statements and sign your name below:

1. I want to take all the medicine and receive any treatment I can to keep me alive regardless of how the medicine or treatment makes me feel. YES NO

2. I do not want to take medicine or receive treatment if my doctors think that the medicine or treatment will not help me. YES NO

3. I do not want to take medicine or receive treatment if I am very sick and

suffering and the medicine or treatment
will not help me get better. YES NO

4. I want to get food and water even
if I do not want to take medicine or
receive treatment. YES NO

(YOU MUST DATE AND SIGN THIS END-OF-LIFE

DECISIONS ADDENDUM)

I sign my name to this End-of-Life Decisions Addendum on.....
(date) at (city), ... (state)

(Signature)

(THIS END-OF-LIFE DECISIONS ADDENDUM WILL NOT BE
VALID UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO
QUALIFIED WITNESSES WHO YOU KNOW AND WHO ARE
PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR
SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY
PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC
(You may use acknowledgment before a notary public instead of the
statement of witnesses.)

State of Nevada }
 }ss.

County of..... }

On this..... day of....., in the year.., before me,..... (here insert name
of notary public) personally appeared..... (here insert name of
principal) personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person whose name is subscribed to this
instrument, and acknowledged that he or she executed it. I declare
under penalty of perjury that the person whose name is ascribed to this
instrument appears to be of sound mind and under no duress, fraud or
undue influence.

NOTARY SEAL

(Signature of Notary Public)

STATEMENT OF WITNESSES

(If you choose to use witnesses instead of having this document
notarized, you must use two qualified adult witnesses. The following
people cannot be used as a witness: (1) a person you designate as the
agent; (2) a provider of health care; (3) an employee of a provider of
health care; (4) the operator of a health care facility; or (5) an
employee of an operator of a health care facility. At least one of the
witnesses must make the additional declaration set out following the
place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally
known to me, that the principal signed or acknowledged this End-of-
Life Decisions Addendum in my presence, that the principal appears to
be of sound mind and under no duress, fraud or undue influence, that I

am not the person appointed as agent by the power of attorney for health care and that I am not a provider of health care, an employee of a provider of health care, the operator of a health care facility or an employee of an operator of a health care facility.

Signature: Residence Address:

Print Name:

Date:

Signature: Residence Address:

Print Name:

Date:

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature:

Signature:

Names: Address:

Print Name:

Date:

COPIES: You should retain an executed copy of this document and give one to your agent. The End-of-Life Decisions Addendum should be available so a copy may be given to your providers of health care.

Sec. 7. This act becomes effective upon passage and approval.

Senator Brower moved that the amendment not be adopted.

Remarks by Senator Brower.

This is an amendment that has been reconsidered and the Committee is recommending not to adopt it at this time.

Motion carried.

Bill ordered to third reading.

Assembly Bill No. 178.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 937.

SUMMARY—Revises provisions governing the discipline of pupils.
(BDR 34-248)

AN ACT relating to education; ~~{removing}~~ revising the ~~{requirement for}~~ circumstances under which a school is required to deem a pupil a habitual disciplinary problem; ~~{under certain circumstances}~~ revising provisions governing the notice provided to a parent or legal guardian concerning a pupil who is deemed a habitual disciplinary problem and the discipline

imposed on such a pupil; requiring such notice to be provided each time a pupil is suspended; revising provisions relating to a plan of behavior for a pupil; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a school to suspend or expel a pupil for at least one semester if that pupil is deemed a habitual disciplinary problem under certain circumstances, and requires the pupil to enroll in a private school, a program of independent study or be homeschooled for the period of suspension or expulsion. (NRS 392.466) Existing law further requires a school to notify the parent or legal guardian of a pupil when the pupil is suspended for fighting or commits an act that may cause the pupil to be deemed a habitual disciplinary problem. (NRS 392.4655) Section 1 of this bill instead requires a school to notify the parent or legal guardian of a pupil when the pupil is suspended for any reason. Section 1 also revises the requirements of such notice.

Existing law authorizes a school to develop a plan of behavior for a pupil who may be deemed a habitual disciplinary problem. (NRS 392.4655) Section 1 authorizes a school to develop such a plan of behavior if a pupil is suspended for any reason.

Existing law requires a principal of a school to deem a pupil enrolled in the school a habitual disciplinary problem if the pupil: (1) has threatened or extorted, or attempted to threaten or extort, another pupil or employee of the school; (2) has been suspended for initiating at least two fights on school property or in certain other circumstances; or (3) has a record of five suspensions from the school. (NRS 392.4655) Section 1 instead requires the principal of a school to designate a pupil as a habitual disciplinary problem if: (1) the pupil has threatened or extorted, or attempted to threaten or extort, another pupil or employee of the school two or more times, or the pupil has a record of five suspensions from the school; and (2) the pupil has not entered into and participated in a plan of behavior.

Section 2 of this bill removes the requirement that a pupil who is deemed a habitual disciplinary problem be suspended or expelled for at least one semester and instead authorizes the school to suspend the pupil from school for a period not to exceed one semester if the pupil is deemed a habitual disciplinary problem or expel the pupil from school under extraordinary circumstances. Section 2 further requires that a pupil enroll in a private school, a program of independent study or be homeschooled if the pupil is expelled or for the period of suspension only if the suspension is for one semester. ~~[Section 1 of this bill revises the requirements of the written notice that a school must provide to the parent or legal guardian of a pupil relating to the possibility of suspension or expulsion if the pupil is deemed a habitual disciplinary problem. Section 1 also makes the designation of a pupil as a habitual disciplinary problem permissive rather than mandatory when the pupil commits certain acts.]~~

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

Section 1. NRS 392.4655 is hereby amended to read as follows:

392.4655 1. Except as otherwise provided in this section, a principal of a school shall ~~may~~ deem a pupil enrolled in the school a habitual disciplinary problem if the school has written evidence which documents that in 1 school year:

(a) The pupil has threatened or extorted, or attempted to threaten or extort, another pupil or a teacher or other personnel employed by the school ~~;~~

~~(b) The pupil has been suspended for initiating at least two fights on school property, at an activity sponsored by a public school, on a school bus or, if the fight occurs within 1 hour of the beginning or end of a school day, on the pupil's way to or from school; or~~

~~(c) The~~ two or more times or the pupil has a record of five suspensions from the school for any reason ~~;~~ ; and

(b) The pupil has not entered into and participated in a plan of behavior pursuant to subsection 5.

2. At least one teacher of a pupil who is enrolled in elementary school and at least two teachers of a pupil who is enrolled in junior high, middle school or high school may request that the principal of the school deem a pupil a habitual disciplinary problem. Upon such a request, the principal of the school shall meet with each teacher who made the request to review the pupil's record of discipline. If, after the review, the principal of the school determines that the provisions of subsection 1 do not apply to the pupil, a teacher who submitted a request pursuant to this subsection may appeal that determination to the board of trustees of the school district. Upon receipt of such a request, the board of trustees shall review the initial request and determination pursuant to the procedure established by the board of trustees for such matters.

3. If a pupil is suspended ~~, [for initiating a fight described in paragraph (b) of subsection 1 and the fight is the first such fight that the pupil has initiated during that school year, or if a pupil receives one suspension on the pupil's record,]~~ the school in which the pupil is enrolled shall provide written notice to the parent or legal guardian of the pupil that contains:

(a) A description of the ~~facts~~ act committed by the pupil and the ~~dates~~ date on which ~~[those acts were]~~ the act was committed;

(b) An explanation that ~~[if the pupil is suspended for initiating one additional fight or]~~ if the pupil receives five suspensions on his or her record during the current school year ~~;~~ and has not entered into and participated in a plan of behavior pursuant to subsection 5, the pupil will be deemed a habitual disciplinary problem;

(c) An explanation that, pursuant to subsection 3 of NRS 392.466, a pupil who is deemed a habitual disciplinary problem ~~[must]~~ may be ~~[suspended or expelled]~~ :

(1) Suspended from school for a period ~~[equal to at least one school semester,]~~ not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or

(2) *Expelled from school under extraordinary circumstances as determined by the principal of the school;*

(d) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.520, an explanation of the effect of subsection ~~{6}~~ 7 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from school in the same manner as a pupil without a disability; and

(e) ~~{If applicable, a}~~ 4 summary of the provisions of subsection ~~{4}~~ 5. ~~{---}~~ 4. A school shall provide the notice required by ~~{this}~~ subsection 3 for each suspension on the record of a pupil during a school year. ~~{A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.}~~

~~{4}~~ *Such notice must be provided at least 7 days before the school deems the pupil a habitual disciplinary problem.*

5. If a pupil is suspended, ~~{for initiating a fight described in paragraph (b) of subsection 1 and the fight is the first such fight that the pupil has initiated during that school year, or if a pupil receives four suspensions on the pupil's record within 1 school year,}~~ the school in which the pupil is enrolled may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation: ~~{, a voluntary agreement by:}~~

(a) ~~{The}~~ *A plan for graduating if the pupil is deficient in credits and not likely to graduate according to schedule.*

(b) *Information regarding schools with a mission to serve pupils who have been:*

(1) *Expelled or suspended from a public school, including, without limitation, a charter school; or*

(2) *Deemed to be a habitual disciplinary problem pursuant to this section.*

(c) *A voluntary agreement by the parent or legal guardian to attend school with his or her child.*

~~{(b) The}~~

(d) *A voluntary agreement by the pupil and the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community.*

~~{(c) The}~~

(e) *A voluntary agreement by the pupil and the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.*

~~{---}~~ 6. If ~~{the}~~ a pupil commits the same act for which notice was provided pursuant to subsection 3 after he or she enters into a plan of behavior ~~{,}~~

pursuant to subsection 5, the pupil shall be deemed to have not successfully completed the plan of behavior and may be deemed a habitual disciplinary problem.

~~[5. If a pupil commits an act the commission of which qualifies the pupil to be deemed a habitual disciplinary problem pursuant to subsection 1, the school shall provide written notice to the parent or legal guardian of the pupil that contains:~~

~~— (a) A description of the qualifying act and any previous such acts committed by the pupil and the dates on which those acts were committed;~~

~~— (b) An explanation that pursuant to subsection 3 of NRS 392.466, a pupil who is a habitual disciplinary problem must may be suspended or expelled;~~

~~— (1) Suspended from that school for a period equal to at least one school semester; not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or~~

~~— (2) Expelled from school under extraordinary circumstances as determined by the principal of the school;~~

~~— (c) If the pupil has a disability and is participating in a program of special education pursuant to NRS 388.520, an explanation of the effect of subsection 6 7 of NRS 392.466, including, without limitation, that if it is determined in accordance with 20 U.S.C. 1415 that the pupil's behavior is not a manifestation of the pupil's disability, he or she may be suspended or expelled from that school in the same manner as a pupil without a disability; and~~

~~— (d) If applicable, a summary of the provisions of subsection 6.~~

~~→ The school shall provide the notice at least 7 days before the school deems the pupil a habitual disciplinary problem. A school may include the notice required by this subsection with notice that is otherwise provided to the parent or legal guardian of a pupil which informs the parent or legal guardian of the act committed by the pupil.~~

~~— 6. Before a school deems a pupil a habitual disciplinary problem and suspends or expels the pupil, the school may develop, in consultation with the pupil and the parent or legal guardian of the pupil, a plan of behavior for the pupil. Such a plan must be designed to prevent the pupil from being deemed a habitual disciplinary problem and may include, without limitation, a voluntary agreement by:~~

~~— (a) The parent or legal guardian to attend that school with his or her child;~~

~~— (b) The pupil and the pupil's parent or legal guardian to attend counseling, programs or services available in the school district or community;~~

~~— (c) The pupil and the pupil's parent or legal guardian that the pupil will attend summer school, intersession school or school on Saturday, if any of those alternatives are offered by the school district.~~

~~→ If the pupil violates the conditions of the plan or commits the same act for which notice was provided pursuant to subsection 5 after he or she enters into a plan of behavior, the pupil shall may be deemed a habitual disciplinary problem.]~~

7. A pupil may, pursuant to the provisions of this section, enter into one plan of behavior per school year.

8. The parent or legal guardian of a pupil who has entered into a plan of behavior with a school pursuant to this section may appeal to the board of trustees of the school district a determination made by the school concerning the contents of the plan of behavior or action taken by the school pursuant to the plan of behavior. Upon receipt of such a request, the board of trustees of the school district shall review the determination in accordance with the procedure established by the board of trustees for such matters.

Sec. 2. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although the pupil may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although the pupil may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

➡ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil ~~[must]~~ may be ~~[suspended or expelled]~~ :

(a) ~~Suspended from the school for a period [equal to at least one semester for that school. For]~~ not to exceed one school semester as determined by the seriousness of the acts which were the basis for the discipline; or

(b) *Expelled from school under extraordinary circumstances as determined by the principal of the school.*

4. *If the pupil is expelled, or the period of the pupil's suspension ~~[or expulsion,]~~ is for one school semester, the pupil must:*

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if the pupil qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

~~{4.}~~ 5. This section does not prohibit a pupil from having in his or her possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

~~{5.}~~ 6. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

~~{6.}~~ 7. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented or who receives early intervening services, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

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

~~{7.}~~ 8. As used in this section:

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

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a

nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. 921, as that section existed on July 1, 1995.

~~{8.}~~ 9. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if the pupil is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to the pupil's suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment: authorizes a school to develop a behavior plan when a student is suspended for any reason; requires that the school principal deem a student to be a habitual disciplinary problem under certain circumstances, which additionally includes failure to enter into and participate in a behavior plan; adds provisions to the behavior plan related to addressing credit deficiencies, provides the student with information concerning schools with special missions; and revises the related requirements to notify a parent or guardian.

Amendment adopted.

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

Assembly Bill No. 325.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 843.

SUMMARY—Enacts and revises provisions ~~[governing persons engaged in the business of a private professional guardian.]~~ relating to guardians. (BDR 54-976)

AN ACT relating to ~~[private professional]~~ guardians; requiring licensing for certain persons engaged in the business of a private professional guardian; establishing the requirements for the licensing and operation of a private professional guardian company; amending provisions ~~[related]~~ relating to the appointment of a guardian under certain circumstances; adding provisions governing the appointment of certain preferred persons as guardians for adult wards; revising provisions relating to the appointment of a guardian for a minor; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the court appointment of a private professional guardian to act as a fiduciary for a person or estate, but does not require the private professional guardian to be licensed. (NRS 159.0595) This bill requires the licensing of certain persons engaging in the business of a private professional guardian and authorizes the Commissioner of Financial Institutions to adopt regulations relating to the licensing of those persons.

Sections 15-17 of this bill make it unlawful for a person to act as a private professional guardian without being licensed. Section 12 of this bill provides certain exceptions to the licensing and other regulatory requirements. Sections 18-26 of this bill establish the requirements and application process to obtain a license to transact the business of a private professional guardian. Section 28 of this bill sets forth requirements relating to the change of ownership or transfer of assets of a private professional guardian company. Section 29 of this bill establishes the process for the renewal of a license. Section 30 of this bill establishes the process for surrender of a license.

Section 31 of this bill requires a licensee to keep a principal office in this State. Section 32 of this bill establishes procedures for the Commissioner to approve an out-of-state office of a private professional guardian company. Section 33 of this bill requires a licensee to maintain certain types and levels of bonds and insurance.

Section 35 of this bill establishes the rights and authority of a licensee. Section 36 of this bill prohibits certain activities by a licensee. Sections 37-41 of this bill establish requirements for accounting, reporting and auditing of a private professional guardian company and authorize the Commissioner or a designee to inspect certain records of a private professional guardian company.

Sections 42-46 of this bill establish procedures for the Commissioner to take administrative action against licensees. Sections 47 and 48 of this bill establish procedures for handling a complaint against a private professional guardian company. Sections 49 and 50 of this bill provide administrative and criminal penalties for violating certain provisions of this bill.

Existing law ~~requires that, subject to certain exceptions, a person must be a resident of this State to be appointed as a guardian. (NRS 159.059) Existing law also requires a court to appoint as guardian for an incompetent the qualified person who is most suitable and is willing to serve as a guardian. (NRS 159.061) Sections 50.5 and 51.5 of this bill require a court to appoint as guardian for an incompetent a person who, regardless of whether the person is a resident of this State, has been requested to be appointed as guardian in a written instrument executed by the incompetent while he or she was competent, if that person is willing to serve and is otherwise determined to be qualified and suitable.~~ provides for the appointment, qualifications and duties of guardians for certain minor and adult wards. (Chapter 159 of NRS) Existing law prohibits a nonresident of Nevada from being appointed as a guardian for a minor or adult ward unless the person has associated a co-guardian who is a resident of Nevada or a banking corporation whose

principal place of business is in Nevada. (NRS 159.059) Existing law also gives preference to certain persons to be appointed as a guardian for a minor ward but does not give preference to any persons to be appointed as a guardian for an adult ward. (NRS 159.061)

Sections 50.2 and 52.7 of this bill revise the circumstances under which a court is authorized to appoint a nonresident as a guardian for an adult ward. Section 52.5 eliminates existing limitations on the authority of a court to appoint a nonresident as a guardian for a minor ward. Section 50.2 also requires the court to give preference in appointing a guardian for an adult ward to the following persons in the following order, whether or not the person is a nonresident: (1) a nominated person, who is a person the adult ward specifically nominated or requested as a guardian in a will, trust or other written document executed by the adult ward while competent; or (2) a relative. If two or more nominated persons are qualified and suitable to be appointed as a guardian, section 50.2 authorizes the court to appoint two or more co-guardians or generally requires the court to give preference to the nominated person named in a will, trust or other written document that is part of the adult's established estate plan, but there are certain exceptions for extraordinary circumstances.

In selecting a guardian, section 50.2 does not allow the court to give preference to a resident over a nonresident if the court determines that the nonresident would be a more qualified and suitable guardian and the adult would receive continuing care and supervision under the guardianship of the nonresident. If the court selects a nonresident guardian, section 50.2 requires the court to order the nonresident guardian to designate a registered agent in this State.

Section 51.5 of this bill revises the existing list of persons who are preferred for appointment as a guardian to a minor to include any person recommended by: (1) an agency which provides child welfare services, an agency which provides child protective services or a similar agency; or (2) a guardian ad litem or court appointed special advocate who represents the minor.

Sections 51-51.9 and 52.5 of this bill make conforming changes to reflect the changes made by the other sections of this bill.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 50, inclusive, of this act.

Sec. 2. *The Legislature finds and declares that:*

1. *There exists in this State a need, in order to provide for the protection of the public interest, to regulate persons engaged in the business of private professional guardians.*

2. *Persons engaging in the business of private professional guardians must be licensed and regulated in such a manner as to promote advantages and convenience for the public while protecting the public interest.*

3. *It is the purpose of this chapter to bring under public supervision persons who are engaged in or who desire to engage in the business of a private professional guardian and to ensure that there is established in this State an adequate, efficient and competitive private professional guardian service available to the courts and the public at large.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 11, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 4. *"Business of a private professional guardian" means the holding out by a person, through advertising, solicitation or other means, that the person is available to act for compensation as a private professional guardian.*

Sec. 5. *"Commissioner" means the Commissioner of Financial Institutions.*

Sec. 6. *"Director" means the Director of the Department of Business and Industry.*

Sec. 7. *"Division" means the Division of Financial Institutions of the Department of Business and Industry.*

Sec. 8. *"Fiduciary" means a person who has the power and authority to act for a beneficiary under circumstances requiring trust, good faith and honesty.*

Sec. 9. 1. "Private professional guardian" has the meaning ascribed to it in NRS 159.024.

2. For the purposes of this chapter, the term does not include a person who serves as a private professional guardian but who is exempt pursuant to NRS 159.0595 or section 12 of this act from the requirement to have a license issued pursuant to this chapter.

Sec. 10. 1. "Private professional guardian company" means a natural person or business entity, including, without limitation, a sole proprietorship, partnership, limited-liability company or corporation, that is licensed pursuant to the provisions of this chapter to engage in the business of a private professional guardian, whether appointed by a court or hired by a private party.

2. For the purposes of this chapter, the term does not include a natural person or business entity which engages in the business of a private professional guardian but which is exempt pursuant to NRS 159.0595 or section 12 of this act from the requirement to have a license issued pursuant to this chapter.

Sec. 11. *"Ward" has the meaning ascribed to it in NRS 159.027.*

Sec. 12. *This chapter does not apply to a person who:*

1. *Is a public guardian or administrator appointed by the court;*
2. *Is a banking corporation as defined in NRS 657.016;*

3. ~~Is [appointed] an organization permitted to act as a fiduciary pursuant to NRS 662.245;~~

~~f2.1~~ 4. Is a trust company as defined in NRS 669.070;

5. Is acting in the performance of his or her duties as an attorney at law;

~~f4.1~~ 6. Acts as a trustee under a deed of trust;

~~f5.1~~ 7. Acts as a fiduciary under a court trust; or

~~f6.1~~ 8. Acts as a fiduciary as an individual or a family member.

Sec. 13. The Commissioner shall administer and enforce the provisions of this chapter subject to the administrative supervision of the Director.

Sec. 14. The Commissioner may adopt regulations to carry out the provisions of this chapter.

Sec. 15. It is unlawful for any person to engage in the business of a private professional guardian without having a license issued by the Commissioner pursuant to this chapter.

Sec. 16. A person who does not have a license issued pursuant to this chapter shall not:

1. Use the term "private professional guardian" or "guardianship services" as a part of his or her business name.

2. Advertise or use any sign which includes the term "private professional guardian."

Sec. 17. 1. The Commissioner shall conduct an investigation if he or she receives a verified complaint that an unlicensed person is engaging in an activity for which a license is required pursuant to this chapter.

2. If the Commissioner determines that an unlicensed person is engaged in an activity for which a license is required pursuant to this chapter, the Commissioner shall ~~issue~~ :

(a) Issue and serve on the person an order to cease and desist from engaging in the activity until such time as the person obtains a license issued by the Commissioner ~~f.1~~; and

(b) Send a copy of the order to each district court in this State.

3. If a person upon whom an order to cease and desist is served pursuant to subsection 2 does not comply with the order within 30 days after the service of the order, the Commissioner shall, after providing to the person notice and an opportunity for a hearing:

(a) Impose upon the person an administrative fine of \$10,000; or

(b) Enter into a written agreement with the person pursuant to which the person agrees to cease and desist from engaging in any activity in this State for which a license is required relating to the business of a private professional guardian and impose upon the person an administrative fine of not less than \$5,000 and not more than \$10,000.

4. The Commissioner shall bring suit in the name and on behalf of the State of Nevada against a person upon whom an administrative fine is imposed pursuant to subsection 3 to recover the amount of the administrative fine if:

(a) No petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after notice of the imposition of the fine; or

(b) A petition for judicial review is filed pursuant to NRS 233B.130 and the fine remains unpaid for at least 90 days after the exhaustion of any right of appeal in the courts of this State resulting in a final determination that upholds the imposition of the fine.

5. A person's liability for an administrative fine is in addition to any other penalty provided for in this chapter.

Sec. 18. 1. A person wishing to engage in the business of a private professional guardian in this State must file with the Commissioner an application on a form prescribed by the Commissioner, which must contain or be accompanied by such information as is required.

2. A nonrefundable fee of not more than \$750 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary.

3. The application must contain:

(a) The name of the applicant and the name under which the applicant does business or expects to do business, if different.

(b) The complete business and residence addresses of the applicant.

(c) The character of the business sought to be carried on.

(d) The address of any location where business will be transacted.

(e) In the case of a firm or partnership, the full name and residence address of each member or partner and the manager.

(f) In the case of a corporation or voluntary association, the name and residence address of each director and officer and the manager.

(g) A statement ~~that, under penalty of perjury that~~ by the applicant ~~has complied~~ acknowledging that the applicant is required to comply with the provisions of NRS ~~159.059 and~~ 159.059 ~~if issued a license.~~

(h) Any other information reasonably related to the applicant's qualifications for the license which the Commissioner determines to be necessary.

4. Each application for a license must have attached to it a financial statement showing the assets, liabilities and net worth of the applicant.

5. In addition to any other requirements, each applicant or member, partner, director, officer, manager or case manager of an applicant shall submit to the Commissioner a complete set of fingerprints and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

6. If the applicant is a corporation or limited-liability company, the articles of incorporation or articles of organization must contain:

(a) The name adopted by the private professional guardian company, which must distinguish it from any other private professional guardian

company formed or incorporated in this State or engaged in the business of a private professional guardian in this State; and

(b) The purpose for which it is formed.

7. *The Commissioner shall deem an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 6 months after the date the application is submitted to the Commissioner. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays the required fees.*

8. *The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section, subject to the following limitations:*

(a) An initial fee of not more than \$1,500 for a license to transact the business of a private professional guardian; and

(b) A fee of not more than \$300 for each branch office that is authorized by the Commissioner.

9. *All money received by the Commissioner pursuant to this section must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.*

Sec. 19. 1. *In addition to any other requirements set forth in this chapter:*

(a) An applicant for the issuance of a license to engage in the business of a private professional guardian shall include the social security number of the applicant or applicants in the application submitted to the Commissioner.

(b) An applicant for the issuance or renewal of a license to engage in the business of a private professional guardian shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. *The Commissioner shall include the statement required pursuant to subsection 1 in:*

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

(b) A separate form prescribed by the Commissioner.

3. *A license may not be issued or renewed by the Commissioner if the applicant:*

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

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

4. *If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the*

district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 20. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to engage in the business of a private professional guardian shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Commissioner.

3. A license may not be issued or renewed by the Commissioner if the applicant:

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

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

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

Sec. 21. 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to engage in the business of a private professional guardian, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. *The Commissioner shall reinstate a license that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.*

Sec. 22. 1. *Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:*

(a) That each person who will serve as a sole proprietor, partner of a partnership, member of a limited-liability company or director or officer of a corporation, and any person acting in a managerial or case manager capacity, as applicable:

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to engage in the business of a private professional guardian in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of those qualifications, including, without limitation, evidence that the applicant has passed an examination for private professional guardians specified by the Commissioner.

(2) Has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony or any crime involving fraud, misrepresentation, material omission, misappropriation, conversion or moral turpitude.

(3) Has not made a false statement of material fact on the application.

(4) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license issued pursuant to the provisions of this chapter was suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(5) Has not been a sole proprietor or an officer or member of the board of directors for an entity whose license as a private professional guardian company which was issued by any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application if, in the reasonable judgment of the Commissioner, there is evidence that the sole proprietor, officer or member materially contributed to the actions resulting in the suspension or revocation of the license.

(6) Has not violated any of the provisions of this chapter or any regulations adopted pursuant thereto.

(b) That the financial status of each sole proprietor, partner, member or director and officer of the corporation and person acting in a managerial or case manager capacity indicates fiscal responsibility consistent with his or her position.

(c) That the name of the proposed business complies with all applicable statutes.

(d) That, except as otherwise provided in section 33 of this act, the initial surety bond is not less than the amount required by NRS 159.065.

2. In rendering a decision on an application for a license, the Commissioner shall consider, without limitation:

(a) The proposed markets to be served and, if they extend outside this State, any exceptional risk, examination or supervision concerns associated with those markets;

(b) Whether the proposed organizational and equity structure and the amount of initial equity or fidelity and surety bonds of the applicant appear adequate in relation to the proposed business and markets, including, without limitation, the average level of assets under guardianship projected for each of the first 3 years of operation; and

(c) Whether the applicant has planned suitable annual audits conducted by qualified outside auditors of its books and records and its fiduciary activities under applicable accounting rules and standards as well as suitable internal audits.

Sec. 23. 1. After conducting an investigation pursuant to section 22 of this act, if the Commissioner finds grounds for the denial of the application, the Commissioner shall provide to the applicant written notice of such grounds by personal service or certified mail.

2. The applicant may cure any defect or deficiency in the application and, not more than 30 days after receipt of the notice pursuant to subsection 1, resubmit the application for approval.

3. If an application is not approved, the Commissioner shall ~~provide~~ :

(a) Enter an order denying the application and provide to the applicant written notice of the denial by personal service or certified mail ~~[- The]~~ ; and

(b) Send a copy of the order denying the application to each district court in each county where the applicant proposed to do business based on the information provided in the application.

4. If the Commissioner enters an order denying an application, the applicant may request a hearing before the Commissioner, but if no such ~~[application]~~ request is made within 30 days after the entry of ~~an~~ the order ~~[refusing a license to any person,]~~ denying the application, the Commissioner shall enter a final order.

~~[4. The decision]~~

5. A final order of the Commissioner denying an application is a final order for the purposes of judicial review.

Sec. 24. The Commissioner shall approve the application for a license, keeping on file his or her findings of fact pertaining thereto, if the Commissioner finds that the applicant has met all the requirements of this chapter pertaining to the applicant's qualifications and application.

Sec. 25. 1. If the Commissioner approves an application pursuant to section 24 of this act and the applicant pays the required fees, the

Commissioner shall issue to the applicant a license to engage in the business of a private professional guardian.

2. A license issued pursuant to subsection 1 must contain:

(a) The name of the licensee.

(b) The locations by street and number where the licensee is authorized to engage in business.

(c) The number and the date of issuance of the license.

(d) That the license is issued pursuant to this chapter and that the licensee is authorized to engage in the business of a private professional guardian under this chapter.

(e) The expiration date of July 1 of the next year.

Sec. 26. 1. The Commissioner shall maintain in the Office of the Commissioner, in a suitable record provided for that purpose, each application for a license and all bonds required to be filed pursuant to this chapter. The record must state the date of issuance or denial of the license and the date and nature of any action taken relating to an application.

2. Each license issued by the Commissioner must be sufficiently identified in the record.

3. Each renewal of a license must be recorded in the same manner as the original license, and the number of the preceding license issued must be recorded.

Sec. 27. Each license issued pursuant to this chapter must be conspicuously displayed in the place of business designated in the license.

Sec. 28. 1. A license issued pursuant to this chapter is not transferable or assignable, but upon the approval of the Commissioner and any applicable court of jurisdiction, a licensee may merge or consolidate with, or transfer its assets and control to, another person who holds a license pursuant to this chapter. In determining whether to grant the approval, the Commissioner may consider the factors set forth in section 22 of this act.

2. If a change in the control of a private professional guardian company occurs, the chief executive officer or managing member of the company shall report the change in control and the name of the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A private professional guardian company shall, within 5 business days after a change in the chief executive officer, managing member or a majority of the directors or managing directors of the company occurs, report the change to the Commissioner. The company shall include in its report to the Commissioner a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who intends to acquire control of a private professional guardian company shall submit an application to the Commissioner. The

application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation pursuant to section 22 of this act to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to control the private professional guardian company in a manner which protects the interests of the general public.

5. The private professional guardian company of which the applicant intends to acquire control shall pay the nonrefundable cost of the investigation as required by the Commissioner. If the Commissioner denies the application, the Commissioner may prohibit or limit the applicant's participation in the business.

6. As used in this section, "control" means the possession, directly or indirectly, of the authority to direct or cause the direction of the management and policy of a private professional guardian company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, the company.

Sec. 29. 1. A private professional guardian company wishing to renew a license to engage in the business of a private professional guardian shall file in the Office of the Commissioner, on or before the June 1 of the year after the year of the original issuance of the license, an application, which must contain, without limitation, the number of the license being renewed. The application for renewal must be accompanied by a renewal fee of not more than \$1,500 and all information required to complete the application.

2. The Commissioner shall issue a renewal license to the applicant, which must be dated July 1 next ensuing the date of the application, in form and text similar to the original except that, in addition, the renewal must include the date and number of the earliest license issued.

3. All requirements of this chapter with respect to original licenses and bonds apply to all renewal licenses and bonds, except as otherwise provided in this section.

4. The Commissioner shall refuse to renew a license if at the time of application a proceeding to revoke or suspend the license is pending.

5. The Commissioner shall adopt regulations establishing the amount of the fee required pursuant to this section. All money collected under the provisions of this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 30. 1. If any private professional guardian company wishes to discontinue its business, the company shall furnish to the Commissioner satisfactory evidence of the release and discharge from all obligations which the company has assumed or which have been imposed by law. Thereafter, the Commissioner shall enter an order cancelling the license of the private professional guardian company.

2. If the Commissioner enters an order cancelling a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.

Sec. 31. 1. *A private professional guardian company licensed pursuant to this chapter shall maintain its principal office in this State.*

2. *To qualify as the principal office for the purposes of subsection 1, an office of the private professional guardian company must:*

(a) Have a verifiable physical location in this State at which the private professional guardian company conducts such business operations in this State as are necessary to administer private professional guardianships in this State;

(b) Have available at the office a private professional guardian who is licensed pursuant to this chapter, a permanent resident of this State and at least 21 years of age;

(c) Have any license issued pursuant to this chapter conspicuously displayed;

(d) Have available at the office originals or true copies of all material business records and accounts of the private professional guardian company, which must be readily available to access and readily available for examination by the Division;

(e) Have available to the public written procedures for making claims against the surety bond required to be maintained pursuant to section 33 of this act;

(f) Have available all services to residents of this State which are consistent with the business plan of the private professional guardian company included with the application for a license; and

(g) Comply with any other requirements specified by the Commissioner.

Sec. 32. 1. *It is unlawful for any person licensed pursuant to this chapter to engage in the business of a private professional guardian at any office outside this State without the prior approval of the Commissioner.*

2. *Before the Commissioner will approve a branch to be located outside this State, the private professional guardian must:*

(a) Obtain from that state any required license as a private professional guardian; or

(b) Provide proof satisfactory to the Commissioner that the private professional guardian company has met all the requirements to engage in the business of a private professional guardian in that state pursuant to its laws, including, without limitation, written documentation from the appropriate court or state agency that the private professional guardian company is authorized to do business in that state.

3. *For each branch location of a private professional guardian company organized under the laws of this State, and every branch location in this State of a foreign private professional guardian company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on forms prescribed by the Commissioner. A nonrefundable fee of not more than \$500, as provided by the Commissioner, must accompany each request. In addition, a fee of not more than \$200, to be prorated on the basis of the licensing year as provided by the Commissioner,*

must be paid at the time of making the request. Money collected pursuant to this section must be deposited in the Investigative Account for Financial Institutions created by NRS 232.545.

4. A foreign corporation or limited-liability company wishing to engage in the business of a private professional guardian in this State must use a name that distinguishes it from any other private professional guardian in this State.

Sec. 33. 1. The Commissioner may require a private professional guardian company to maintain equity, fidelity and surety bonds in amounts that are more than the minimum required initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the business plan of the private professional guardian or other information contained in the application, the Commissioner's investigation of the application or any examination of or filing by the private professional guardian company thereafter, including, without limitation, any examination before the opening of the business. In making such a determination, the Commissioner may consider, without limitation:

(a) The nature and type of business to be conducted by the private professional guardian company;

(b) The nature and liquidity of assets proposed to be held in the account of the private professional guardian company;

(c) The amount of fiduciary assets projected to be under the management or administration of the private professional guardian company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of the fiduciary duties and degree of discretion proposed to be undertaken by the private professional guardian company;

(f) The competence and experience of the proposed management of the private professional guardian company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The adequacy of fidelity and surety bonds and any additional insurance proposed to be obtained by the private professional guardian company for the purpose of protecting its fiduciary assets;

(k) The success of the private professional guardian company in achieving the financial projections submitted with its application for a license; and

(l) The fulfillment by the private professional guardian company of its representations and its descriptions of its business structures and methods and management set forth in its application for a license.

2. The director or manager of a private professional guardian company shall require fidelity bonds in the amount of at least \$25,000 on the sole

proprietor or each active officer, manager, member acting in a managerial or case manager capacity and employee, regardless of whether the person receives a salary or other compensation from the private professional guardian company, to indemnify the company against loss due to any dishonest, fraudulent or criminal act or omission by a person upon whom a bond is required pursuant to this section who acts alone or in combination with any other person. A bond required pursuant to this section may be in any form and may be paid for by the private professional guardian company.

3. A private professional guardian company shall obtain suitable insurance against burglary, robbery, theft and other hazards to which it may be exposed in the operation of its business.

4. A private professional guardian company shall obtain suitable surety bonds in accordance with NRS 159.065, as applicable.

5. The surety bond obtained pursuant to subsection 4 must be in a form approved by a court of competent jurisdiction and the Division and conditioned that the applicant conduct his or her business in accordance with the requirements of this chapter. The bond must be made and executed by the principal and a surety company authorized to write bonds in this State.

6. A private professional guardian company shall at least annually prescribe the amount or penal sum of the bonds or policies of the company and designate the sureties and underwriters thereof, after considering all known elements and factors constituting a risk or hazard. The action must be recorded in the minutes kept by the private professional guardian company and reported to the Commissioner.

7. The bond must cover all matters placed with the private professional guardian company during the term of the license or a renewal thereof.

8. An action may not be brought upon any bond after 2 years from the revocation or expiration of the license.

9. After 2 years, all liability of the surety or sureties upon the bond ceases if no action is commenced upon the bond.

Sec. 34. 1. The Commissioner shall revoke the license of a private professional guardian company ~~if~~

~~1. If the [private professional guardian] company [fails] :~~

~~(a) Fails to open for business within 6 months after the date the license was issued, or within an additional 6-month extension granted by the Commissioner upon written application and for good cause shown; or~~

~~[2. If the private professional guardian company fails]~~

~~(b) Fails for more than 30 consecutive days to maintain regular business hours or otherwise conduct the business of a private professional guardian.~~

2. If the Commissioner enters an order revoking a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.

Sec. 35. *Each private professional guardian company which is licensed pursuant to this chapter may, in the conduct of its business activities, within and outside this State, as applicable:*

- 1. Act under the order or appointment of any court as guardian.*
- 2. Accept and execute any activities and duties relating to the business of a private professional guardian as permitted by any law.*
- 3. Exercise the powers of a corporation, partnership or limited-liability company organized or qualified as a foreign corporation, partnership or limited-liability company under the laws of this State and any incidental powers that are reasonably necessary to enable it to exercise, in accordance with commonly accepted customs and usages, a power conferred by this chapter.*
- 4. Perform any act authorized by this chapter and any other applicable laws of this State.*

Sec. 36. *1. The fiduciary relationship which exists between a private professional guardian and the ward of the private professional guardian may not be used for the private gain of the guardian other than the remuneration for fees and expenses. A private professional guardian may not incur any obligation on behalf of the guardianship that conflicts with the discharge of the duties of the private professional guardian.*

2. Unless prior approval is obtained from a court of competent jurisdiction, a private professional guardian shall not:

- (a) Have any interest, financial or otherwise, direct or indirect, in any business transaction or activity with the guardianship.*
- (b) Acquire an ownership, possessory, security or other pecuniary interest adverse to the ward.*
- (c) Be knowingly designated as a beneficiary on any life insurance policy, pension or benefit plan of the ward unless such designation was validly made by the ward before the adjudication of the person's incapacity.*
- (d) Directly or indirectly purchase, rent, lease or sell any property or services from or to any business entity in which the private professional guardian, or the spouse or relative of the guardian, is an officer, partner, director, shareholder or proprietor or in which such a person has any financial interest.*

3. Any action taken by a private professional guardian which is prohibited by this section may be voided during the term of the guardianship or by the personal representative of the ward's estate. The private professional guardian is subject to removal and to imposition of personal liability through a proceeding for discharge, in addition to any other remedies otherwise available.

4. A court shall not appoint a private professional guardian that is not licensed pursuant to this chapter as the guardian of a person or estate. The court must review each guardianship involving a private professional guardian on the anniversary date of the appointment of the private professional guardian. If a private professional guardian does not hold a

current license, the court must replace the guardian until such time as the private professional guardian obtains the necessary license.

5. The provisions of NRS 159.076 regarding summary administration do not apply to a private professional guardian.

6. A licensee shall file any report required by the court in a timely manner.

Sec. 37. 1. Except as otherwise provided in NRS 159.076, a licensee shall maintain a separate guardianship account for each ward into which all money received for the benefit of the ward must be deposited. Each guardianship account must be maintained in an insured bank or credit union located in this State, be held in a name which is sufficient to distinguish it from the personal or general checking account of the licensee and be designated as a guardianship account. Each guardianship account must at all times account for all money received for the benefit of the ward and account for all money dispersed for the benefit of the ward, and no disbursement may be made from the account except as authorized under chapter 159 of NRS or as authorized by court order.

2. Each licensee shall keep a record of all money deposited in each guardianship account maintained for a ward, which must clearly indicate the date and from whom the money was received, the date the money was deposited, the dates of withdrawals of money and other pertinent information concerning the transactions. Records kept pursuant to this subsection must be maintained for at least 6 years after the completion of the last transaction concerning the account. The records must be maintained at the premises in this State at which the licensee is authorized to conduct business.

3. The Commissioner or his or her designee may conduct an examination of the guardianship accounts and records relating to wards of each private professional guardian company licensed pursuant to this chapter at any time to ensure compliance with the provisions of this chapter.

4. During the first year a private professional guardian is licensed in this State, the Commissioner or his or her designee may conduct any examinations deemed necessary to ensure compliance with the provisions of this chapter.

5. If there is evidence that a private professional guardian company has violated a provision of this chapter, the Commissioner or his or her designee may conduct additional examinations to determine whether a violation has occurred.

6. Each licensee shall authorize the Commissioner or his or her designee to examine all books, records, papers and effects of the private professional guardian company.

7. If the Commissioner determines that the records of a licensee are not maintained in accordance with subsections 1 and 2, the Commissioner may require the licensee to submit, within 60 days, an audited financial statement prepared from the records of the licensee by a certified public accountant who holds a certificate to engage in the practice of public accounting in this

State. The Commissioner may grant a reasonable extension of time for the submission of the financial statement if an extension is requested before the statement is due.

8. Upon the request of the Division, a licensee must provide to the Division copies of any documents reviewed during an examination conducted by the Commissioner or his or her designee pursuant to subsection 4, 5 or 6. If the copies are not provided, the Commissioner may subpoena the documents.

9. For each examination of the books, papers, records and effects of a private professional guardian company that is required or authorized pursuant to this chapter, the Commissioner shall charge and collect from the private professional guardian company a fee for conducting the examination and preparing a report of the examination based upon the rate established by regulation pursuant to NRS 658.101. Failure to pay the fee within 30 days after receipt of the bill is grounds for revoking the license of the private professional guardian company.

10. All money collected under this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 38. 1. After an examination is conducted pursuant to section 37 of this act, the person who conducted the examination shall prepare a written report of the results of the examination which must be signed by the Commissioner or his or her designee.

2. The written report must contain a true and detailed statement of the financial condition of the private professional guardian company and, if applicable, a full statement of any violations of the provisions of this chapter.

Sec. 39. 1. The Commissioner shall provide a copy of a report prepared pursuant to section 38 of this act to the president or secretary of the board of directors of the private professional guardian company if the company is a corporation, or to a manager or owner of the private professional guardian company if the company is not a corporation, and may make a copy available to each member of the board of directors or each manager or owner, as applicable. If, in the judgment of the Commissioner, the report discloses any violation of the provisions of this chapter committed by the private professional guardian company, or if it appears from the report that there are certain conditions existing which should be corrected by the private professional guardian company, the Commissioner may, in writing, call the matter to the attention of each member of the board of directors or each manager or owner, with instructions to correct the condition.

2. Upon the preparation of the report as provided in section 38 of this act, the Commissioner shall also serve a copy thereof to the court having jurisdiction of each ward of the private professional guardian company.

Sec. 40. 1. The Commissioner may require a licensee to submit an annual financial statement or an audited financial statement prepared by an independent certified public accountant licensed to do business in this State,

dependent upon the size and complexity of the private professional guardian company.

2. If applicable, on or before the fourth Monday in January of each year, each licensee shall submit to the Commissioner the stock ledger of stockholders of the corporation required to be maintained pursuant to paragraph (c) of subsection 1 of NRS 78.105 or the list of each member and manager required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified by the president or a manager, as appropriate.

3. A list of each member and manager submitted pursuant to subsection 2 must include the percentage of each member's interest in the company, in addition to the requirements set forth in NRS 86.241.

4. If a licensee fails to submit the ledger or list required pursuant to this section within the prescribed period, the Commissioner may impose and collect a fee of not more than \$10 for each day the report is late.

5. The Commissioner shall adopt regulations establishing the amount of the fee that may be imposed pursuant to this section.

Sec. 41. Except as otherwise provided in NRS 239.0115, any application and personal or financial records submitted to the Division pursuant to the provisions of this chapter and any personal or financial records or other documents obtained by the Division pursuant to an examination conducted by the Commissioner or his or her designee or in response to a subpoena are confidential and may be disclosed only to:

1. The Division, any authorized employee or representative of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; and

2. Any person if the Commissioner, in his or her discretion, determines that the interests of the public that would be protected by disclosure outweigh the interest of any person in the confidential information not being disclosed.

Sec. 42. 1. The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any private professional guardian company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the private professional guardian company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.

2. An officer, director, manager or employee of a private professional guardian company who is required to be removed from office pursuant to subsection 1 may appeal his or her removal by filing a written request for a hearing with the Commissioner within 10 days after the effective date of his or her removal. The Commissioner shall conduct the hearing after providing at least 5 days' written notice to the private professional guardian company and the officer, director, manager or employee who is appealing his or her removal from office. Within 5 days after the conclusion of the hearing, the

Commissioner shall enter an order affirming or disaffirming the removal of the person from office. An order of the Commissioner entered pursuant to this subsection is final for the purposes of judicial review.

Sec. 43. 1. The Commissioner may take administrative action against a licensee, including, without limitation, revoking or suspending the license, or initiate proceedings as provided in section 46 of this act if the company:

- (a) Has violated this chapter or any other state or federal laws applicable to the business of a private professional guardian.*
- (b) Is conducting the business in an unauthorized or unsafe manner.*
- (c) Is in an unsafe or unsound condition to transact business.*
- (d) Has an impairment of the surety bonds held by the company.*
- (e) Has an impairment of the fidelity bonds held by the company.*
- (f) Has become insolvent.*
- (g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.*
- (h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.*
- (i) Has refused to provide copies to the Division upon request, and in cooperation with any investigation, inspection or examination, of any and all documents reviewed by the Division during any such investigation, inspection or examination.*
- (j) Has failed to pay any state or local taxes as required.*
- (k) Has materially and willfully breached its fiduciary duties to a ward.*
- (l) Has failed to properly disclose all fees, interest and other charges to the court and the public.*
- (m) Has willfully engaged in material conflicts of interest regarding a ward.*
- (n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the private professional guardian company.*

2. The Commissioner also may initiate such proceedings to take possession of the business and property of any private professional guardian company if an officer, partner, member or sole proprietor of the private professional guardian company refuses to be examined upon oath regarding its affairs.

Sec. 44. 1. If the Commissioner has reason to believe that grounds for the revocation or suspension of a license exist, the Commissioner shall give at least 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

2. At the conclusion of a hearing, the Commissioner shall:

- (a) Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.*

(b) Impose upon the licensee an administrative fine of not more than \$10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Commissioner;

(c) The licensee has failed to pay any applicable state or local tax as required;

(d) Any fact or condition exists which would have justified the Commissioner in denying the original application for a license pursuant to the provisions of this chapter; or

(e) The licensee:

(1) Failed to open an office for the conduct of the business authorized by his or her license within 180 days after the date the license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 30 consecutive days without good cause therefor.

4. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

5. If the Commissioner enters an order suspending or revoking a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.

Sec. 45. 1. If the Commissioner finds that probable cause for the revocation of any license exists and that the public interest requires the immediate suspension of the license pending an investigation, the Commissioner may, upon 5 days' written notice offering the opportunity for a hearing, enter an order suspending the license for a period of not more than 20 days, pending a hearing upon the revocation of the license unless the opportunity for a hearing is waived by the licensee.

2. If the Commissioner enters an order suspending a license pursuant to this section, the Commissioner shall send a copy of the order to each district court in this State.

Sec. 46. 1. If the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, the Commissioner may, in addition to any action provided for in this chapter and chapter 233B of NRS and without prejudice thereto, enter an order requiring the person to cease and desist or to refrain from such violation. If the Commissioner enters such an order pursuant to this subsection, the Commissioner shall send a copy of the order to each district court in this State.

2. *The Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, irreparable harm and lack of an adequate remedy at law will be presumed and an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper. The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the issuance ex parte of a temporary restraining order.*

3. *In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the person, including books, papers, documents and records pertaining thereto, or so much thereof as a court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business, whether such books, papers, documents and records are in the possession of the person, a registered agent acting on behalf of the person or any other person. If a receiver is appointed and qualified, the receiver has such powers and duties relating to the custody, collection, administration, winding up and liquidation of such property and business as may be conferred upon the receiver by the court.*

4. *If a receiver is appointed pursuant to subsection 3, the receiver shall remit to the owners, members or shareholders of the private professional guardian company any amount of equity of the private professional guardian company remaining after the discharge of the liabilities and payment of the normal, prudent and reasonable expenses of the receivership.*

Sec. 47. 1. *Upon the filing with the Commissioner of a verified complaint against a private professional guardian company, the Commissioner shall investigate the alleged violation of the provisions of this chapter.*

2. *If the Commissioner determines that a complaint filed pursuant to subsection 1 warrants further action, the Commissioner shall send a copy of the complaint and notice of the date set for an informal hearing to the subject of the complaint and the Attorney General.*

3. *The Commissioner may require the private professional guardian company that is the subject of a complaint to file a verified answer to the complaint within 10 days after receipt of the complaint unless, for good cause shown, the Commissioner extends the time required for filing an answer for a period not to exceed 60 days.*

4. *If at the hearing the complaint is not explained to the satisfaction of the Commissioner, the Commissioner may take such action against the private professional guardian company as authorized by the provisions of this chapter.*

Sec. 48. 1. *Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other*

information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

2. The complaint or other documents filed by the Commissioner to initiate disciplinary action and all documents and information considered by the Commissioner when determining whether to impose discipline are public records.

Sec. 49. 1. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 per violation upon a person who violates any provision of this chapter or any regulation adopted pursuant thereto.

2. The maximum total fine that the Commissioner may impose on any person pursuant to this section with respect to the same or similar actions or series of actions which constitute the violations must not exceed the greater of \$250,000 or 125 percent of the monetary value of all losses incurred by the private professional guardian company and its wards as the direct or indirect result of such violations.

Sec. 50. 1. A licensee who knowingly or willfully neglects to perform any act or duty required by this chapter or other applicable law, or who knowingly or willfully fails to satisfy any material lawful requirement made by the Commissioner is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. If no other punishment is otherwise provided by law, a person who violates any provision of this chapter is guilty of a gross misdemeanor.

Sec. 50.2. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, in a proceeding to appoint a guardian for an adult, the court shall give preference to a nominated person or relative, in that order of preference:

(a) Whether or not the nominated person or relative is a resident of this State; and

(b) If the court determines that the nominated person or relative is qualified and suitable to be appointed as guardian for the adult.

2. In determining whether any nominated person, relative or other person listed in subsection 4 is qualified and suitable to be appointed as guardian for an adult, the court shall consider, if applicable and without limitation:

(a) The ability of the nominated person, relative or other person to provide for the basic needs of the adult, including, without limitation, food, shelter, clothing and medical care;

(b) Whether the nominated person, relative or other person has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS;

(c) Whether the nominated person, relative or other person has been judicially determined to have committed abuse, neglect, exploitation,

isolation or abandonment of a child, his or her spouse, his or her parent or any other adult, unless the court finds that it is in the best interests of the ward to appoint the person as guardian for the adult;

(d) Whether the nominated person, relative or other person is incompetent or has a disability; and

(e) Whether the nominated person, relative or other person has been convicted in this State or any other jurisdiction of a felony, unless the court determines that any such conviction should not disqualify the person from serving as guardian for the adult.

3. If the court finds that two or more nominated persons are qualified and suitable to be appointed as guardian for an adult, the court may appoint two or more nominated persons as co-guardians or shall give preference among them in the following order of preference:

(a) A person whom the adult nominated for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while competent.

(b) A person whom the adult requested for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while competent.

4. Subject to the preferences set forth in subsections 1 and 3, the court shall appoint as guardian the qualified person who is most suitable and is willing to serve. In determining which qualified person is most suitable, the court shall, in addition to considering any applicable factors set forth in subsection 2, give consideration, among other factors, to:

(a) Any nomination or request for the appointment as guardian by the adult.

(b) Any nomination or request for the appointment as guardian by a relative.

(c) The relationship by blood, adoption, marriage or domestic partnership of the proposed guardian to the adult. In considering preferences of appointment, the court may consider relatives of the half blood equally with those of the whole blood. The court may consider any relative in the following order of preference:

(1) A spouse or domestic partner.

(2) A child.

(3) A parent.

(4) Any relative with whom the adult has resided for more than 6 months before the filing of the petition or any relative who has a power of attorney executed by the adult while competent.

(5) Any relative currently acting as agent.

(6) A sibling.

(7) A grandparent or grandchild.

(8) An uncle, aunt, niece, nephew or cousin.

(9) Any other person recognized to be in a familial relationship with the adult.

(d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.

(e) Any request for the appointment of any other interested person that the court deems appropriate, including, without limitation, a person who is not a relative and who has a power of attorney executed by the adult while competent.

5. The court may appoint as guardian any nominated person, relative or other person listed in subsection 4 who is not a resident of this State. The court shall not give preference to a resident of this State over a nonresident if the court determines that:

(a) The nonresident is more qualified and suitable to serve as guardian; and

(b) The distance from the proposed guardian's place of residence and the adult's place of residence will not affect the quality of the guardianship or the ability of the proposed guardian to make decisions and respond quickly to the needs of the adult because:

(1) A person or care provider in this State is providing continuing care and supervision for the adult;

(2) The adult is in a secured residential long-term care facility in this State; or

(3) Within 30 days after the appointment of the proposed guardian, the proposed guardian will move to this State or the adult will move to the proposed guardian's state of residence.

6. If the court appoints a nonresident as guardian for the adult:

(a) The jurisdictional requirements of NRS 159.1991 to 159.2029, inclusive, must be met;

(b) The court shall order the guardian to designate a registered agent in this State in the same manner as a represented entity pursuant to chapter 77 of NRS; and

(c) The court may require the guardian to complete any available training concerning guardianships pursuant to NRS 159.0592, in this State or in the state of residence of the guardian, regarding:

(1) The legal duties and responsibilities of the guardian pursuant to this chapter;

(2) The preparation of records and the filing of annual reports regarding the finances and well-being of the adult required pursuant to NRS 159.073;

(3) The rights of the adult;

(4) The availability of local resources to aid the adult; and

(5) Any other matter the court deems necessary or prudent.

7. If the court finds that there is not any suitable nominated person, relative or other person listed in subsection 4 to appoint as guardian, the court may appoint as guardian:

(a) The public guardian of the county where the adult resides if:

(1) There is a public guardian in the county where the adult resides;
and

(2) The adult qualifies for a public guardian pursuant to chapter 253 of NRS;

(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the adult will be served appropriately by the appointment of a private fiduciary; or

(c) A private professional guardian who meets the requirements of NRS 159.0595.

8. A person is not qualified to be appointed as guardian for an adult if the person has been suspended for misconduct or disbarred from any of the professions listed in this subsection, but the disqualification applies only during the period of the suspension or disbarment. This subsection applies to:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession that:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state in which the person practices his or her profession.

9. As used in this section:

(a) "Adult" means a person who is a ward or a proposed ward and who is not a minor.

(b) "Domestic partner" means a person in a domestic partnership.

(c) "Domestic partnership" means:

(1) A domestic partnership as defined in NRS 122A.040; or

(2) A domestic partnership which was validly formed in another jurisdiction and which is substantially equivalent to a domestic partnership as defined in NRS 122A.040, regardless of whether it bears the name of a domestic partnership or is registered in this State.

(d) "Nominated person" means a person, whether or not a relative, whom an adult:

(1) Nominates for the appointment as guardian for the adult in a will, trust or other written instrument that is part of the adult's established estate plan and was executed by the adult while competent.

(2) Requests for the appointment as guardian for the adult in a written instrument that is not part of the adult's established estate plan and was executed by the adult while competent.

(e) "Relative" means a person who is 18 years of age or older and who is related to the adult by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity.

Sec. 50.3. NRS 159.024 is hereby amended to read as follows:

159.024 1. "Private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the guardian by blood or marriage.

2. For the purposes of this chapter, the term includes:

(a) A person who serves as a private professional guardian and who is required to have a license issued pursuant to sections 2 to 50, inclusive, of this act.

(b) A person who serves as a private professional guardian but who is exempt pursuant to NRS 159.0595 or section 12 of this act from the requirement to have a license issued pursuant to sections 2 to 50, inclusive, of this act.

3. The term does not include:

~~1-1~~ (a) A governmental agency.

~~2-1~~ (b) A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.

Sec. 50.5. [NRS 159.059 is hereby amended to read as follows:

159.059 Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.

2. Is a minor.

3. Has been convicted of a felony, unless the court determines that such conviction should not disqualify the person from serving as the guardian of the ward.

4. Has been suspended for misconduct or disbarred from:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession which:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state,
 ➔ during the period of the suspension or disbarment.

5. ~~[Is] Except as otherwise provided in subsection 2 of NRS 159.061, is a~~ nonresident of this State and:

(a) Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and

(b) Is not a petitioner in the guardianship proceeding.

6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.] (Deleted by amendment.)

Sec. 51. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. ~~[A]~~ In order for a person to serve as a private professional guardian, ~~[if a person,]~~ the person must be ~~[qualified]~~ :

(a) Qualified to serve as a guardian pursuant to ~~[NRS 159.059]~~ section 50.2 of this act if the ward is an adult or NRS 159.061 if the ward is a minor; and ~~[must be]~~

(b) A guardian who has a license issued pursuant to sections 2 to 50, inclusive, of this act or a certified guardian ~~[licensed]~~ who is not required to have such a license pursuant to ~~section 18 of this act~~ subsection 3.

2. ~~[A]~~ In order for an entity to serve as a private professional guardian, ~~[if an entity,]~~ the entity must ~~[be]~~ :

(a) Be qualified to serve as a guardian pursuant to ~~[NRS 159.059]~~ section 50.2 of this act if the ward is an adult;

(b) Have a license issued pursuant to sections 2 to 50, inclusive, of this act, unless the entity is not required to have such a license pursuant to subsection 3; and ~~[must have]~~

(c) Have a guardian who has a license issued pursuant to sections 2 to 50, inclusive, of this act or a certified guardian ~~[licensed]~~ who is not required to have such a license pursuant to ~~section 18 of this act~~ subsection 3 involved in the day-to-day operation or management of the entity.

3. ~~[A]~~ In order for a person or entity to serve as a private professional guardian ~~[shall, at his or her own cost and expense:~~

~~—(a) Undergo a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History and to the Federal Bureau of Investigation for their respective reports; and~~

~~—(b) Present the results of the background investigation to the court upon request.] , ~~[regardless of whether the private professional guardian is a]~~ the person or ~~[an]~~ entity ~~[must be licensed]~~ is not required to have a license issued pursuant to ~~section 18~~ sections 2 to 50, inclusive, of this act ~~[if]~~ if the person or entity is exempt from the requirement to have such a license pursuant to section 12 of this act and the person or entity:~~

(a) Is a banking corporation as defined in NRS 657.016;

(b) Is an organization permitted to act as a fiduciary pursuant to NRS 662.245;

(c) Is a trust company as defined in NRS 669.070;

(d) Is acting in the performance of his or her duties as an attorney at law;

(e) Acts as a trustee under a deed of trust; or

(f) Acts as a fiduciary under a court trust.

4. As used in this section:

(a) "Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

(c) "Person" means a natural person.

Sec. 51.5. NRS 159.061 is hereby amended to read as follows:

159.061 1. The parents of a minor, or either parent, if qualified and suitable, are preferred over all others for appointment as guardian for the

minor. The appointment of a parent as ~~an~~ guardian ~~of~~ *for* the ~~person~~ *minor* must not conflict with a valid order for custody of the minor.

2. In determining whether the parents of a minor, or either parent, *or any other person who seeks appointment as guardian for the minor* is qualified and suitable, the court shall consider, *if applicable and* without limitation:

- (a) Which parent has physical custody of the minor;
- (b) The ability of the parents, ~~or~~ parent *or other person* to provide for the basic needs of the ~~child,~~ *minor*, including, without limitation, food, shelter, clothing and medical care;
- (c) Whether the parents, ~~or~~ parent *or other person* has engaged in the habitual use of alcohol or any controlled substance during the previous 6 months, except the use of marijuana in accordance with the provisions of chapter 453A of NRS; ~~and~~
- (d) Whether the parents, ~~or~~ parent *or other person* has been convicted of a crime of moral turpitude, a crime involving domestic violence or a crime involving the *abuse, neglect, exploitation, isolation or abandonment* of a child ~~or~~, *his or her spouse, his or her parent or any other adult; and*
- (e) *Whether the parents, parent or other person has been convicted in this State or any other jurisdiction of a felony.*

~~[2. The court shall appoint as guardian for an incompetent any person, regardless of whether the person is a resident of this State, who has been requested to be appointed as guardian in a written instrument executed by the incompetent, while competent, if the person is willing to serve and is otherwise qualified and suitable.]~~

3. Subject to the preference set forth in subsection 1 ~~and except as otherwise provided in subsection 2,~~ the court shall appoint as guardian ~~for an incompetent, a person of limited capacity or minor~~ the qualified person who is most suitable and is willing to serve.

~~[3.]~~ 4. In determining ~~who~~ *which qualified person* is most suitable, the court shall ~~in addition to considering any applicable factors set forth in subsection 2,~~ give consideration, among other factors, to:

- ~~(a) Any request for the appointment as guardian for an incompetent contained in a written instrument executed by the incompetent while competent.~~
- ~~(b) Any nomination of a guardian for ~~an incompetent,~~ the minor ~~or person of limited capacity~~ contained in a will or other written instrument executed by a parent ~~or spouse~~ of the ~~proposed ward.~~~~
- ~~(c) minor.~~
- ~~(b) Any request ~~for the appointment as guardian for a~~ made by the minor, if he or she is 14 years of age or older ~~made by~~, for the appointment of a person as guardian for the minor.~~

~~(d)~~ (c) The relationship by blood ~~or~~ adoption ~~or marriage~~ of the proposed guardian to the ~~proposed ward,~~ *minor*. In considering preferences of appointment, the court may consider relatives of the half blood equally

with those of the whole blood. The court may consider relatives in the following order of preference:

- (1) ~~Spouse.~~
- ~~(2) Adult child.~~
- ~~(3) Parent.~~
- ~~((4)) (2) Adult sibling.~~
- ~~((5)) (3) Grandparent, for adult grandchild.~~
- ~~((6)) (4) Uncle, or aunt, adult niece or adult nephew.~~
- ~~((e)) (d) Any recommendation made by a master of the court or special master pursuant to NRS 159.0615.~~

~~((f)) (e) Any recommendation made by:~~

~~(1) An agency which provides child welfare services, an agency which provides child protective services or a similar agency; or~~

~~(2) A guardian ad litem or court appointed special advocate who represents the minor.~~

~~(f) Any request for the appointment of any other interested person that the court deems appropriate.~~

~~[4. 5. If the court finds that there is no suitable person to appoint as guardian pursuant to subsection 3, 4, the court may appoint as guardian:~~

~~(a) The public guardian of the county where the ward resides, if:~~

~~(1) There is a public guardian in the county where the ward resides; and~~

~~(2) The proposed ward qualifies for a public guardian pursuant to chapter 253 of NRS;~~

~~(b) A private fiduciary who may obtain a bond in this State and who is a resident of this State, if the court finds that the interests of the ward will be served appropriately by the appointment of a private fiduciary; or~~

~~(c) A private professional guardian who meets the requirements of NRS 159.0595.]~~

5. As used in this section, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

Sec. 51.7. NRS 159.185 is hereby amended to read as follows:

159.185 1. The court may remove a guardian if the court determines that:

(a) The guardian has become mentally incompetent, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

(b) The guardian is no longer qualified to act as a guardian pursuant to ~~[NRS 159.059;]~~ section 50.2 of this act if the ward is an adult or NRS 159.061 if the ward is a minor;

(c) The guardian has filed for bankruptcy within the previous 5 years;

(d) The guardian of the estate has mismanaged the estate of the ward;

(e) The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

(1) The negligence resulted in injury to the ward or the estate of the ward; or

(2) There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

(f) The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

(g) The best interests of the ward will be served by the appointment of another person as guardian; or

(h) The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

Sec. 51.9. NRS 159.2024 is hereby amended to read as follows:

159.2024 1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to NRS 159.1991 to 159.2029, inclusive, to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.

2. The court shall issue a provisional order granting a petition filed under subsection 1, unless:

(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the ward; or

(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to ~~NRS 159.059~~ *section 50.2 of this act if the ward is an adult or NRS 159.061 if the ward is a minor.*

3. The court shall issue a final order granting guardianship upon filing of a final order issued by the other state terminating proceedings in that state and transferring the proceedings to this State.

4. Not later than 90 days after the issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.

5. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the ward's incapacity and the appointment of the guardian or conservator.

Sec. 52. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,

127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,

687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and *sections 41 and 48 of this act* and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 52.3. NRS 253.150 is hereby amended to read as follows:

253.150 1. The board of county commissioners of each county shall establish the office of public guardian.

2. The board of county commissioners shall:

(a) Appoint a public guardian, who serves at the pleasure of the board, for a term of 4 years from the day of appointment;

(b) Designate an elected or appointed county officer as ex officio public guardian;

(c) Pursuant to the mechanism set forth in NRS 244.1507, designate another county officer to execute the powers and duties of the public guardian;

(d) Except in a county whose population is 100,000 or more, contract with a private professional guardian to act as public guardian; or

(e) Contract with the board of county commissioners of a neighboring county in the same judicial district to designate as public guardian the public guardian of the neighboring county.

3. The compensation of a public guardian appointed or designated pursuant to subsection 2 must be fixed by the board of county commissioners and paid out of the county general fund.

4. As used in this section, "private professional guardian" ~~means a person who receives compensation for services as a guardian to three or more wards who are not related to the person by blood or marriage. The~~ has the meaning ascribed to it in NRS 159.024, except that the term does not include:

(a) ~~A governmental agency.~~
~~(b)~~ A banking corporation, as defined in NRS 657.016, or an organization permitted to act as a fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.

~~(c)~~ (b) A trust company, as defined in NRS 669.070.

~~(d)~~ (c) A court-appointed attorney licensed to practice law in this State.

(d) A trustee under a deed of trust.

(e) A fiduciary under a court trust.

Sec. 52.5. NRS 432B.4665 is hereby amended to read as follows:

432B.4665 1. The court may, upon the filing of a petition pursuant to NRS 432B.466, appoint a person as a guardian for a child if:

(a) The court finds:
 (1) That the proposed guardian is suitable and is not disqualified from guardianship pursuant to NRS ~~159.059,~~ 159.061;

(2) That the child has been in the custody of the proposed guardian for 6 months or more pursuant to a determination by a court that the child was in need of protection, unless the court waives this requirement for good cause shown;

(3) ~~Except as otherwise provided in subsection 3, that~~ That the proposed guardian has complied with the requirements of chapter 159 of NRS; and

(4) That the burden of proof set forth in chapter 159 of NRS for the appointment of a guardian for a child has been satisfied;

(b) The child consents to the guardianship, if the child is 14 years of age or older; and

(c) The court determines that the requirements for filing a petition pursuant to NRS 432B.466 have been satisfied.

2. A guardianship established pursuant to this section:

(a) Provides the guardian with the powers and duties provided in NRS 159.079, and subjects the guardian to the limitations set forth in NRS 159.0805;

(b) Is subject to the provisions of NRS 159.065 to 159.076, inclusive, and 159.185 to 159.199, inclusive;

(c) Provides the guardian with sole legal and physical custody of the child;
(d) Does not result in the termination of parental rights of a parent of the child; and

(e) Does not affect any rights of the child to inheritance, a succession or any services or benefits provided by the Federal Government, this state or an agency or political subdivision of this state.

~~[3. The court may appoint as a guardian for a child pursuant to this section for not more than 6 months a person who does not satisfy the residency requirement set forth in subsection 5 of NRS 159.059 if the court determines that appointing such a person is necessary to facilitate the permanent placement of the child.]~~

Sec. 52.7. NRS 159.059 is hereby repealed.

Sec. 53. 1. This section and sections 2 to 19, inclusive, and 21 to ~~[52,]~~ 52.7, inclusive, of this act become effective:

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

(b) On January 1, 2016, for all other purposes.

2. Section 19 of this act expires by limitation on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
↪ are repealed by the Congress of the United States.

3. Section 20 of this act becomes effective on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,
↪ are repealed by the Congress of the United States.

4. Sections 20 and 21 of this act expire by limitation 2 years after the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTION

159.059 Qualifications of guardian. Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.
 2. Is a minor.
 3. Has been convicted of a felony, unless the court determines that such conviction should not disqualify the person from serving as the guardian of the ward.
 4. Has been suspended for misconduct or disbarred from:
 - (a) The practice of law;
 - (b) The practice of accounting; or
 - (c) Any other profession which:
 - (1) Involves or may involve the management or sale of money, investments, securities or real property; and
 - (2) Requires licensure in this State or any other state.
- ↪ during the period of the suspension or disbarment.
5. Is a nonresident of this State and:
 - (a) Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and
 - (b) Is not a petitioner in the guardianship proceeding.
 6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

The amendment inserts new language requiring that reports be provided to the court regarding various investigations and findings concerning professional guardians; provides an exemption from licensing requirements for professional guardians to certain persons and business entities to comport with existing law; eliminates limitations on a court's authority to appoint a nonresident of this State as a guardian for a minor; authorizes a court to appoint two or more co-guardians; shortens, from once every year to once every six months, the requirement that a guardian provide a report on the finances and well-being of a ward; adds as preference number five in the order of preference for those persons who might be appointed as a guardian—a person "currently acting as agent" for the ward; provides for the appointment of a public guardian for an incompetent adult who failed to nominate a guardian while he or she was still competent or if the nominated person is not suited or is not willing to serve as a guardian.

Amendment adopted.

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

Assembly Bill No. 328.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 906.

SUMMARY—Revises provisions relating to certain hearings concerning pupils with disabilities. (BDR 34-620)

AN ACT relating to education; ~~requiring~~ prescribing procedures for the ~~[Superintendent of Public Instruction to select]~~ selection of a hearing officer ~~[from a list maintained by the Department of Education]~~ to administer certain hearings relating to pupils with disabilities; requiring a local educational agency involved in a complaint to pay the cost of a hearing; requiring the Department of Education to adopt regulations prescribing certain procedures relating to hearing officers; authorizing the appeal of the decision of a hearing officer to the Department; requiring the Department to post certain information relating to such hearings on its Internet website; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law requires each state to provide a parent or guardian of a pupil with the opportunity to challenge at a due process hearing: (1) the pupil's identification as a pupil with a disability; (2) the pupil's identification as a pupil without a disability; or (3) the placement of such a pupil. (20 U.S.C. 1415) Section ~~2.1~~ 2.3 of this bill requires the Superintendent of Public Instruction to ~~[select a person to serve as a]~~ provide the names of three ~~hearing [officer]~~ officers selected on an impartial basis from a list maintained by the Department of Education to a complainant for a due process hearing held pursuant to federal law. [The] Section 2.3 requires the complainant to return to the Superintendent a list which places the three names in order of preference within 2 days. If the preferred hearing officer [must be selected on an impartial basis and, in certain large school districts, must have a place of business located within the school district. The] is not available, the next person on the list will be selected. Section 2.3 requires the Superintendent to select a hearing officer on an impartial basis from the list maintained by the Department if the complainant does not return the list within 2 days or a due process hearing is required to be expedited pursuant to federal law. Section 2.3 also provides that the: (1) local educational agency involved in the complaint or the governing body of a charter school, as applicable, must pay the cost of the hearing. [; and (2) decision of a hearing officer may be appealed to the Department.

Section ~~2.2~~ 2.7 of this bill requires the State Board of Education to prescribe by regulation: (1) the procedures for requesting the recusal of a hearing officer; (2) the qualifications necessary to remain on the list of hearing officers maintained by the Department and (3) the procedures to compensate a hearing officer. [Section 2 provides that the decision of a hearing officer may be appealed to the Department. Finally, section 2] Section 2.7 also requires the Department to post certain information relating to due process hearings on its Internet website.

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

Section 1. NRS 387.1221 is hereby amended to read as follows:

387.1221 1. The basic support guarantee for any special education program unit maintained and operated during a period of less than 9 school months is in the same proportion to the amount established by law for that school year as the period during which the program unit actually was maintained and operated is to 9 school months.

2. Any unused allocations for special education program units may be reallocated to other school districts, charter schools or university schools for profoundly gifted pupils by the Superintendent of Public Instruction. In such a reallocation, first priority must be given to special education programs with statewide implications, and second priority must be given to special education programs maintained and operated within counties whose allocation is less than or equal to the amount provided by law. If there are more unused allocations than necessary to cover programs of first and second priority but not enough to cover all remaining special education programs eligible for payment from reallocations, then payment for the remaining programs must be prorated. If there are more unused allocations than necessary to cover programs of first priority but not enough to cover all programs of second priority, then payment for programs of second priority must be prorated. If unused allocations are not enough to cover all programs of first priority, then payment for programs of first priority must be prorated.

3. A school district, a charter school or a university school for profoundly gifted pupils may, after receiving the approval of the Superintendent of Public Instruction, contract with any person, state agency or legal entity to provide a special education program unit for pupils of the district pursuant to NRS 388.440 to 388.520, inclusive ~~[]~~, and ~~section 2~~ sections 2.3 and 2.7 of this act.

4. A school district in a county whose population is less than 700,000, a charter school or a university school for profoundly gifted pupils that receives an allocation for special education program units may use not more than 15 percent of its allocation to provide early intervening services.

Sec. 2. Chapter 388 of NRS is hereby amended by adding thereto ~~the provisions set forth as sections 2.3 and 2.7 of this act.~~ the provisions set forth as sections 2.3 and 2.7 of this act.

Sec. 2.3. 1. The Department shall maintain a list of hearing officers who meet the qualifications prescribed pursuant to 20 U.S.C. 1415(f)(3)(A) to conduct a due process hearing pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., regarding the identification, evaluation, reevaluation, classification, educational placement or disciplinary action of or provision of a free appropriate public education to a pupil with a disability.

2. ~~The~~ Except as otherwise provided in subsection 4, upon the filing of a complaint requiring a due process hearing described in subsection 1, the Superintendent of Public Instruction shall select ~~three~~ one hearing ~~officer~~ officers from the list maintained by the Department

pursuant to subsection 1 . ~~[Hearing officers must be selected]~~ The selection of the hearing officers must be made on a random, rotational or other impartial basis and, in a school district in which more than 50,000 pupils are enrolled, the place of business of the hearing officer must, to the extent practicable, be located in the school district.

3. The Superintendent of Public Instruction shall provide the names of the three hearing officers selected pursuant to subsection 2 to the complainant and request the complainant to return to the Superintendent a list which places the three names in the order of preference of the complainant. The complainant must return the list within 2 days. If the complainant returns the list, the Superintendent must request the first hearing officer on the list to preside over the hearing and if he or she is unavailable, the next person, until there are no more hearing officers on the list. If the complainant does not return the list within 2 days, the Superintendent must appoint a hearing officer and may determine the order in which to request a hearing officer to preside over the hearing.

4. If a due process hearing is required to be expedited pursuant to 20 U.S.C. 1415(k)(4), the Superintendent of Public Instruction must select a hearing officer to preside over the hearing from the list maintained by the Department pursuant to subsection 1. The selection of the hearing officer must be made on a random, rotational or other impartial basis and, in a school district in which more than 50,000 pupils are enrolled, the place of business of the hearing officer must, to the extent practicable, be located in the school district.

5. The local educational agency or governing body of a charter school involved in the complaint , as applicable, shall pay the cost of the hearing, including, without limitation, any compensation to which the hearing officer is entitled.

~~[4. The State Board shall prescribe by regulation:~~

~~— (a) The procedures for requesting the recusal of a hearing officer, on the basis of bias or a conflict of interest.~~

~~— (b) The qualifications to remain on the list of hearing officers maintained pursuant to subsection 1. Such qualifications must include, without limitation, requiring that a hearing officer:~~

~~— (1) Must complete, within the first year that the name of the hearing officer appears on the list maintained by the Department pursuant to subsection 1, a minimum of 40 hours of training, which must include, without limitation, 24 hours of training in laws relating to special education; and~~

~~— (2) Must complete annual training arranged by the Department. The training must include, without limitation, training concerning laws relating to special education, the procedure for conducting a hearing and rendering and writing a decision.~~

~~— (c) The procedures for compensating a hearing officer which must be established to avoid a conflict of interest for the hearing officer or the appearance of such a conflict.~~

~~5.]~~ 6. The decision of a hearing officer may be appealed by any aggrieved party to the Department.

~~[6. The Department of Education shall post information as prescribed by the State Board relating to due process hearings held pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., on its Internet website. Such information must include, without limitation:~~

- ~~(a) A model form that may be used to request such a hearing;~~
- ~~(b) Decisions from such hearings;~~
- ~~(c) Decisions from the appeals of such hearings; and~~
- ~~(d) Timelines and procedures for conducting such hearings.]~~

7. As used in this section, "local educational agency" has the meaning ascribed to it in 20 U.S.C. 1401(19).

Sec. 2.7. 1. The State Board shall prescribe by regulation:

(a) The procedures for requesting the recusal of a hearing officer on the basis of bias or a conflict of interest.

(b) The qualifications to remain on the list of hearing officers maintained pursuant to subsection 1 of section 1 of this act. Such qualifications must include, without limitation, requiring that a hearing officer:

(1) Must complete, within the first year that the name of the hearing officer appears on the list maintained by the Department pursuant to subsection 1 of section 1 of this act, a minimum of 40 hours of training, which must include, without limitation, 24 hours of training in laws relating to special education; and

(2) Must complete annual training arranged by the Department. The training must include, without limitation, training concerning laws relating to special education, the procedure for conducting a hearing and rendering and writing a decision.

(c) The procedures for compensating a hearing officer which must be established to avoid a conflict of interest for the hearing officer or the appearance of such a conflict.

2. The Department of Education shall post information as prescribed by the State Board relating to due process hearings held pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., on its Internet website. Such information must include, without limitation:

(a) A model form that may be used to request such a hearing;
(b) Decisions from such hearings after the names and other personally identifiable information of the pupils who were the subject of such hearings have been removed;

(c) Decisions from the appeals of such hearings after the names and any other personally identifiable information of the pupils who were the subject of the hearings have been removed; and

(d) Timelines and procedures for conducting such hearings.

Sec. 3. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5317, inclusive ~~[:]~~, and ~~section 2]~~ sections 2.3 and 2.7 of this act:

1. "Communication mode" means any system or method of communication used by a person who is deaf or whose hearing is impaired to facilitate communication which may include, without limitation:

- (a) American Sign Language;
 - (b) English-based manual or sign systems;
 - (c) Oral and aural communication;
 - (d) Spoken and written English, including speech reading or lip reading;
- and
- (e) Communication with assistive technology devices.

2. "Gifted and talented pupil" means a person under the age of 18 years who demonstrates such outstanding academic skills or aptitudes that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

3. "Individualized education program" has the meaning ascribed to it in 20 U.S.C. 1414(d)(1)(A).

4. "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. 1414(d)(1)(B).

5. "Pupil who receives early intervening services" means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.

6. "Pupil with a disability" means a person under the age of 22 years who deviates either educationally, physically, socially or emotionally so markedly from normal patterns that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

Sec. 4. 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, 2016, for all other purposes.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment requires the Superintendent of Public Instruction to provide to a complainant the names of three hearing officers selected on an impartial basis from a list maintained by the Department of Education. The complainant must return to the Superintendent, within two days, a list which places the three names in order of preference. If the complainant does not respond within two days or if a hearing must be expedited, the Superintendent is authorized to select a hearing officer.

Amendment adopted.

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

Assembly Bill No. 341.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 804.

SUMMARY—Revises provisions relating to pupils with disabilities. (BDR 34-832)

AN ACT relating to education; requiring each school district and certain charter schools to administer an early literacy screening assessment to certain pupils; authorizing certain persons to perform additional testing for dyslexia; requiring a school district and a charter school to address the needs of a pupil who has indicators for dyslexia through the response to scientific, research-based intervention system of instruction; requiring the individualized education program team of a pupil with dyslexia to consider certain instructional approaches; requiring ~~the Department of Education,~~ each school district, each elementary school and certain charter schools to designate at least one employee to receive professional development regarding dyslexia; requiring the Department to prepare and publish a Dyslexia Resource Guide; requiring certain standards relating to the education of pupils with disabilities to include provisions concerning dyslexia; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 8 of this bill requires the board of trustees of each school district and the governing body of each charter school that serves pupils in kindergarten or grade 1, 2 or 3 to prescribe an early literacy screening assessment for use by the schools located in the school district or the charter school, respectively. Section 9 of this bill: (1) requires each school district and charter school to administer screenings for dyslexia to certain pupils in certain grade levels; and (2) requires a school district and charter school to address the needs of a pupil if the screening confirms that a pupil has indicators for dyslexia through the response to scientific, research-based intervention system of instruction.

Section 11 of this bill requires a pupil's individualized education program team to consider certain instructional approaches when developing an individualized education program for a pupil with dyslexia.

Section 13 of this bill requires the ~~Department,~~ principal of a public elementary school, including, without limitation, a charter school, to designate ~~at least one employee of~~ a licensed teacher employed by the ~~Department,~~ school to receive training in effective methods for intervention for pupils with dyslexia. If the principal of a school has designated a teacher as a learning strategist, section 13 requires the learning strategist to be the person to receive such training. Section 13 also requires each school district and charter school to ensure that at least one employee who serves pupils in kindergarten or grade 1, 2 or 3 is designated at each school to receive professional development regarding dyslexia. If the principal of a school has designated a teacher as a learning strategist, section 13 requires the learning strategist to provide such professional development.

Section 14 of this bill requires the Department to prepare and publish a Dyslexia Resource Guide as a guide for each school district and public

school to use to identify and provide dyslexia intervention for pupils with dyslexia.

Existing law requires the State Board of Education to prescribe minimum standards for the special education of pupils with disabilities. (NRS 388.520) Section 16 of this bill requires that the standards prescribed by the State Board for pupils with dyslexia include certain instruction.

Existing law requires the State Board to prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or perform other educational functions. (NRS 388.520) Section 17 of this bill requires these regulations to include training on how to identify a pupil who is at risk for dyslexia or related disorders.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 14, inclusive, of this act.

Sec. 8. 1. *Except as otherwise provided in subsection 2, the board of trustees of each school district shall prescribe for use by the elementary schools located in the school district an early literacy screening assessment that meets the requirements set forth in subsection 3.*

2. *The governing body of each charter school that serves pupils in kindergarten or grade 1, 2 or 3 shall prescribe an early literacy screening assessment for use by the charter school that meets the requirements set forth in subsection 3.*

3. *The early literacy screening assessment prescribed pursuant to subsection 1 or 2 must include, without limitation, screening for:*

- (a) Phonological and phonemic awareness;*
- (b) Sound-symbol recognition;*
- (c) Alphabet knowledge;*
- (d) Decoding skills;*
- (e) Rapid naming skills; and*
- (f) Encoding skills.*

Sec. 9. 1. *The board of trustees of a school district or the governing body of a charter school, as applicable, shall administer the early literacy screening assessment prescribed pursuant to section 8 of this act to each pupil enrolled in kindergarten or grade 1, 2 or 3 who:*

- (a) Has indicators for dyslexia; and*
- (b) Needs intervention.*

2. If an early literacy screening assessment administered pursuant to subsection 1 confirms that a pupil has indicators for dyslexia, the board of trustees of a school district or governing body of a charter school, as applicable, shall address the needs of the pupil through the response to scientific, research-based intervention system of instruction.

3. If the response to scientific, research-based intervention system of instruction determines that a pupil needs additional screening in order to determine whether the pupil has a specific learning disability, including, without limitation, dyslexia:

(a) The pupil must receive additional testing by a trained professional using a norm-referenced test; and

(b) The board of trustees of the school district or the governing body of the charter school, as applicable, shall perform a comprehensive evaluation for the pupil in addition to the required response to scientific, research-based intervention system of instruction.

Sec. 10. (Deleted by amendment.)

Sec. 11. When developing an individualized education program for a pupil with dyslexia in accordance with NRS 388.520, the pupil's individualized education program team shall consider, without limitation, the following instructional approaches:

1. Explicit, direct instruction that is systematic, sequential and cumulative and follows a logical plan of presenting the alphabetic principle that targets the specific needs of the pupil;

2. Individualized instruction to meet the specific needs of the pupil in an appropriate setting that uses intensive, highly-concentrated instruction methods and materials that maximize pupil engagement;

3. Meaning-based instruction directed at purposeful reading and writing, with an emphasis on comprehension and composition; and

4. Multisensory instruction that incorporates the simultaneous use of two or more sensory pathways during teacher presentations and pupil practice.

Sec. 12. (Deleted by amendment.)

Sec. 13. 1. The ~~{Department}~~ principal of a public elementary school, including, without limitation, a charter school, shall designate ~~at least one employee off~~ a licensed teacher employed by the ~~{Department}~~ school to receive training in effective methods of intervention for pupils with dyslexia. If the principal has designated a licensed teacher to serve as a learning strategist, the learning strategist must be the person to receive such training.

2. The board of trustees of each school district and the governing body of each charter school shall ensure that at least one employee who serves pupils in kindergarten or grade 1, 2 or 3 is designated at each school to receive professional development regarding dyslexia. Such professional development must include, without limitation, training in:

(a) Methods to recognize indicators for dyslexia; and

(b) The science related to teaching a pupil with dyslexia.

3. *The professional development required pursuant to subsection 2 ~~may~~:*

(a) Must be provided by a learning strategist, if the principal has designated a licensed teacher to serve as a learning strategist; or

(b) May be provided on the Internet ~~f, by a regional training program for the professional development of teachers and administrators created by NRS 391.512~~ or at another venue approved by the Department.

Sec. 14. *The Department shall prepare and publish a Dyslexia Resource Guide as a guide for each school district and public school, including, without limitation, a charter school, to use to identify and provide dyslexia intervention for pupils with dyslexia.*

Sec. 15. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5317, inclusive ~~{-}~~ , and sections 8 to 14, inclusive, of this act:

1. "Communication mode" means any system or method of communication used by a person who is deaf or whose hearing is impaired to facilitate communication which may include, without limitation:

- (a) American Sign Language;
 - (b) English-based manual or sign systems;
 - (c) Oral and aural communication;
 - (d) Spoken and written English, including speech reading or lip reading;
- and
- (e) Communication with assistive technology devices.

2. *"Dyslexia" means a neurological learning disability characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language.*

3. *"Dyslexia intervention" means systematic, multisensory intervention offered in an appropriate setting that is derived from evidence-based research.*

4. "Gifted and talented pupil" means a person under the age of 18 years who demonstrates such outstanding academic skills or aptitudes that the person cannot progress effectively in a regular school program and therefore needs special instruction or special services.

~~{3-}~~ 5. "Individualized education program" has the meaning ascribed to it in 20 U.S.C. 1414(d)(1)(A).

~~{4-}~~ 6. "Individualized education program team" has the meaning ascribed to it in 20 U.S.C. 1414(d)(1)(B).

~~{5-}~~ 7. "Pupil who receives early intervening services" means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.

~~{6-}~~ 8. "Pupil with a disability" means a person under the age of 22 years who deviates either educationally, physically, socially or emotionally so markedly from normal patterns that the person cannot progress effectively in

a regular school program and therefore needs special instruction or special services.

9. *"Response to scientific, research-based intervention" means a collaborative process which assesses a pupil's response to scientific, research-based intervention that is matched to the needs of a pupil and that systematically monitors the level of performance and rate of learning of the pupil over time for the purpose of making data-based decisions concerning the need of the pupil for increasingly intensified services.*

10. *"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using spoken or written language which is not primarily the result of a visual, hearing or motor impairment, intellectual disability, serious emotional disturbance, or an environmental, cultural or economic disadvantage. Such a disorder may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or perform mathematical calculations. The term includes, without limitation, perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia.*

Sec. 16. NRS 388.520 is hereby amended to read as follows:

388.520 1. The Department shall:

(a) Prescribe a form that contains the basic information necessary for the uniform development, review and revision of an individualized education program for a pupil with a disability in accordance with 20 U.S.C. 1414(d); and

(b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the development, review and revision of an individualized education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board:

(a) Shall prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

(b) May prescribe minimum standards for the provision of early intervening services.

4. The minimum standards prescribed by the State Board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:

(a) Hearing impairments, including, but not limited to, deafness.

(b) Visual impairments, including, but not limited to, blindness.

(c) Orthopedic impairments.

(d) Speech and language impairments.

- (e) Intellectual disabilities.
- (f) Multiple impairments.
- (g) Serious emotional disturbances.
- (h) Other health impairments.
- (i) Specific learning disabilities.
- (j) Autism spectrum disorders.
- (k) Traumatic brain injuries.
- (l) Developmental delays.
- (m) Gifted and talented abilities.

5. The minimum standards prescribed by the State Board for pupils with hearing impairments, including, without limitation, deafness, pursuant to paragraph (a) of subsection 4 must provide:

(a) That a pupil cannot be denied the opportunity for instruction in a particular communication mode solely because the communication mode originally chosen for the pupil is different from a communication mode recommended by the pupil's individualized education program team; and

(b) That, to the extent feasible, as determined by the board of trustees of the school district, a school is required to provide instruction to those pupils in more than one communication mode.

6. *The minimum standards prescribed by the State Board for pupils with dyslexia pursuant to paragraph (i) of subsection 4 must include, without limitation, standards for instruction on:*

(a) *Phonemic awareness to enable a pupil to detect, segment, blend and manipulate sounds in spoken language;*

(b) *Graphonomic knowledge for teaching the sounds associated with letters in the English language;*

(c) *The structure of the English language, including, without limitation, morphology, semantics, syntax and pragmatics;*

(d) *Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and*

(e) *Strategies that a pupil may use for decoding, encoding, word recognition, fluency and comprehension.*

7. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with disabilities and gifted and talented pupils until the program of instruction maintained therein for such pupils is approved by the Superintendent of Public Instruction as meeting the minimum standards prescribed by the State Board.

~~{7.}~~ 8. The Department shall, upon the request of the board of trustees of a school district, provide information to the board of trustees concerning the identification and evaluation of pupils with disabilities in accordance with the standards prescribed by the State Board.

~~{8.}~~ 9. The Department shall post on the Internet website maintained by the Department the data that is submitted to the United States Secretary of Education pursuant to 20 U.S.C. 1418 within 30 days after submission of the

data to the Secretary in a manner that does not result in the disclosure of data that is identifiable to an individual pupil.

Sec. 17. NRS 391.037 is hereby amended to read as follows:

391.037 1. The State Board shall:

(a) Prescribe by regulation the standards for approval of a course of study or training offered by an educational institution to qualify a person to be a teacher or administrator or to perform other educational functions. *The regulations prescribed pursuant to this paragraph must include, without limitation, training on how to identify a pupil who is at risk for dyslexia or related disorders.*

(b) Maintain descriptions of the approved courses of study required to qualify for endorsements in fields of specialization and provide to an applicant, upon request, the approved course of study for a particular endorsement.

2. Except for an applicant who submits an application for the issuance of a license pursuant to subparagraph (1) of paragraph (a) or paragraph (g) or (j) of subsection 1 of NRS 391.019, an applicant for a license as a teacher or administrator or to perform some other educational function must submit with his or her application, in the form prescribed by the Superintendent of Public Instruction, proof that the applicant has satisfactorily completed a course of study and training approved by the State Board pursuant to subsection 1.

Sec. 18. (Deleted by amendment.)

Sec. 19. This act becomes effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment clarifies that the school staff person to receive training in dyslexia intervention shall be the school's learning strategist if one has been designated. In such instances, the learning strategist must also deliver the related professional development to other school personnel.

Amendment adopted.

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

Assembly Bill No. 409.

Bill read second time.

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

Amendment No. 938.

SUMMARY—Revises provisions relating to cosmetology. (BDR 43-1050)

AN ACT relating to cosmetology; requiring a makeup artist who engages in the practice of makeup artistry in a licensed cosmetological establishment in this State to register with the State Board of Cosmetology; ~~exempting certain other makeup artists from the licensing and regulation provisions governing cosmetology; deleting~~ removing the requirement for certain

applicants for a license to complete a nationally recognized written examination; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from engaging in the practice of cosmetology or any branch of cosmetology unless the person is licensed by the State Board of Cosmetology. (NRS 644.190) Existing law requires the Board to determine the qualifications of applicants for various licenses and to adopt regulations governing the sanitary conditions in cosmetological establishments. (NRS 644.090, 644.120)

Section 3.3 of this bill requires a makeup artist who engages in the practice of makeup artistry in a licensed cosmetological establishment to register with the Board and sets forth the requirements that must be met before the Board is authorized to issue a certificate of registration to such a makeup artist. Section ~~[3.7]~~ 3.5 of this bill ~~[requires the Board to prepare and administer a written examination on sanitation to makeup artists who are required to register with the Board.]~~ establishes certain requirements that a makeup artist, other than a makeup artist required to be registered with the Board, must meet to practice makeup artistry in this State. Section 7.3 of this bill authorizes the Board to take certain disciplinary action against ~~[a registered]~~ any makeup artist [-] who fails to comply with the requirements set forth in applicable statutory provisions or regulations adopted by the Board. Section ~~[8]~~ 5 of this bill exempts ~~[those]~~ the occupation of a makeup [artists] ~~who are not required to register with the Board]~~ artist from the [licensing and regulation provisions governing] definition of the term "cosmetology."

Section 7 of this bill eliminates passing a nationally recognized written examination as a requirement for certain applicants who are licensed in a branch of cosmetology in another state or jurisdiction to obtain a license to practice that branch of cosmetology in this State.

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

Section 1. Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 3.7, inclusive, of this act.

Sec. 2. *"Makeup artist" means a natural person who:*

1. *Engages in the practice of makeup artistry; or*
2. *Instructs other persons in the practice of makeup artistry,*

↪ regardless of whether the person is licensed by the Board in any branch of cosmetology.

Sec. 3. 1. *"Makeup artistry" means the practice of applying makeup ~~and~~ or prosthetics for:*

- (a) *Theatrical, television, film and other similar productions;*
- (b) *All aspects of the modeling and fashion industry, including, without limitation photography for magazines; and*
- (c) *Weddings.*

2. *The term includes the practice of applying makeup ~~and~~ or prosthetics at ~~licensed~~ :*

(a) Licensed cosmetological establishments ; and ~~retail~~
(b) Retail establishments ~~for~~ , unless the practice is limited to the
demonstration of cosmetics by a retailer in the manner described in
paragraph (d) of subsection 1 of NRS 644.460.

Sec. 3.3. 1. Each makeup artist who engages in the practice of makeup artistry in a licensed cosmetological establishment shall, on or before January 1 of each year, register with the Board on a form prescribed by the Board. The registration must:

(a) Include:

(1) The name, address, electronic mail address and telephone number of the makeup artist; and

(2) The name and license number of each cosmetological establishment in which the makeup artist will be practicing makeup artistry.

(b) Be accompanied by:

(1) A notarized statement indicating that the makeup artist : ~~is~~

(I) ~~Not less than~~ Is 18 years of age ~~for~~ or older;

(II) ~~Of~~ Is of good moral character; ~~and~~

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

(IV) Has completed at least 2 years of high school; and

(2) ~~Proof that the makeup artist has received a score of not less than 75 percent on the written examination administered by the Board pursuant to section 3.7 of this act; and~~

~~(3)~~ Two current photographs of the makeup artist which are 2 by 2 inches.

2. The Board shall ~~not~~ charge a fee of not more than \$25 for registering a makeup artist pursuant to this section.

3. A makeup artist shall not practice makeup artistry in a licensed cosmetological establishment without first obtaining a certificate of registration.

Sec. 3.5. A makeup artist, other than a makeup artist required to be registered pursuant to section 3.3 of this act, shall not engage in the practice of makeup artistry in this State unless he or she:

1. Is 18 years of age or older;

2. Is of good moral character;

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

4. Has completed at least 2 years of high school.

Sec. 3.7. ~~{1. The Board shall prepare and administer a written examination on sanitation for makeup artists who are required to register with the Board pursuant to section 3.3 of this act.~~

~~2. The Board shall not charge a makeup artist a fee for administering or scoring the examination described in subsection 1.}~~ (Deleted by amendment.)

Sec. 4. NRS 644.020 is hereby amended to read as follows:

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.0295, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 644.024 is hereby amended to read as follows:

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, hair braider, demonstrator of cosmetics and nail technologist. *The term does not include the occupation of a makeup artist.*

Sec. 5.3. NRS 644.090 is hereby amended to read as follows:

644.090 The Board shall:

1. Hold examinations to determine the qualifications of all applicants for a license, except as otherwise provided in this chapter, whose applications have been submitted to it in proper form.

2. Issue licenses to such applicants as may be entitled thereto.

3. *Issue certificates of registration to such applicants as may be entitled thereto.*

4. License establishments for hair braiding, cosmetological establishments and schools of cosmetology.

~~{4.}~~ 5. Report to the proper prosecuting officer or law enforcement agency each violation of this chapter coming within its knowledge.

~~{5.}~~ 6. Inspect schools of cosmetology, establishments for hair braiding and cosmetological establishments to ensure compliance with the statutory requirements and adopted regulations of the Board. This authority extends to any member of the Board or its authorized employees.

Sec. 5.7. NRS 644.130 is hereby amended to read as follows:

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license *or certificate of registration* of every nail technologist, electrologist, aesthetician, hair designer, hair braider, demonstrator of cosmetics, *makeup artist registered pursuant to section 3.3 of this act* and cosmetologist, together with the names and addresses of all establishments for hair braiding, cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure ~~{}~~ *or registration*.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee ~~{}~~ *or registrant*.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee ~~{}~~ *or registrant*.

Sec. 6. NRS 644.190 is hereby amended to read as follows:

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, an establishment for hair braiding, a school of cosmetology or any other place of business in which any one or any

combination of the occupations of cosmetology are taught or practiced unless the person is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in subsections 4 and 5, it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or any branch thereof, whether for compensation or otherwise, unless the person is licensed in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

(a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of cosmetological services by a person who is licensed in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

(f) *A makeup artist registered pursuant to section 3.3 of this act from engaging in the practice of makeup artistry for compensation or otherwise in a licensed cosmetological establishment.*

4. A person employed to render cosmetological services in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he or she renders cosmetological services only to persons who will appear in that motion picture, television program, commercial or advertisement.

5. A person practicing hair braiding is exempt from the licensing requirements of this chapter applicable to hair braiding if the hair braiding is practiced on a person who is related within the sixth degree of consanguinity and the person does not accept compensation for the hair braiding.

Sec. 6.5. NRS 644.214 is hereby amended to read as follows:

644.214 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a license or evidence of registration issued pursuant to NRS 644.190 to 644.330, inclusive, *and sections 3.3 and 3.7 of this act* shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license or evidence of registration issued pursuant to NRS 644.190 to 644.330, inclusive, *and*

sections 3.3 and 3.7 of this act shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license or evidence of registration; or

(b) A separate form prescribed by the Board.

3. A license or evidence of registration may not be issued or renewed by the Board pursuant to NRS 644.190 to 644.330, inclusive, *and sections 3.3 and 3.7 of this act* if the applicant:

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

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

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

Sec. 7. NRS 644.310 is hereby amended to read as follows:

644.310 Except as otherwise provided in NRS 644.209, upon application to the Board, accompanied by a fee of \$200, a person currently licensed in any branch of cosmetology under the laws of another state or territory of the United States or the District of Columbia may, without examination, unless the Board sees fit to require an examination, be granted a license to practice the occupation in which the applicant was previously licensed upon proof satisfactory to the Board that the applicant:

1. Is not less than 18 years of age.

2. Is of good moral character.

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

4. ~~[Has successfully completed a nationally recognized written examination in this State or in the state or territory or the District of Columbia in which he or she is licensed.]~~

~~—5.—~~ Is currently licensed in another state or territory or the District of Columbia.

Sec. 7.3. NRS 644.430 is hereby amended to read as follows:

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of an establishment for hair braiding, a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, hair braider, electrologist, instructor, nail technologist, demonstrator of cosmetics or school of cosmetology, ~~for a registered makeup artist or~~ a cosmetologist's apprentice or any makeup artist to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license or a duplicate of the license as provided in NRS 644.290, 644.360, 644.3774 and 644.410.

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license ~~[-]~~ *or certificate of registration*;

(b) Revoke or suspend a license ~~[-]~~ *or certificate of registration*;

(c) Place the licensee *or registrant* on probation for a specified period;

(d) Impose a fine not to exceed \$2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

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

Sec. 7.7. NRS 644.435 is hereby amended to read as follows:

644.435 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who has been issued a license or been registered pursuant to NRS 644.190 to 644.330, inclusive, *and sections 3.3 and 3.7 of this act*, the Board shall deem the license or registration issued to that person to be

suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the holder of the license or registration stating that the holder of the license or registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license or registration issued pursuant to NRS 644.190 to 644.330, inclusive, *and sections 3.3 and 3.7 of this act*, that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license or registration was suspended stating that the person whose license or registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 7.9. NRS 644.440 is hereby amended to read as follows:

644.440 1. The Board may refuse to issue or renew any license *or registration* only upon 20 days' notice in writing to the interested parties. The notice must contain a brief statement of the reasons for the contemplated action of the Board and designate a proper time and place for the hearing of all interested parties before any final action is taken.

2. Notice, within the provisions of subsection 1, shall be deemed to have been given when the Board deposits with the United States Postal Service a copy of the notice, addressed to the designated or last known residence of the applicant, ~~for~~ licensee ~~or~~ *registrant*.

3. Notwithstanding the provisions of chapter 622A of NRS, violations of any regulation of the Board for sanitation or of any statute or regulation of the State Board of Health or any county regulation concerning health may be corrected by any inspector of the Board by giving notice in the form of a citation. Any licensee *or registrant* receiving a citation shall immediately correct the violation or shall show that corrections have commenced. Failure to correct or to commence corrections within 72 hours after receipt of the citation subjects the license *or registration* to immediate suspension. The Board may then give 20 days' notice for hearing to show cause why the license *or registration* should not be permanently revoked.

4. Notwithstanding the provisions of chapter 622A of NRS, the closure of any establishment or school by the State Board of Health acts as an automatic revocation of the license ~~or~~ *registration*.

Sec. 8. NRS 644.460 is hereby amended to read as follows:

644.460 1. The following persons are exempt from the provisions of this chapter:

(a) All persons authorized by the laws of this State to practice medicine, dentistry, osteopathic medicine, chiropractic or podiatry.

(b) Commissioned medical officers of the United States Army, Navy, or Marine Hospital Service when engaged in the actual performance of their official duties, and attendants attached to those services.

(c) Barbers, insofar as their usual and ordinary vocation and profession is concerned, when engaged in any of the following practices:

(1) Cleansing or singeing the hair of any person.

(2) Massaging, cleansing, stimulating, exercising or similar work upon the scalp, face or neck of any person, with the hands or with mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams.

(d) Retailers, at a retail establishment, insofar as their usual and ordinary vocation and profession is concerned, when engaged in the demonstration of cosmetics if:

(1) The demonstration is without charge to the person to whom the demonstration is given; and

(2) The retailer does not advertise or provide a cosmetological service except cosmetics and fragrances.

(e) Photographers or their employees, insofar as their usual and ordinary vocation and profession is concerned, if the photographer or his or her employee does not advertise cosmetological services *or the practice of makeup artistry* and provides cosmetics without charge to the customer.

~~[(f) Makeup artists other than makeup artists who are required to register pursuant to section 3.3 of this act.]~~

2. Any school of cosmetology conducted as part of the vocational rehabilitation training program of the Department of Corrections or the Caliente Youth Center:

(a) Is exempt from the requirements of paragraph (c) of subsection 2 of NRS 644.400.

(b) Notwithstanding the provisions of NRS 644.395, shall maintain a staff of at least one licensed instructor.

Sec. 9. (Deleted by amendment.)

Sec. 10. This act becomes effective upon passage and approval.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

This amendment includes: 1) the requirements that must be met before the State Board of Cosmetology may issue a certificate of registration to a makeup artist, who engages in the practice of makeup artistry in a licensed cosmetological establishment, to have completed at least two years of high school; 2) establishes certain requirements for makeup artists, other than makeup artists who practice in a licensed cosmetological establishment and are therefore required to register with the Board, which must be met before engaging in makeup artistry in this State; 3) requires the Board to charge a fee of not more than \$25 for registering a makeup artist; 4) deletes section 3.7, which requires the Board to prepare and administer a written examination on sanitation to makeup artists who are required to be registered with the Board; and 5) include "registrant" under the provisions of *Nevada Revised Statutes* 644.440, "Notice and hearing for denial of license; citation for violation of regulation concerning sanitation or health; grounds for immediate suspension and automatic revocation."

Amendment adopted.

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

Assembly Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 888.

SUMMARY—Creates the Spending and government Efficiency Commission for public education in this State. (BDR S-1083)

AN ACT relating to education; creating the Spending and Government Efficiency Commission for public education; ~~and the Nevada System of Higher Education;~~ prescribing the membership and duties of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill creates the Spending and Government Efficiency Commission for the system of K-12 public education. ~~and the Nevada System of Higher Education.~~ The Commission is required to make periodic recommendations to the Governor identifying: (1) areas in which the public costs of public education ~~and the Nevada System of Higher Education~~ may be reduced; (2) areas in which increased efficiencies in public education ~~and the Nevada System of Higher Education~~ may be found; and (3) any means by which public education ~~and the Nevada System of Higher Education~~ may be improved.

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

Section 1. 1. There is hereby created the Spending and Government Efficiency Commission for the system of K-12 public education in this State. ~~and the Nevada System of Higher Education.~~ The Commission consists of 12 members appointed as follows:

- (a) Six members appointed by the Governor;
- (b) Two members appointed by the Governor from a list of six recommendations provided by the Senate Majority leader;
- (c) Two members appointed by the Governor from a list of six recommendations provided by the Speaker of the Assembly;
- (d) One member appointed by the Governor from a list of three recommendations provided by the Senate Minority leader; and
- (e) One member appointed by the Governor from a list of three recommendations provided by the Assembly Minority Leader.

➡ To the extent practicable, in appointing members to the Commission, the Governor shall ensure that the membership reflects the ethnic, gender and geographic diversity of this State.

2. The Governor shall appoint the Chair of the Commission from among its members.

3. The members of the Commission must be persons with expertise and experience in the operation of a business. ~~except that one of the members must be a retired teacher who taught pupils in kindergarten or grade 1 through 12 in a public school in this State regardless of whether the retired teacher has such expertise and experience.~~ A member may not have a

personal or professional conflict of interest that would prevent the member from fully and objectively discharging his or her duties. A member may not derive any financial benefit from the work of the Commission, other than the general benefit received by all residents of this State from increased efficiency in the system of K-12 public education in this State. ~~and the Nevada System of Higher Education.~~

4. Members of the Commission serve at the pleasure of the Governor.

5. Members of the Commission serve without salary or compensation for their travel or per diem expenses.

6. A majority of the members of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Committee.

7. The Commission shall comply with the provisions of chapter 241 of NRS and all meetings must be conducted in accordance with that chapter.

8. The Department of Education shall provide administrative support to the Commission.

9. The Commission may appoint committees or subcommittees of its members to study the system of K-12 public education in this State ~~and the Nevada System of Higher Education~~ and any means by which the system of K-12 public education in this State ~~and the Nevada System of Higher Education~~ may be improved.

10. The Commission shall, not less frequently than every 90 days, meet and:

(a) Submit recommendations to the Governor:

(1) Identifying areas in which the public costs of the system of K-12 public education in this State ~~and the Nevada System of Higher Education~~ may be reduced;

(2) Identifying areas in which increased efficiencies in the system of K-12 public education in this State ~~and the Nevada System of Higher Education~~ may be found; and

(3) Identifying means by which the system of K-12 public education in this State ~~and the Nevada System of Higher Education~~ may be improved; or

(b) If the Commission does not have any recommendations, submit to the Governor a status report regarding the activities of the Commission for the period from the date on which the Commission last submitted to the Governor a status report or recommendations to the date on which the status report is submitted.

11. The Commission shall, on or before February 1, 2017, prepare and submit a final report to the Governor and the Director of the Legislative Counsel Bureau for transmittal to the 79th Session of the Nevada Legislature concerning its findings and recommendations.

Sec. 2. This act becomes effective on July 1, 2015, and expires by limitation on June 30, 2017.

Senator Harris moved the adoption of the amendment

Remarks by Senator Harris.

The amendment removes higher education from the bill and limits the Commission's work to an examination of K-12 education in Nevada. It also requires that one of the Governor's appointees be a retired Nevada K-12 educator.

Amendment adopted.

Senator Roberson moved that the bill be placed on the General File on the fourth Agenda, upon return from reprint.

Motion carried.

Bill ordered reprinted, re-engrossed and to third reading on the fourth Agenda.

Assembly Bill No. 447.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 806.

SUMMARY—Revises provisions relating to the statewide performance evaluation system (BDR 34-1120)

AN ACT relating to education; authorizing the State Board of Education to provide for evaluations of certain licensed educational personnel and determine the manner in which to measure the performance of such personnel; revising provisions relating to pupil achievement data used as a part of the statewide performance evaluation system; ~~delaying the implementation of certain provisions relating to the policy for evaluations of counselors, librarians and other licensed educational personnel;~~ revising the evaluation of teachers ~~and administrators and other licensed personnel~~ under the statewide performance evaluation system ~~for the 2015-2016 school year~~; requiring the State Board to designate assessments that may be used to determine pupil achievement and prescribe the evaluation system and tools to be used by a school district for measuring of an employee's performance; authorizing a school district to apply to the State Board to use an evaluation system and tools and assessments that are different from those prescribed by the State Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Board of Education to establish a statewide performance evaluation system which incorporates multiple measures to evaluate the overall performance of certain employees. (NRS 391.465) Section 10 of this bill requires the State Board to prescribe the tools to be used by a school district for obtaining such measures. Section 10 also allows a school district to apply to the State Board to use an evaluation system and tools that are different than the evaluation system and tools prescribed by the State Board.

Existing law requires the statewide performance evaluation system to: (1) prescribe the pupil achievement data that must be used as a part of the evaluation system; and (2) require that pupil achievement data account for at

least 50 percent of the evaluation of certain employees. (NRS 391.465) ~~[Section 4]~~ Sections 10 and 16 of this bill ~~[provides]~~ remove the requirement that ~~[the]~~ pupil achievement data must be used as a part of the evaluation system for the 2015-2016 school year. Sections 11 and 16 of this bill reinstate the requirement that pupil achievement data must be used as a part of the evaluation system and provides that, for the 2016-2017 school year: (1) pupil achievement data derived from statewide examinations and assessments must account for ~~[25]~~ at least 10 percent of the evaluation of a teacher when applicable; and (2) pupil achievement data derived from assessments approved by the board of trustees of the school district that employs the teacher must account for ~~[25]~~ at least 10 percent of the ~~[evaluator's]~~ evaluation. Section 11 also: (1) requires the State Board to designate the assessments that may be used by a school district to determine pupil achievement; and (2) authorizes the board of trustees of a school district to apply to the Superintendent of Public Instruction for approval to use a different assessment. Sections 12 and 16 of this bill provide that, beginning with the 2017-2018 school year: (1) pupil achievement data derived from statewide examinations and assessments must account for at least 20 percent of the evaluation of a teacher when applicable; and (2) pupil achievement data derived from assessments approved by the board of trustees of the school district that employs the teacher must account for at least 20 percent of the evaluation.

Existing law requires the board of trustees of each school district to develop a policy for objective evaluations of teachers and administrators that complies with the statewide performance evaluation system established by the State Board. Existing law requires this policy to include an evaluation of counselors, librarians and other licensed personnel. ~~[commencing with the 2015-2016 school year.]~~ (NRS 391.3123, 391.3125) ~~[Section 22 of chapter 496, Statutes of Nevada 2013, p. 3169)]~~ Section ~~[2]~~ 4 of this bill ~~[instead delays implementation until the 2016-2017 school year. Section 3 of this bill provides that the evaluation of teachers, administrators and other licensed personnel under the statewide performance evaluation system must not include an evaluation of the performance of pupils enrolled in the school for the 2015-2016 school year.]~~ authorizes the State Board to provide for the evaluation of counselors, librarians and other licensed educational personnel and determine the manner in which to measure the performance of such personnel. Sections 6 and 8-12 of this bill require this policy to provide for the evaluation of administrators at a district level who provide direct supervision of the principal of a school.

Existing law requires each probationary teacher or administrator to receive three evaluations during each school year of his or her probationary employment. (NRS 391.3127, 391.3129) Sections 5 and 6 of this bill require a probationary teacher or administrator to instead receive one evaluation during the first school year of his or her probationary employment that must be based in part upon at least three scheduled observations of the teacher or

administrator. Sections 5 and 6 also: (1) reduce the number of observations required for a probationary teacher or administrator during his or her second and third years of probationary employment whose performance is designated as highly effective or effective; and (2) require a probationary teacher or administrator whose performance is designated as minimally effective or ineffective to continue to receive three observations.

Existing law also requires each postprobationary teacher or administrator who receives an evaluation designating his or her overall performance as minimally effective or ineffective to be evaluated three times. (NRS 391.3125, 391.3127) Sections 5 and 6 instead require such a teacher or administrator to receive one evaluation which must be based in part upon at least three scheduled observations. Existing law requires a postprobationary teacher or administrator who receives an evaluation designating his or her overall performance as highly effective or effective to receive one evaluation which must be based in part upon at least: (1) one scheduled observation, if the teacher or administrator receives an evaluation designating his or her overall performance as highly effective; or (2) two scheduled observations, if the teacher or administrator receives an evaluation designating his or her overall performance as effective. (NRS 391.3125, 391.3127) Sections 5 and 6 instead require such an evaluation to be based on one scheduled observation.

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

Section 1. ~~NRS 391.465 is hereby amended to read as follows:~~

~~391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance.~~

~~2. The statewide performance evaluation system must:~~

~~(a) Require that an employee's overall performance is determined to be:~~

~~(1) Highly effective;~~

~~(2) Effective;~~

~~(3) Minimally effective; or~~

~~(4) Ineffective.~~

~~(b) Include the criteria for making each designation identified in paragraph (a);~~

~~(c) Except as otherwise provided in subsection 9 of NRS 391.3125 and subsection 8 of NRS 391.3127, require that pupil achievement data account for at least 50 percent of the evaluation;~~

~~(d) Prescribe the pupil achievement data that must be used as part of the evaluation system pursuant to paragraph (c) [.] which must require, without limitation, that:~~

~~(1) Pupil achievement data derived from statewide examinations and assessments must account for 25 percent of the evaluation of a teacher when applicable; and~~

~~(2) Pupil achievement data derived from assessments approved by the board of trustees of the school district that employs the teacher and the Superintendent of Public Instruction must account for 25 percent of the evaluation.~~

~~(e) Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.~~

~~(f) Include a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer reviews pursuant to the process.] (Deleted by amendment.)~~

~~Sec. 2. [Section 22 of chapter 496, Statutes of Nevada 2013, at page 3169, is hereby amended to read as follows:~~

~~Sec. 22. Commencing with the [2015 2016] 2016-2017 school year, the board of trustees of each school district shall implement and carry out the policy for evaluations of counselors, librarians and other licensed educational personnel, except for teachers and administrators, required by NRS 391.3125, as amended by section 4 of this act.] (Deleted by amendment.)~~

Sec. 3. NRS 386.650 is hereby amended to read as follows:

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.347 and 385.3572; and

(2) In a separate reporting for each group of pupils identified in the statewide system of accountability for public schools;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State;

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school; and

(3) Which must, to the extent money is available for this purpose, include, without limitation, a unique identifier for each pupil whose parent or guardian is a member of the Armed Forces of the United States, a reserve component thereof or the National Guard in a manner that will allow for the disaggregation of each category;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the ratings of schools and, if available, school districts pursuant to the statewide system of accountability for public schools and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, the sponsors of charter schools, the school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

↪ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction. ~~[Except as otherwise provided in subsection 9 of NRS 391.3125 and subsection 8 of NRS 391.3127, information on pupil achievement data, as prescribed by the State Board pursuant to NRS 391.465, must account for at least 50 percent, but must not be used as the sole criterion, in evaluating the performance of or taking disciplinary action against an individual teacher or other employee.]~~

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each charter school and university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the

Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 4. NRS 391.3123 is hereby amended to read as follows:

391.3123 ~~[Commencing with the 2015-2016 school year, the board of trustees of each school district shall implement and carry out the policy.]~~ The State Board may provide for evaluations of counselors, librarians and other licensed educational personnel, except for teachers and administrators, ~~[required by NRS 391.3125.]~~ and determine the manner in which to measure the performance of such personnel, including, without limitation, whether to use pupil achievement data as part of the evaluation.

Sec. 5. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers ~~[and other licensed personnel]~~ in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations of teachers in narrative form. The policy must comply with the statewide performance evaluation system established by the State Board pursuant to NRS 391.465. ~~[The policy must set forth a means according to which an employee's overall performance is determined to be highly effective, effective, minimally effective or ineffective. Except as otherwise provided in subsection 9, 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 teacher, pupils, administrators or other teachers or any combination thereof. ~~[In a similar manner, counselors, librarians and other licensed personnel must be evaluated.]~~ A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. The person charged with the evaluation of a teacher pursuant to this section shall hold a conference with the teacher before and after each scheduled observation of the teacher during the school year.

4. A probationary teacher must ~~[be evaluated three times]~~ receive one evaluation during each school year of his or her probationary employment. ~~[Each]~~ The evaluation must ~~[include]~~ be based in part upon at least ~~[one]~~ three scheduled ~~[observation]~~ observations of the teacher during the first school year of his or her probationary period as follows:

(a) The first scheduled observation must occur within 40 days after the first day of instruction of the school year;

(b) The second scheduled observation must occur after 40 days but within 80 days after the first day of instruction of the school year; and

(c) The third scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.

5. If a probationary teacher receives an evaluation designating his or her overall performance as effective or highly effective:

(a) During the first school year of his or her probationary period, the evaluation during the second school year of the probationary period must be based in part upon at least two scheduled observations of the teacher which must occur within the times specified in paragraphs (b) and (c) of subsection 4.

(b) During the first and second school years of his or her probationary period, the evaluation during the third school year of the probationary period must be based in part upon at least one scheduled observation of the teacher which must occur within 120 days after the first day of instruction of the school year.

6. If a probationary teacher receives an evaluation designating his or her overall performance as minimally effective or ineffective during the first or second school year of the probationary period, the probationary teacher must receive one evaluation during the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 4.

7. If a postprobationary teacher receives an evaluation designating his or her overall performance as minimally effective or ineffective, the postprobationary teacher must ~~be evaluated three times~~ receive one evaluation in the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 4. If a postprobationary teacher ~~is evaluated three times in a school year and he or she~~ receives ~~an evaluation designating~~ evidence from the first two observations during the school year indicating that, unless his or her performance improves, his or her overall performance ~~as~~ may be rated as minimally effective or ineffective ~~on the first or second evaluation, or both evaluations,~~ on the evaluation, the postprobationary teacher may request that the third ~~evaluation~~ observation be conducted by another administrator. If a postprobationary teacher requests that his or her third ~~evaluation~~ observation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

~~[6.]~~ 8. If a postprobationary teacher receives an evaluation designating his or her overall performance as effective ~~[,]~~ or highly effective, the postprobationary teacher must ~~be evaluated~~ receive one ~~[time]~~ evaluation in the immediately succeeding school year. The evaluation must ~~include at least two scheduled observations as follows:~~

~~—(a) The first scheduled observation must occur within 80 days after the first day of instruction of the school year; and~~

~~(b) The second scheduled observation must occur after 80 days but within 120 days after the first day of instruction of the school year.~~

~~7. If a postprobationary teacher receives an evaluation designating his or her overall performance as highly effective, the postprobationary teacher must be evaluated one time in the immediately succeeding school year. The evaluation must include~~ *be based in part upon* at least one scheduled observation which must occur within 120 days after the first day of instruction of the school year.

~~8.]~~ 9. The evaluation of a probationary teacher or a postprobationary teacher pursuant to this section must comply with the regulations of the State Board adopted pursuant to NRS 391.465, which must include, without limitation:

(a) An evaluation of the instructional practice of the teacher in the classroom;

(b) An evaluation of the professional responsibilities of the teacher to support learning and promote the effectiveness of the school community;

(c) Except as otherwise provided in subsection ~~[9.]~~ 10., an evaluation of the performance of pupils enrolled in the school;

(d) An evaluation of whether the teacher employs practices and strategies to involve and engage the parents and families of pupils in the classroom;

(e) Recommendations for improvements in the performance of the teacher;

(f) A description of the action that will be taken to assist the teacher in the areas of instructional practice, professional responsibilities and the performance of pupils; and

(g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

~~[9.]~~ 10. The evaluation of a probationary teacher in his or her initial year of employment as a probationary teacher 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.

~~[10.]~~ 11. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to improve his or her performance based upon the recommendations reported in the evaluation of the teacher.

Sec. 6. NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must provide for the evaluation of those administrators who provide primarily administrative

services at the school level and who do not provide primarily direct instructional services to pupils, regardless of whether such an administrator is licensed as a teacher or administrator, including, without limitation, a principal and a vice principal. The policy must also provide for the evaluation of those administrators at the district level who provide direct supervision of the principal of a school. 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]~~ receive one evaluation during each school year of his or her probationary employment. ~~[Each]~~ The evaluation must [include] be based in part upon at least ~~[one]~~ three scheduled ~~[observation]~~ observations of the probationary administrator during the first school year of his or her probationary period which must occur 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 probationary administrator receives an evaluation designating his or her overall performance as effective or highly effective:

(a) During the first school year of his or her probationary period, the evaluation during the second school year of the probationary period must be based in part upon at least two scheduled observations of the administrator which must occur within the times specified in paragraphs (b) and (c) of subsection 3.

(b) During the first and second school year of his or her probationary period, the evaluation during the third school year of the probationary period must be based in part upon at least one scheduled observation of the administrator which must occur within 120 days after the first day of instruction of the school year.

5. If a probationary administrator receives an evaluation designating his or her overall performance as minimally effective or ineffective during the

first or second school year of the probationary period, the probationary administrator must receive one evaluation during the immediately succeeding school year which is based in part upon three observations which must occur in accordance with the observation schedule set forth in subsection 3.

6. 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~~ receive one evaluation in the immediately succeeding school year which is based in part upon three observations which must occur 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~~ evidence from the first two observations indicating that, unless his or her performance improves, his or her overall performance ~~as~~ may be rated as minimally effective or ineffective ~~on the first or second evaluation, or both evaluations,~~ on the evaluation, the postprobationary administrator may request that the third ~~evaluation~~ observation be conducted by another administrator. If a postprobationary administrator requests that his or her third ~~evaluation~~ observation 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.}~~ 7. If a postprobationary administrator receives an evaluation designating his or her overall performance as effective ~~or highly effective,~~ the postprobationary administrator must ~~be evaluated~~ receive one ~~time~~ evaluation 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~~ be based in part upon at least one scheduled observation which must occur within 120 days after the first day of instruction of the school year.

~~{7.}~~ 8. 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.]~~ 9. 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.]~~ 9. 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.]~~ 10. Each probationary administrator is subject to the provisions of NRS 391.3128 and 391.3197.

~~[10.]~~ 11. 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. 7. NRS 391.3129 is hereby amended to read as follows:

391.3129 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)]~~ 2. Ineffective; or

~~[(c)]~~ 3. Minimally effective during 1 year of the 2-year consecutive period and ineffective during the other year of the period. ~~[5.]~~ 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. 8. NRS 391.460 is hereby amended to read as follows:

391.460 1. The Council shall:

(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers, administrators who provide primarily administrative services at the school level and administrators at the district level who provide direct supervision of the principal of a school, and who do not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal ~~[, counselors, librarians and other licensed educational personnel employed by school districts]~~ are:

(1) Evaluated using multiple, fair, timely, rigorous and valid methods ~~[, which includes evaluations based upon pupil achievement data as required by NRS 391.465,]~~

(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and

(3) Provided with the means to share effective educational methods with other teachers ~~[,]~~ and administrators ~~[, counselors, librarians and other licensed educational personnel]~~ throughout this State.

(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.

(c) Consider the role of professional standards for teachers ~~[,]~~ and administrators to which paragraph (a) applies ~~[, counselors, librarians and other licensed educational personnel]~~ and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.

(d) Develop and recommend to the State Board a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching.

2. The performance evaluation system recommended by the Council must ensure that:

(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers ~~[,]~~ and administrators ~~[, counselors, librarians and other licensed educational personnel]~~ and

(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.

3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.

4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by NRS 391.465.

Sec. 9. NRS 391.460 is hereby amended to read as follows:

391.460 1. The Council shall:

(a) Make recommendations to the State Board concerning the adoption of regulations for establishing a statewide performance evaluation system to ensure that teachers, administrators who provide primarily administrative services at the school level and administrators at the district level who provide direct supervision of the principal of a school, and who do not provide primarily direct instructional services to pupils, regardless of whether licensed as a teacher or administrator, including, without limitation, a principal and vice principal are:

(1) Evaluated using multiple, fair, timely, rigorous and valid methods ~~and~~ which includes evaluations based upon pupil achievement data as required by NRS 391.465;

(2) Afforded a meaningful opportunity to improve their effectiveness through professional development that is linked to their evaluations; and

(3) Provided with the means to share effective educational methods with other teachers and administrators throughout this State.

(b) Develop and recommend to the State Board a plan, including duties and associated costs, for the development and implementation of the performance evaluation system by the Department and school districts.

(c) Consider the role of professional standards for teachers and administrators to which paragraph (a) applies and, as it determines appropriate, develop a plan for recommending the adoption of such standards by the State Board.

(d) Develop and recommend to the State Board a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching.

2. The performance evaluation system recommended by the Council must ensure that:

(a) Data derived from the evaluations is used to create professional development programs that enhance the effectiveness of teachers and administrators; and

(b) A timeline is included for monitoring the performance evaluation system at least annually for quality, reliability, validity, fairness, consistency and objectivity.

3. The Council may establish such working groups, task forces and similar entities from within or outside its membership as necessary to address specific issues or otherwise to assist in its work.

4. The State Board shall consider the recommendations made by the Council pursuant to this section and shall adopt regulations establishing a statewide performance evaluation system as required by NRS 391.465.

Sec. 10. NRS 391.465 is hereby amended to read as follows:

391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance. Except as otherwise provided in subsection 4, the State Board shall prescribe the tools to be used by a school district for obtaining such measures.

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

- (1) Highly effective;
- (2) Effective;
- (3) Minimally effective; or
- (4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a).

~~(c) Except as otherwise provided in subsection 9 of NRS 391.3125 and subsection 8 of NRS 391.3127, require that pupil achievement data account for at least 50 percent of the evaluation.~~

~~(d) Prescribe the pupil achievement data that must be used as part of the evaluation system pursuant to paragraph (c).~~

~~(e)~~ Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level or administrator at the district level who provides direct supervision of the principal of a school, and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.

~~((f))~~ (d) Include a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer reviews pursuant to the process.

3. A school district may apply to the State Board to use a performance evaluation system and tools that are different than the evaluation system and

tools prescribed pursuant to subsection 1. The application must be in the form prescribed by the State Board and must include, without limitation, a description of the evaluation system and tools proposed to be used by the school district. The State Board may approve the use of the proposed evaluation system and tools if it determines that the proposed evaluation system and tools apply standards and indicators that are equivalent to those prescribed by the State Board.

Sec. 11. NRS 391.465 is hereby amended to read as follows:

391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance. Except as otherwise provided in subsection 4, the State Board shall prescribe the tools to be used by a school district for obtaining such measures.

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

- (1) Highly effective;
- (2) Effective;
- (3) Minimally effective; or
- (4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a).

(c) Except as otherwise provided in subsection 10 of NRS 391.3125 and subsection 9 of NRS 391.3127, require that pupil achievement data account for at least 20 percent of the evaluation.

(d) Except as otherwise provided in subsection 3, prescribe the pupil achievement data that must be used as part of the evaluation system pursuant to paragraph (c) which must require that:

(1) Pupil achievement data derived from statewide examinations and assessments must account for at least 10 percent of the evaluation of a teacher or administrator, as applicable; and

(2) Pupil achievement data derived from assessments approved by the board of trustees of a school district that employs the teacher or administrator, as applicable, must account for at least 10 percent of the evaluation.

(e) Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level or administrator at the district level who provides direct supervision of the principal of a school, and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.

~~[(d)]~~ (f) Include a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer reviews pursuant to the process.

3. The State Board shall, by regulation, designate the assessments that may be used by a school district to determine pupil achievement pursuant to subparagraph (2) of paragraph (d) of subsection 2. The board of trustees of a school district may select one or more of the assessments designated by the State Board to determine pupil achievement, or the board of trustees may apply to the Superintendent of Public Instruction for approval to use a different assessment to determine pupil achievement.

4. A school district may apply to the State Board to use a performance evaluation system and tools that are different than the evaluation system and tools prescribed pursuant to subsection 1. The application must be in the form prescribed by the State Board and must include, without limitation, a description of the evaluation system and tools proposed to be used by the school district. The State Board may approve the use of the proposed evaluation system and tools if it determines that the proposed evaluation system and tools apply standards and indicators that are equivalent to those prescribed by the State Board.

Sec. 12. NRS 391.465 is hereby amended to read as follows:

391.465 1. The State Board shall, based upon the recommendations of the Teachers and Leaders Council of Nevada submitted pursuant to NRS 391.460, adopt regulations establishing a statewide performance evaluation system which incorporates multiple measures of an employee's performance. Except as otherwise provided in subsection 4, the State Board shall prescribe the tools to be used by a school district for obtaining such measures.

2. The statewide performance evaluation system must:

(a) Require that an employee's overall performance is determined to be:

- (1) Highly effective;
- (2) Effective;
- (3) Minimally effective; or
- (4) Ineffective.

(b) Include the criteria for making each designation identified in paragraph (a).

(c) Except as otherwise provided in subsection 10 of NRS 391.3125 and subsection 9 of NRS 391.3127, require that pupil achievement data account for at least ~~20~~ 40 percent of the evaluation.

(d) Except as otherwise provided in subsection 3, prescribe the pupil achievement data that must be used as part of the evaluation system pursuant to paragraph (c) which must require that:

(1) Pupil achievement data derived from statewide examinations and assessments must account for at least ~~10~~ 20 percent of the evaluation of a teacher or administrator, as applicable; and

(2) Pupil achievement data derived from assessments approved by the board of trustees of a school district that employs the teacher or administrator, as applicable, must account for at least ~~10~~ 20 percent of the evaluation.

(e) Include an evaluation of whether the teacher, or administrator who provides primarily administrative services at the school level or administrator at the district level who provides direct supervision of the principal of a school, and who does not provide primarily direct instructional services to pupils, regardless of whether the probationary administrator is licensed as a teacher or administrator, including, without limitation, a principal and vice principal, employs practices and strategies to involve and engage the parents and families of pupils.

(f) Include a process for peer evaluations of teachers by qualified educational personnel which is designed to provide assistance to teachers in meeting the standards of effective teaching, and includes, without limitation, conducting observations, participating in conferences before and after observations of the teacher and providing information and resources to the teacher about strategies for effective teaching. The regulations must include the criteria for school districts to determine which educational personnel are qualified to conduct peer reviews pursuant to the process.

3. The State Board shall, by regulation, designate the assessments that may be used by a school district to determine pupil achievement pursuant to subparagraph (2) of paragraph (d) of subsection 2. The board of trustees of a school district may select one or more of the assessments designated by the State Board to determine pupil achievement, or the board of trustees may apply to the Superintendent of Public Instruction for approval to use a different assessment to determine pupil achievement.

4. A school district may apply to the State Board to use a performance evaluation system and tools that are different than the evaluation system and tools prescribed pursuant to subsection 1. The application must be in the form prescribed by the State Board and must include, without limitation, a description of the evaluation system and tools proposed to be used by the school district. The State Board may approve the use of the proposed evaluation system and tools if it determines that the proposed evaluation system and tools apply standards and indicators that are equivalent to those prescribed by the State Board.

~~[Sec. 3.]~~ Sec. 13. The evaluation of teachers ~~[,]~~ and administrators ~~[and other licensed personnel]~~ pursuant to NRS 391.3125 or 391.3127 must not

~~include [an evaluation of the performance of pupils enrolled in the school]~~
~~pupil achievement data for the 2015-2016 school year.~~

Sec. 14. NRS 391.31211, 391.31212, 391.31213, 391.31214, 391.31215, 391.31216, 391.31217, 391.31218, 391.1219 and 391.3122 are hereby repealed.

Sec. 15. Any probationary or postprobationary teacher or administrator who was evaluated for the 2014-2015 school year must be evaluated for the 2015-2016 school year in the manner provided in NRS 391.3125 or 391.3127, as applicable, as amended by sections 5 and 6 of this act. For the purposes of the provisions of those sections, a teacher or administrator who received for the 2014-2015 school year or for any previous school year a rating of:

1. Satisfactory, must be considered to have received a rating of effective or highly effective.

2. Unsatisfactory, must be considered to have received a rating of minimally effective or ineffective.

~~[Sec. 4.]~~ Sec. 16. 1. This section and sections 1 to 8, inclusive, and sections 10, 13, 14 and 15 of this act [becomes] become effective on July 1, 2015.

2. Sections 9 and 11 of this act become effective on July 1, 2015, for the purpose of adopting regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of those sections and on July 1, 2016, for all other purposes.

3. Section 12 of this act becomes effective on July 1, 2017.

LEADLINES OF REPEALED SECTIONS

391.31211 For 2013-2014 school year: Application by school district to opt out of delay of implementation of statewide performance evaluation system; school district with approved application not required to participate in validation study.

391.31212 For 2014-2015 school year: Application by school district to opt out of delay of implementation of statewide performance evaluation system; school district with approved application not required to participate in validation study.

391.31213 Validation study of statewide performance evaluation system; selection of representative sample of teachers and administrators to participate; disciplinary decisions must not be based on evaluations conducted under validation study.

391.31214 Policy for evaluations of teachers and other licensed educational personnel instead of NRS 391.3125 during validation study.

391.31215 Policy for evaluation of administrators instead of NRS 391.3127 during validation study.

391.31216 Status of probationary employees during validation study.

391.31217 Report to Interim Finance Committee on results of 2013-2014 validation study; determination by Interim Finance Committee whether all

school districts prepared to implement statewide performance evaluation system.

391.31218 Observation schedule for postprobationary teachers and administrators if statewide performance evaluation system implemented for 2014-2015 school year.

391.31219 Observation schedule for postprobationary teachers and administrators if statewide performance evaluation system implemented for 2015-2016 school year.

391.3122 Validation study of counselors, librarians and certain other educational personnel for 2014-2015 school year.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment excludes the use of student achievement data in the Nevada Educator Performance Framework (NEPF) for School Year 2015-16; for School Year 2016-17; reduces from 50 percent to 20 percent the weighting of student achievement data within the NEPF and evenly divides the weighting among statewide and local examinations as designated by the State Board of Education; allows a school district to choose one or more of the local assessments designated by the State Board or to apply to use a different assessment; beginning in School Year 2017-18, increases the weighting of student achievement data within the NEPF from 20 percent to 40 percent; makes supervisors of principals also subject to the NEPF; authorizes the State Board to determine which other licensed personnel are evaluated and the manner in which their performance is measured; requires first-year probationary personnel or those who are post-probationary and deemed minimally effective or ineffective to receive three scheduled observations and one summative evaluation each school year. All other personnel subject to the NEPF must receive at least one scheduled observation and one summative evaluation each year.

It also provides for less frequent observations of probationary teachers evaluated as effective or highly effective; authorizes school districts to apply to the State Board to use a different, but equivalent, evaluation system and tools; and repeals several obsolete provisions from NRS.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 276.

Bill read third time.

The following amendment was proposed by Senators Segerblom and Farley:

Amendment No. 948.

SUMMARY—Revises provisions governing medical marijuana establishments. (BDR 40-996)

AN ACT relating to medical marijuana; revising provisions relating to the allocation of medical marijuana establishment registration certificates; authorizing the transfer of a medical marijuana establishment registration certificate in certain circumstances; authorizing a medical marijuana establishment to move to a new location under certain circumstances; revising provisions governing the registration of certain medical marijuana establishments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law limits, by the size of the population of each county, the number of certain medical marijuana establishments that may be certified in each county, and also limits the Division of Public and Behavioral Health of the Department of Health and Human Services to accepting applications for the certification of such establishments to not more than 10 days in any calendar year. (NRS 453A.324) Section 1 of this bill requires the Division to reallocate the certificates provided for a county which has no qualified applicants to the other counties of this State. Section 5 of this bill provides for the reallocation and issuance of such currently unused certificates.

Existing law prohibits the transfer of a medical marijuana establishment agent registration card or a medical marijuana establishment registration certificate. (NRS 453A.334) Section 2 of this bill allows the transfer of ownership in a medical marijuana establishment and the transfer of a medical marijuana establishment registration certificate if the new owner: (1) meets the requirements of existing law relating to liquid assets; (2) submits certain information to allow the Division to perform certain background checks; and (3) proves that its acquisition of the establishment will not violate certain restrictions on holding multiple establishments.

Existing law establishes certain requirements for the location of a medical marijuana establishment. (NRS 453A.350) Section 3 of this bill allows an establishment to move to a new location under the jurisdiction of the same local government if, after a public hearing, the local government approves the new location. Section 4 of this bill requires the Division to revise its regulations to conform with the provisions of section 3.

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

Section 1. NRS 453A.324 is hereby amended to read as follows:

453A.324 1. Except as otherwise provided in this section and NRS 453A.326, the Division shall issue medical marijuana establishment registration certificates for medical marijuana dispensaries in the following quantities for applicants who qualify pursuant to NRS 453A.322:

- (a) In a county whose population is 700,000 or more, 40 certificates;
- (b) In a county whose population is 100,000 or more but less than 700,000, ten certificates;
- (c) In a county whose population is 55,000 or more but less than 100,000, two certificates; and
- (d) In each other county, one certificate.

2. Notwithstanding the provisions of subsection 1, the Division ~~shall~~ ~~not~~ :

(a) *Shall not* issue medical marijuana establishment registration certificates for medical marijuana dispensaries in such a quantity as to cause the existence within the applicable county of more than one medical marijuana dispensary for every ten pharmacies that have been licensed in the county pursuant to chapter 639 of NRS. The Division may issue medical marijuana establishment registration certificates for medical marijuana

dispensaries in excess of the ratio otherwise allowed pursuant to this subsection if to do so is necessary to ensure that the Division issues at least one medical marijuana establishment registration certificate in each county of this State in which the Division has approved an application for such an establishment to operate.

(b) Shall, for any county for which no applicants qualify pursuant to NRS 453A.322, within 2 months after the end of the period during which the Division accepts applications pursuant to subsection 4, reallocate the certificates provided for that county pursuant to subsection 1 to the other counties specified in subsection 1 in the same proportion as provided in subsection 1.

3. With respect to medical marijuana establishments that are not medical marijuana dispensaries, the Division shall determine the appropriate number of such establishments as are necessary to serve and supply the medical marijuana dispensaries to which the Division has granted medical marijuana establishment registration certificates.

4. The Division shall not, for more than a total of 10 business days in any 1 calendar year, accept applications to operate medical marijuana establishments.

Sec. 2. NRS 453A.334 is hereby amended to read as follows:

453A.334 ~~{The}~~

1. *Except as otherwise provided in subsection 2, the following are nontransferable:*

~~{1.}~~ (a) A medical marijuana establishment agent registration card.

~~{2.}~~ (b) A medical marijuana establishment registration certificate.

2. *A medical marijuana establishment may transfer all or any portion of its ownership to another party, and the Division shall transfer the medical marijuana establishment registration certificate issued to the establishment to the party acquiring ownership, if the party who will acquire the ownership of the medical marijuana establishment submits:*

(a) Evidence satisfactory to the Division that the party has complied with the provisions of sub-subparagraph (III) of subparagraph (2) of paragraph (a) of subsection 3 of NRS 453A.322 for the purpose of operating the medical marijuana establishment.

(b) For the party and each person who is proposed to be an owner, officer or board member of the proposed medical marijuana establishment, the name, address and date of birth of the person, a complete set of the person's fingerprints and written permission of the person authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(c) Proof satisfactory to the Division that, as a result of the transfer of ownership, no person, group of persons or entity will, in a county whose population is 100,000 or more, hold more than one medical marijuana establishment registration certificate or more than 10 percent of the medical

marijuana establishment registration certificates allocated to the county, whichever is greater.

Sec. 3. NRS 453A.350 is hereby amended to read as follows:

453A.350 1. Each medical marijuana establishment must:

~~{1.}~~ (a) Be located in a separate building or facility that is located in a commercial or industrial zone or overlay;

~~{2.}~~ (b) Comply with all local ordinances and rules pertaining to zoning, land use and signage;

~~{3.}~~ (c) Have an appearance, both as to the interior and exterior, that is professional, orderly, dignified and consistent with the traditional style of pharmacies and medical offices; and

~~{4.}~~ (d) Have discreet and professional signage that is consistent with the traditional style of signage for pharmacies and medical offices.

2. *A medical marijuana establishment may move to a new location under the jurisdiction of the same local government as its original location and regardless of the distance from its original location if the operation of the medical marijuana establishment at the new location has been approved by the local government. A local government may approve a new location pursuant to this subsection only in a public hearing for which written notice is given at least 7 working days before the hearing.*

Sec. 4. 1. The provisions of any regulation adopted by the Division of Public and Behavioral Health of the Department of Health and Human Services which conflict with the provisions of NRS 453A.350, as amended by section 3 of this act, are void and must not be given effect to the extent of the conflict.

2. The Division of Public and Behavioral Health shall amend or repeal any of its existing regulations that conflict or are inconsistent with the provisions of NRS 453A.350, as amended by section 3 of this act, as soon as practicable after the effective date of this section.

Sec. 5. 1. Notwithstanding any other provision of law, the Division shall reallocate, on or before July 1, 2015, medical marijuana establishment registration certificates for medical marijuana dispensaries pursuant to NRS 453A.324, as amended by section 1 of this act, in the following quantities for applicants who qualify pursuant to NRS 453A.322:

(a) In a county whose population is 700,000 or more, eight certificates ~~{1.}~~ for the unincorporated area of such a county;

(b) In a county whose population is 100,000 or more but less than 700,000, one certificate ~~{1.}~~ for the unincorporated area of such a county; and

(c) In addition to the certificate described in paragraph (b), in a county whose population is 100,000 or more but less than 700,000:

(1) One certificate for each city whose population is 220,000 or more; and

(2) One certificate for each city whose population is 60,000 or more but less than 220,000.

2. ~~[Notwithstanding the] The provisions of NRS 453A.326 [the Division shall ensure that each] do not apply to any medical marijuana establishment registration certificate issued pursuant to [paragraph (a) of subsection 1, [is allocated in proportion to the population of the local governmental jurisdiction].]~~

3. Notwithstanding any other provision of law, the Division:

(a) Shall, on or before July 1, 2015, issue a medical marijuana establishment registration certificate pursuant to subsection 1 if:

(1) The medical marijuana establishment is in compliance with paragraph (a) of subsection 4; and

(2) The issuance of such certificate does not exceed the total number of certificates allocated.

(b) May, at any time, after receiving an application to operate a medical marijuana establishment:

(1) Register the medical marijuana establishment; and

(2) Issue a medical marijuana establishment registration certificate to the applicant.

(c) Shall, on or after the effective date of this act and before September 1, 2015, regardless of the Division's ranking of the applications to operate a medical marijuana establishment, issue a medical marijuana establishment registration certificate for the total number of certificates allocated unless the Division determines that the applicant is not qualified.

(d) Shall provide the rationale for determining that an applicant to operate a medical marijuana establishment is not qualified, within 30 days after such determination, to:

(1) An applicant who is denied a medical marijuana establishment registration certificate; and

(2) The local governmental jurisdiction where the proposed medical marijuana establishment is to be located.

4. A local governmental jurisdiction may:

(a) Issue a business license ~~[and]~~ or deem a medical marijuana establishment in compliance with all local governmental ordinances or rules, regardless of any ranking of the establishment established by the Division.

(b) Consider diversity, location and community ties in determining whether the medical marijuana establishment is in compliance with all applicable local governmental ordinances or rules.

(c) Provide by ordinance a limitation on the total number of medical marijuana establishments which is less than the number allocated pursuant to subsection 1, if the local governmental jurisdiction determines that the community is adequately served by the number of current establishments.

5. Any application period established by the Division pursuant to this section:

(a) Is a one-time extension of the application period opened by the Division in calendar year 2014;

(b) Must not require a new application if an application has previously been submitted;

(c) Must not require the payment of any additional application fees if such fees have previously been paid; and

(d) Is separate and apart from and must not be included within the 10-day period for the acceptance of applications pursuant to subsection 4 of NRS 453A.324, as amended by section 1 of this act.

6. As used in this section:

(a) "Division" means the Division of Public and Behavioral Health of the Department of Health and Human Services.

(b) "Local governmental jurisdiction" means a city, town, township or unincorporated area within a county.

Sec. 6. 1. This section and sections 1 and 5 of this act become effective upon passage and approval.

2. Section 5 of this act expires by limitation on December 31, 2015.

3. Sections 2, 3 and 4 of this act become effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on October 1, 2015, for all other purposes.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

It clarifies the language of the reallocation of licenses from rural Nevada into Clark County; that they will be reallocated to areas in unincorporated Clark County and none of the incorporated cities.

Amendment adopted.

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

Assembly Bill No. 83.

Bill read third time.

Remarks by Senator Roberson.

Assembly Bill No. 83 expands the definition of "manufacturer" for the purposes of the regulation of cigarettes and other tobacco products to include certain persons who produce, fill, roll, dispense or otherwise manufacture cigarettes using certain commercial-grade cigarette rolling machines. The bill requires that a manufacturer must obtain a license from the Department of Taxation in order to operate a rolling machine for commercial purposes; and additionally provides for the seizure and destruction of a rolling machine that is operated illegally.

Assembly Bill No. 83 also removes provisions requiring certain tobacco manufacturers who are required to maintain a registered agent in Nevada solely to comply with the provisions of NRS 370.680 from the requirement to obtain a state business license from the Secretary of State's Office. This act becomes effective upon passage and approval.

Roll call on Assembly Bill No. 83:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 83 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 89.

Bill read third time.

The following amendment was proposed by Senator Settelmeyer:

Amendment No. 875.

SUMMARY—Makes various changes to provisions relating to certain professions. (BDR 53-295)

AN ACT relating to professions; requiring the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to gather and report certain data to the Interagency Council on Veterans Affairs; authorizing a private employer to adopt an employment policy that gives preference in hiring to a veteran or the spouse of a veteran; authorizing the Nevada Equal Rights Commission to review such an employment policy under certain circumstances; revising provisions governing the dissemination of certain records of criminal history; authorizing certain persons to obtain a commercial driver's license without taking a driving skills test; authorizing certain qualified professionals to apply for a license by endorsement to practice in this State; requiring a regulatory body to develop opportunities for reciprocity of licensure for certain qualified professionals; requiring a regulatory body in certain circumstances to prepare and submit to the Interagency Council on Veterans Affairs an annual report relating to veterans; authorizing certain regulatory bodies to enter into certain reciprocal agreements relating to the practice of licensed professionals; revising provisions relating to the licensure of an allopathic and osteopathic physician; revising provisions relating to the practice of dentistry and dental hygiene, including, without limitation, the licensing requirements for and the issuance of a license to dentists and dental hygienists; establishing a fee for the inspection of a facility required by the Board of Dental Examiners of Nevada to ensure compliance with infection control guidelines; authorizing certain qualified physicians and podiatrists to obtain a license by endorsement under certain circumstances; authorizing the Board of Examiners for Social Workers to grant a provisional license to certain persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill set forth new provisions relating to the employment of veterans. Section 1 requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to gather aggregate unemployment data concerning veterans and report such data to the Interagency Council on Veterans Affairs on a quarterly basis. Section 2 authorizes a private employer to adopt an employment policy that gives preference in hiring to a veteran or the spouse of a veteran. Section 2 also authorizes the Nevada Equal Rights Commission

to review the uniform application of such an employment policy upon receiving a written complaint from a prospective employee of the employer and requires the employer, upon a finding by the Commission that the policy has not been applied uniformly, to revise his or her employment policy in accordance with the recommendations of the Commission. Existing law generally provides for preferential employment in public employment and the construction of public works for certain veterans. (NRS 281.060, 284.260, 338.130)

Under existing law, before a person can be issued a commercial driver's license by this State, the person is required, among other things, to pass a driving skills test for driving a commercial motor vehicle. (NRS 483.928) Section 5 of this bill provides an exemption to this requirement for certain persons who have experience driving a commercial motor vehicle because of their service in the Armed Forces of the United States.

Existing law also generally provides for the regulation of professions in this State. (Title 54 of NRS) Section 9 of this bill authorizes certain qualified professionals who are licensed in another state or territory of the United States and who are active members of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran to apply for and receive a license by endorsement to practice their respective profession in this State. Section 9 also provides that a person who meets such requirements and receives a license by endorsement in certain professions is entitled to at least a 50 percent reduction in the fee for an examination required as a prerequisite to licensure or for initial issuance of a license. Similarly, section 40.3 of this bill authorizes certain hearing aid specialists who are licensed in another state or territory of the United States and who are active members of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran to apply for and receive a license by endorsement to practice as a hearing aid specialist in this State. Section 10 of this bill requires a regulatory body to develop opportunities for reciprocity of licensure for such persons who hold a professional license that is not recognized by this State. Section 11 of this bill requires a regulatory body in certain circumstances to prepare and submit to the Interagency Council on Veterans Affairs an annual report providing information on the number of veterans who have applied for a license, have been issued a license or have renewed a license.

Section 12 of this bill authorizes certain regulatory bodies of this State to enter into a reciprocal agreement with the corresponding regulatory authority of another state or territory of the United States for the purposes of authorizing and regulating the practice of certain professions concurrently in this State and another jurisdiction. Section 12 provides that such a reciprocal agreement must not authorize a person to practice his or her profession concurrently in this State unless the person meets certain credentialing requirements. Sections 13, 30.5 and 33 of this bill authorize certain qualified physicians and certain qualified podiatrists to obtain an expedited license by

endorsement to practice in this State if the physician or podiatrist meets certain requirements. Section 14 of this bill authorizes the Board of Medical Examiners to issue a license to practice medicine to certain persons who receive postgraduate education in certain approved residency programs in Canada.

Sections 20-27 of this bill revise various provisions relating to dentists and dental hygienists. Section 22.5 authorizes the Executive Director of the Board of Dental Examiners of Nevada to issue a license to a qualified applicant without further review of the Board under certain circumstances. Sections 23 and 25 revise provisions relating to the licensing requirements for dentists and dental hygienists, and section 27 establishes a fee for the inspection of a facility required by the Board to ensure compliance with infection control guidelines.

Additionally, existing law authorizes the Board of Examiners for Social Workers to grant a license without examination to a person who holds a current license to engage in the practice of social work in a state whose licensing requirements at the time the license was issued are deemed by the Board to be substantially equivalent to the requirements set forth in the statutory provisions governing social workers in this State. (NRS 641B.270) Section 36 of this bill authorizes the Board to grant a provisional license to engage in social work as an independent social worker or a clinical social worker to an active member of or the spouse of an active member of the Armed Forces of the United States who applied for such a license if the Board deems that the other state's licensing requirements are not substantially equivalent to the requirements set forth in the statutory provisions governing social workers in this State. Section 3 of this bill adds the Board to the list of persons and governmental entities to whom records of criminal history must be disseminated by an agency of criminal justice upon request.

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

Section 1. Chapter 612 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Administrator of the Division shall, for each calendar quarter, gather aggregate unemployment data concerning veterans, including, without limitation, benefits paid to veterans, and report such data to the Interagency Council on Veterans Affairs.*

2. *As used in this section, "veteran" has the meaning ascribed to it in NRS 417.005.*

Sec. 2. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A private employer may adopt an employment policy that gives preference in hiring to a veteran or the spouse of a veteran. Such a policy must be applied uniformly to employment decisions regarding the hiring or promotion of a veteran or the spouse of a veteran or the retention of a veteran or the spouse of a veteran during a reduction in the workforce.*

2. *A private employer who gives preference in hiring to a veteran or the spouse of a veteran pursuant to subsection 1 does not violate any local or state equal employment law.*

3. *The Nevada Equal Rights Commission may, upon receipt of a written complaint from a prospective employee of a private employer who has adopted an employment policy giving preference in hiring to a veteran or the spouse of a veteran pursuant to subsection 1, review the employment policy to determine whether the policy is being applied uniformly in accordance with subsection 1. If the Commission determines that an employment policy is not being applied uniformly, the Commission shall cause written notice of its findings, including the recommendations of the Commission, to be provided to the employer and prospective employee. Upon receipt of a notice from the Commission that an employment policy is not being applied uniformly, the employer shall revise his or her employment policy consistent with the recommendations of the Commission.*

4. *As used in this section:*

(a) *"Private employer" has the meaning ascribed to it in NRS 616A.295.*

(b) *"Veteran" has the meaning ascribed to it in NRS 417.005.*

Sec. 3. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer which are the result of a name-based inquiry and which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive from a name-based inquiry, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the

information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does not reveal the name of an individual victim of an offense or the information described in subsection 7 of NRS 179B.250. A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

- (a) The name and address of the employer, and the name and signature of the person or entity requesting the information on behalf of the employer;
- (b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and
- (c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an employer is entitled or authorized to receive, the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information described in subsection 4 of NRS 179A.190 concerning an employee, prospective employee, volunteer or prospective volunteer who gives written consent to the release of that information if the employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. The Central Repository shall search for and disseminate such information in the manner set forth in NRS 179A.210 for the dissemination of a notice of information.

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to an employer who requests information and to whom such information is disseminated pursuant to subsections 4 and 5.

7. Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

- (a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.
- (b) The person who is the subject of the record of criminal history when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.
- (c) The State Gaming Control Board.
- (d) The State Board of Nursing.
- (e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out the duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in a professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(q) The Aging and Disability Services Division of the Department of Health and Human Services or its designated representative, as needed to ensure the safety of investigators and caseworkers.

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

(w) The Board of Massage Therapists and its Executive Director.

(x) *The Board of Examiners for Social Workers.*

(y) A multidisciplinary team to review the death of the victim of a crime that constitutes domestic violence organized or sponsored by the Attorney General pursuant to NRS 228.495.

8. Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

Sec. 4. (Deleted by amendment.)

Sec. 5. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In accordance with 49 C.F.R. 383.77, the requirement set forth in paragraph (b) of subsection 2 of NRS 483.928 for the issuance of a commercial driver's license by this State must be waived for an applicant who:*

(a) Has experience driving a commercial motor vehicle because of his or her service in the Armed Forces of the United States;

(b) Is licensed at the time of his or her application for a commercial driver's license; and

(c) Meets the requirements set forth in subsection 2.

2. *An applicant for a commercial driver's license who seeks a waiver pursuant to subsection 1 of the requirement set forth in paragraph (b) of subsection 2 of NRS 483.928 shall:*

(a) Certify that, during the 2 years immediately preceding his or her application for a commercial driver's license, the applicant has not had:

(1) More than one license in more than one jurisdiction at the same time, except for a military license;

(2) A license suspended, revoked, cancelled or denied;

(3) A conviction for an offense listed in 49 C.F.R. 383.51(b);

(4) More than one conviction for a serious traffic violation listed in 49 C.F.R. 383.51(c); and

(5) A conviction for a violation of any military, state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident, and has no record of an accident in which he or she was at fault.

(b) Certify and provide evidence that he or she:

(1) Has been regularly employed in a military position that requires the operation of a commercial motor vehicle within the 90 days immediately preceding his or her application;

(2) Is exempt from the requirements for a commercial driver's license pursuant to 49 C.F.R. 383.3(c); and

(3) Has operated a vehicle which is representative of the commercial motor vehicle that he or she intends to operate for at least 2 years immediately preceding the date of his or her application.

Sec. 6. NRS 483.928 is hereby amended to read as follows:

483.928 A person who wishes to be issued a commercial driver's license by this State must:

1. Apply to the Department for a commercial driver's license;
2. In accordance with standards contained in regulations adopted by the Department:
 - (a) Pass a knowledge test for the type of motor vehicle the person operates or expects to operate; and
 - (b) ~~[Pass]~~ *Except as otherwise provided in section 5 of this act, pass a driving skills test for driving a commercial motor vehicle taken in a motor vehicle which is representative of the type of motor vehicle the person operates or expects to operate;*
3. Comply with all other requirements contained in the regulations adopted by the Department pursuant to NRS 483.908;
4. Not be ineligible to be issued a commercial driver's license pursuant to NRS 483.929; and
5. For the issuance of a commercial driver's license with an endorsement for hazardous materials, submit a complete set of fingerprints and written permission authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History and all applicable federal agencies to process the fingerprints for a background check of the applicant in accordance with Section 1012 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT ACT) of 2001, 49 U.S.C. 5103a.

Sec. 7. Chapter 622 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 to 12, inclusive, of this act.

Sec. 8. *As used in sections 8 to 11, inclusive, of this act, unless the context otherwise requires, "veteran" has the meaning ascribed to it in NRS 417.005.*

Sec. 9. 1. *Notwithstanding the applicable provisions for obtaining a license pursuant to this title, a regulatory body may issue such a license by endorsement to an applicant if:*

(a) The applicant holds a corresponding valid and unrestricted license to practice his or her respective profession in the District of Columbia or any state or territory of the United States;

(b) The applicant is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran; and

(c) The regulatory body determines that the provisions of law in the District of Columbia or the state or territory in which the applicant holds a license as described in paragraph (a) are substantially equivalent to the applicable provisions of law in this State.

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

(a) Proof satisfactory to the regulatory body that the applicant:

(1) *Satisfies the requirements of paragraphs (a) and (b) of subsection 1;*
(2) *Is a citizen of the United States or otherwise has the legal right to work in the United States;*

(3) *Has not been disciplined or investigated by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant holds a license to practice his or her respective profession;*

(4) *If applicable to the profession, has not been held civilly or criminally liable for malpractice in the District of Columbia or any state or territory of the United States; and*

(5) *If applicable to the profession, is certified by a specialty board of the American Board of Medical Specialties or the American Osteopathic Association;*

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

(c) *Any other information required by the regulatory body in this State under whose jurisdiction the license may be issued.*

3. *Not later than 15 business days after receiving an application for a license by endorsement pursuant to this section, a regulatory body shall provide written notice to the applicant of any additional information required by the regulatory body to consider the application. The regulatory body shall approve or deny the application not later than:*

(a) *Forty-five days after receiving all the additional information required by the regulatory body to complete the application; or*

(b) *If the regulatory body requires the applicant to submit fingerprints for the purpose of obtaining a report on the applicant's background, 10 days after receiving the report from the appropriate authority,*

↪ *whichever occurs later.*

4. *A license by endorsement may be issued at a meeting of the regulatory body or between its meetings by the chief executive officer of the regulatory body. Such an action shall be deemed to be an action of the regulatory body.*

5. *Notwithstanding any applicable provision of chapters 630 to 641C, inclusive, or 644 of NRS establishing a fee for any examination required as a prerequisite to licensure or for the issuance of a license, a regulatory body subject to one of those chapters shall not collect from any person to whom a license by endorsement is issued pursuant to this section more than one-half of the specified fee for the examination or initial issuance of the license.*

6. *At any time before making a final decision on an application for a license by endorsement, a regulatory body may grant a provisional license authorizing the applicant to practice his or her respective profession in accordance with regulations adopted by the regulatory body.*

Sec. 10. *A regulatory body shall develop opportunities for reciprocity of licensure for any person who:*

1. *Is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran; and*

2. *Holds a valid and unrestricted license to practice his or her profession that is not recognized by this State.*

Sec. 11. *If a regulatory body collects information regarding whether an applicant for a license is a veteran, the regulatory body shall prepare and submit to the Interagency Council on Veterans Affairs created by NRS 417.0191 an annual report which provides information on the number of veterans who have:*

1. *Applied for a license from the regulatory body.*
2. *Been issued a license by the regulatory body.*
3. *Renewed a license with the regulatory body.*

Sec. 12. 1. *A regulatory body that regulates a profession pursuant to chapters 630, 630A, 632 to 641C, inclusive, or 644 of NRS in this State may enter into a reciprocal agreement with the corresponding regulatory authority of the District of Columbia or any other state or territory of the United States for the purposes of:*

(a) *Authorizing a qualified person licensed in the profession in that state or territory to practice concurrently in this State and one or more other states or territories of the United States; and*

(b) *Regulating the practice of such a person.*

2. *A regulatory body may enter into a reciprocal agreement pursuant to subsection 1 only if the regulatory body determines that:*

(a) *The corresponding regulatory authority is authorized by law to enter into such an agreement with the regulatory body; and*

(b) *The applicable provisions of law governing the practice of the respective profession in the state or territory on whose behalf the corresponding regulatory authority would execute the reciprocal agreement are substantially similar to the corresponding provisions of law in this State.*

3. *A reciprocal agreement entered into pursuant to subsection 1 must not authorize a person to practice his or her profession concurrently in this State unless the person:*

(a) *Has an active license to practice his or her profession in another state or territory of the United States.*

(b) *Has been in practice for at least the 5 years immediately preceding the date on which the person submits an application for the issuance of a license pursuant to a reciprocal agreement entered into pursuant to subsection 1.*

(c) *Has not had his or her license suspended or revoked in any state or territory of the United States.*

(d) *Has not been refused a license to practice in any state or territory of the United States for any reason.*

(e) *Is not involved in or does not have pending any disciplinary action concerning his or her license or practice in any state or territory of the United States.*

(f) Pays any applicable fees for the issuance of a license that are otherwise required for a person to obtain a license in this State.

(g) Submits to the applicable regulatory body the statement required by NRS 425.520.

4. If the regulatory body enters into a reciprocal agreement pursuant to subsection 1, the regulatory body must prepare an annual report before January 31 of each year outlining the progress of the regulatory body as it relates to the reciprocal agreement and submit the report to the Director of the Legislative Counsel Bureau for transmittal to the next session of the Legislature in odd-numbered years or to the Legislative Committee on Health Care in even-numbered years.

Sec. 13. Chapter 630 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in NRS 630.1605 and 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who meets the requirements set forth in this section. An applicant may submit to the Board an application for such a license if the applicant:

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

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

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

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

(1) Satisfies the requirements of subsection 1;

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

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

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

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

(c) Any other information required by the Board.

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

(a) *Forty-five days after receiving all the additional information required by the Board to complete the application; or*

(b) *If the Board requires the applicant to submit fingerprints for the purpose of obtaining a report on the applicant's background, 10 days after receiving the report from the appropriate authority,*

➔ *whichever occurs later.*

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

Sec. 14. NRS 630.160 is hereby amended to read as follows:

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

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.266, inclusive, *and sections 9 and 13 of this act*, a license may be issued to any person who:

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

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

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

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

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

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

(2) All parts of the Federation Licensing Examination;

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

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

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

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

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

(1) Has completed 36 months of progressive postgraduate:

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

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

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

(3) Is a resident who is enrolled in a progressive postgraduate training program in the United States or Canada approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association, has completed at least 24 months of the program and has committed, in writing, to the Board that he or she will complete the program; and

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

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

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

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

- (1) Placing the licensee on probation for a specified period with specified conditions;
- (2) Administering a public reprimand;
- (3) Limiting the practice of the licensee;
- (4) Suspending the license for a specified period or until further order of the Board;
- (5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;
- (6) Requiring supervision of the practice of the licensee;
- (7) Imposing an administrative fine not to exceed \$5,000;
- (8) Requiring the licensee to perform community service without compensation;
- (9) Requiring the licensee to take a physical or mental examination or an examination testing his or her competence to practice medicine;
- (10) Requiring the licensee to complete any training or educational requirements specified by the Board; and
- (11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

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

Sec. 15. NRS 630.165 is hereby amended to read as follows:

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

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

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

2. An applicant for a license by endorsement to practice medicine pursuant to NRS 630.1605 *or section 9 or 13 of this act* must submit to the Board, on a form provided by the Board, an application in writing, accompanied by an affidavit stating that:

(a) The applicant is the person named in the license to practice medicine issued by the District of Columbia or any state or territory of the United

States and that the license was obtained without fraud or misrepresentation or any mistake of which the applicant is aware; and

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

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

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

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

Sec. 16. NRS 630.171 is hereby amended to read as follows:

630.171 Except as otherwise provided in NRS 630.263, in addition to the other requirements for licensure, an applicant for a license to practice medicine shall cause to be submitted to the Board, if applicable:

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant ~~received~~ *completed* training; and

2. Proof of satisfactory completion of a progressive postgraduate training program specified in subparagraph (3) of paragraph (d) of subsection 2 of NRS 630.160 within 60 days after the scheduled completion of the program.

Sec. 17. NRS 630.258 is hereby amended to read as follows:

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

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

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

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

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

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

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605 ~~[-]~~ *or section 9 or 13 of this act*;

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

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

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

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

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

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

5. The Board shall not charge a fee for:

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

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

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

Sec. 18. NRS 630.265 is hereby amended to read as follows:

630.265 1. ~~[Except as otherwise provided in]~~ *Unless the Board denies such licensure pursuant to NRS 630.161 [3] or for other good cause, the Board [may] shall* issue to a qualified applicant a limited license to practice medicine as a resident physician in a graduate program approved by the Accreditation Council for Graduate Medical Education if the applicant is:

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

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

2. The medical school or other institution sponsoring the program shall provide the Board with written confirmation that the applicant has been appointed to a position in the program and is a citizen of the United States or lawfully entitled to remain and work in the United States. A limited license

remains valid only while the licensee is actively practicing medicine in the residency program and is legally entitled to work and remain in the United States.

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

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

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

Sec. 19. NRS 630.268 is hereby amended to read as follows:

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

For application for and issuance of a license to practice as a physician, including a license by endorsement <i>issued pursuant to NRS 630.1605 or section 13 of this act</i>	\$600
For application for and issuance of a temporary, locum tenens, limited, restricted, authorized facility, special, special purpose or special event license	400
For renewal of a limited, restricted, authorized facility or special license	400
For application for and issuance of a license as a physician assistant	400
For biennial registration of a physician assistant	800
For biennial registration of a physician	800
For application for and issuance of a license as a perfusionist or practitioner of respiratory care	400
For biennial renewal of a license as a perfusionist	600
For biennial registration of a practitioner of respiratory care	600
For biennial registration for a physician who is on inactive status	400
For written verification of licensure	50
For a duplicate identification card	25
For a duplicate license	50
For computer printouts or labels	500
For verification of a listing of physicians, per hour	20
For furnishing a list of new physicians	100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a

special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 20. Chapter 631 of NRS is hereby amended by adding thereto a new section to read as follows:

"Minimal sedation" means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command, and during which cognitive function and coordination may be modestly impaired, but ventilatory and cardiovascular functions are unaffected.

Sec. 21. NRS 631.005 is hereby amended to read as follows:

631.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 631.015 to 631.105, inclusive, and section 20 of this act have the meanings ascribed to them in those sections.

Sec. 22. NRS 631.025 is hereby amended to read as follows:

631.025 ~~["Conscious"]~~ *"Moderate sedation" means a [minimally] drug-induced depressed level of consciousness, [produced by a pharmacologic or nonpharmacologic method or a combination thereof, in] during which [the] :*

1. *The patient retains the ability [independently and continuously to maintain an airway and] to respond [appropriately] purposefully to [physical stimulation and] verbal commands [-], either alone or accompanied by light tactile stimulation;*

2. *Spontaneous ventilation is adequate and no interventions are required to maintain a patent airway; and*

3. *Cardiovascular function is usually maintained.*

Sec. 22.5. NRS 631.220 is hereby amended to read as follows:

631.220 1. Every applicant for a license to practice dental hygiene or dentistry, or any of its special branches, must:

(a) File an application with the Board . ~~[at least 45 days before:~~

~~—(1) The date on which the examination will be given; or~~
~~—(2) If an examination is not required for the issuance of a license, the date on which the Board is scheduled to take action on the application.]~~

(b) Accompany the application with a recent photograph of the applicant together with the required fee and such other documentation as the Board may require by regulation.

(c) Submit with the application a complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) *If the applicant is required to take an examination pursuant to NRS 631.240 or 631.300, submit with the application proof satisfactory that the applicant passed the examination.*

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

3. *The Secretary-Treasurer may, in accordance with regulations adopted by the Board and if the Secretary-Treasurer determines that an application is:*

(a) Sufficient, advise the Executive Director of the sufficiency of the application. Upon the advice of the Secretary-Treasurer, the Executive Director may issue a license to the applicant without further review by the Board.

(b) Insufficient, reject the application by sending written notice of the rejection to the applicant.

Sec. 23. NRS 631.240 is hereby amended to read as follows:

631.240 1. Any person desiring to obtain a license to practice dentistry in this State, after having complied with the regulations of the Board to determine eligibility:

(a) Except as otherwise provided in NRS 622.090, must present to the Board a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Examination with an average score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully pass a clinical examination approved by the Board and the American Board of Dental Examiners; or

(2) Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed ~~[- within the 5 years immediately preceding the date of the application,]~~ a clinical examination administered by the Western Regional Examining Board.

2. The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

3. All persons who have satisfied the requirements for licensure as a dentist must be registered as licensed dentists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

Sec. 23.5. NRS 631.260 is hereby amended to read as follows:

631.260 ~~[-As]~~ *Except as otherwise provided in subsection 3 of NRS 631.220, as soon as possible after the examination has been given, the Board, under rules and regulations adopted by it, shall determine the qualifications of the applicant and shall issue to each person found by the Board to have the qualifications therefor a license which will entitle the person to practice dental hygiene or dentistry, or any special branch of dentistry, as in such license defined, subject to the provisions of this chapter.*

Sec. 24. NRS 631.265 is hereby amended to read as follows:

631.265 1. No licensed dentist or person who holds a restricted license issued pursuant to NRS 631.275 may administer or supervise directly the administration of general anesthesia, ~~[-conscious]~~ *minimal sedation, moderate*

sedation or deep sedation to dental patients unless the dentist or person has been issued a permit authorizing him or her to do so by the Board.

2. The Board may issue a permit authorizing a licensed dentist or person who holds a restricted license issued pursuant to NRS 631.275 to administer or supervise directly the administration of general anesthesia, ~~{conscious}~~ *minimal sedation, moderate* sedation or deep sedation to dental patients under such standards, conditions and other requirements as the Board shall by regulation prescribe.

Sec. 25. NRS 631.300 is hereby amended to read as follows:

631.300 1. Any person desiring to obtain a license to practice dental hygiene, after having complied with the regulations of the Board to determine eligibility:

(a) Except as otherwise provided in NRS 622.090, must pass a written examination given by the Board upon such subjects as the Board deems necessary for the practice of dental hygiene or must present a certificate granted by the Joint Commission on National Dental Examinations which contains a notation that the applicant has passed the National Board Dental Hygiene Examination with a score of at least 75; and

(b) Except as otherwise provided in this chapter, must:

(1) Successfully pass a clinical examination approved by the Board and the American Board of Dental Examiners ~~{or present evidence to the Board that the applicant has passed such a clinical examination within the 5 years immediately preceding the date of the application;}~~ ; *or*

(2) ~~{Successfully complete a clinical examination in dental hygiene given by the Board which examines the applicant's practical knowledge of dental hygiene and which includes, but is not limited to, demonstrations in the removal of deposits from, and the polishing of, the exposed surface of the teeth; or~~

~~—(3)} Present to the Board a certificate granted by the Western Regional Examining Board which contains a notation that the applicant has passed ~~{within the 5 years immediately preceding the date of the application,}~~ a clinical examination administered by the Western Regional Examining Board.~~

2. ~~{The clinical examination given by the Board must include components that are:~~

~~—(a) Written or oral, or a combination of both; and~~

~~—(b) Practical, as in the opinion of the Board is necessary to test the qualifications of the applicant.~~

~~—3-}~~ The Board shall examine each applicant in writing on the contents and interpretation of this chapter and the regulations of the Board.

~~{4-}~~ 3. All persons who have satisfied the requirements for licensure as a dental hygienist must be registered as licensed dental hygienists on the board register, as provided in this chapter, and are entitled to receive a certificate of registration, signed by all members of the Board.

Sec. 26. NRS 631.313 is hereby amended to read as follows:

631.313 1. A licensed dentist may assign to a person in his or her employ who is a dental hygienist, dental assistant or other person directly or indirectly involved in the provision of dental care only such intraoral tasks as may be permitted by a regulation of the Board or by the provisions of this chapter.

2. The performance of these tasks must be:

(a) If performed by a dental assistant or a person, other than a dental hygienist, who is directly or indirectly involved in the provision of dental care, under the supervision of the licensed dentist who made the assignment.

(b) If performed by a dental hygienist, authorized by the licensed dentist of the patient for whom the tasks will be performed, except as otherwise provided in NRS 631.287.

3. No such assignment is permitted that requires:

(a) The diagnosis, treatment planning, prescribing of drugs or medicaments, or authorizing the use of restorative, prosthodontic or orthodontic appliances.

(b) Surgery on hard or soft tissues within the oral cavity or any other intraoral procedure that may contribute to or result in an irremediable alteration of the oral anatomy.

(c) The administration of general anesthesia, ~~conscious~~ *minimal sedation, moderate* sedation or deep sedation except as otherwise authorized by regulations adopted by the Board.

(d) The performance of a task outside the authorized scope of practice of the employee who is being assigned the task.

4. A dental hygienist may, pursuant to regulations adopted by the Board, administer local anesthesia or nitrous oxide in a health care facility, as defined in NRS 162A.740, if:

(a) The dental hygienist is so authorized by the licensed dentist of the patient to whom the local anesthesia or nitrous oxide is administered; and

(b) The health care facility has licensed medical personnel and necessary emergency supplies and equipment available when the local anesthesia or nitrous oxide is administered.

Sec. 27. NRS 631.345 is hereby amended to read as follows:

631.345 1. Except as otherwise provided in NRS 631.2715, the Board shall by regulation establish fees for the performance of the duties imposed upon it by this chapter which must not exceed the following amounts:

Application fee for an initial license to practice dentistry.....	\$1,500
Application fee for an initial license to practice dental hygiene	750
Application fee for a specialist's license to practice dentistry.....	300
Application fee for a limited license or restricted license to practice dentistry or dental hygiene.....	300
Fee for administering a clinical examination in dentistry	2,500
Fee for administering a clinical examination in dental hygiene.....	1,500

Application and examination fee for a permit to administer general anesthesia, ~~conscious~~ <i>minimal sedation,</i> <i>moderate sedation or deep sedation</i>	750
Fee for any reinspection required by the Board to maintain a permit to administer general anesthesia, ~~conscious~~ <i>minimal sedation, moderate sedation or deep sedation</i>	500
Biennial license renewal fee for an inactive dentist	400
Biennial license renewal fee for a dentist who is retired or has a disability	100
Biennial license renewal fee for an inactive dental hygienist	200
Biennial license renewal fee for a dental hygienist who is retired or has a disability	100
Reinstatement fee for a suspended license to practice dentistry or dental hygiene	500
Reinstatement fee for a revoked license to practice dentistry or dental hygiene.....	500
Reinstatement fee to return a dentist or dental hygienist who is inactive, retired or has a disability to active status	500
Fee for the certification of a license	50

2. Except as otherwise provided in this subsection, the Board shall charge a fee to review a course of continuing education for accreditation. The fee must not exceed \$150 per credit hour of the proposed course. The Board shall not charge a nonprofit organization or an agency of the State or of a political subdivision of the State a fee to review a course of continuing education.

3. All fees prescribed in this section are payable in advance and must not be refunded.

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 633.311 is hereby amended to read as follows:

633.311 1. Except as otherwise provided in NRS 633.315, 633.381 to 633.419, inclusive, and section 9 of this act, an applicant for a license to practice osteopathic medicine may be issued a license by the Board if:

~~{1.}~~ (a) The applicant is 21 years of age or older;

~~{2.}~~ (b) The applicant is a citizen of the United States or is lawfully entitled to remain and work in the United States;

~~{3.}~~ (c) The applicant is a graduate of a school of osteopathic medicine;

~~{4.}~~ (d) The applicant:

~~{(a)}~~ (1) Has graduated from a school of osteopathic medicine before 1995 and has completed:

~~{(1)}~~ (I) A hospital internship; or

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

~~{(b)}~~ (2) Has completed 3 years, or such other length of time as required by a specific program, of postgraduate medical education as a resident in the

United States or Canada in a program approved by the Board, the Bureau of Professional Education of the American Osteopathic Association or the Accreditation Council for Graduate Medical Education; or

~~{(e)}~~ (3) Is a resident who is enrolled in a postgraduate training program in this State, has completed 24 months of the program and has committed, in writing, that he or she will complete the program;

~~{5-}~~ (e) The applicant applies for the license as provided by law;

~~{6-}~~ (f) The applicant passes:

~~{(a)}~~ (1) All parts of the licensing examination of the National Board of Osteopathic Medical Examiners;

~~{(b)}~~ (2) All parts of the licensing examination of the Federation of State Medical Boards ~~{of the United States, Inc.;~~

~~—(e)}~~ ;

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

~~{(d)}~~ (4) A combination of the parts of the licensing examinations specified in ~~{paragraphs (a), (b) and (c)}~~ *subparagraphs (1), (2) and (3)* that is approved by the Board;

~~{7-}~~ (g) The applicant pays the fees provided for in this chapter; and

~~{8-}~~ (h) The applicant submits all information required to complete an application for a license.

2. *An applicant for a license to practice osteopathic medicine may satisfy the requirements for postgraduate education or training prescribed by paragraph (d) of subsection 1:*

(a) In one or more approved postgraduate programs, which may be conducted at one or more facilities in this State or, except for a resident who is enrolled in a postgraduate training program in this State pursuant to subparagraph (3) of paragraph (d) of subsection 1, in the District of Columbia or another state or territory of the United States;

(b) In one or more approved specialties or disciplines;

(c) In nonconsecutive months; and

(d) At any time before receiving his or her license.

Sec. 30. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure to practice osteopathic medicine, an applicant shall cause to be submitted to the Board:

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant received training; and

2. If applicable, proof of satisfactory completion of a postgraduate training program specified in *subparagraph (3) of paragraph ~~{(e)}~~ (d)* of subsection ~~{4}~~ 1 of NRS 633.311 within 120 days after the scheduled completion of the program.

Sec. 30.5. NRS 633.400 is hereby amended to read as follows:

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

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

(b) The applicant:

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

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

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

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

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

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

2. Any person applying for a license pursuant to this section shall pay in advance to the Board the application and initial license fee specified in this chapter.

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

(a) Forty-five days after receiving all the additional information required by the Board to complete the application; or

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

☛ whichever occurs later.

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

Sec. 31. NRS 633.401 is hereby amended to read as follows:

633.401 1. ~~[Except as otherwise provided in]~~ *Unless the Board denies such licensure pursuant to NRS 633.315 [3] or for other good cause, the Board [may] shall* issue a special license to practice osteopathic medicine:

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

(b) To a resident while the resident is enrolled in a postgraduate training program required pursuant to the provisions of *subparagraph (3) of paragraph [(c)] (d) of subsection [4] 1* of NRS 633.311.

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

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

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

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

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

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

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

Sec. 32. NRS 633.416 is hereby amended to read as follows:

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

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

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

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

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

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

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

(c) Proof that the osteopathic physician satisfies the requirements for licensure set forth in NRS 633.311 or the requirements for licensure by endorsement set forth in NRS 633.400 ~~[-]~~ *or section 9 of this act;*

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

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

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

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

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

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

5. The Board shall not charge a fee for:

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

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

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

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

Sec. 33. Chapter 635 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Board may issue a license by endorsement to practice podiatry to an applicant who meets the requirements set forth in this section. An*

applicant may submit to the Board an application for such a license if the applicant holds a corresponding valid and unrestricted license to practice podiatry in the District of Columbia or any state or territory of the United States.

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

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

(1) Satisfies the requirements of subsection 1;

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

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

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

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

(c) Any other information required by the Board.

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

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

Sec. 34. NRS 635.050 is hereby amended to read as follows:

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

2. ~~[A]~~ Except as otherwise provided in section 9 or 33 of this act, a license to practice podiatry may be issued by the Board to any person who:

(a) Is of good moral character.

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

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

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

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

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

stating that the applicant has not committed any act described in subsection 2 of NRS 635.130 constitutes satisfactory proof.

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

- (a) The fee for an application for a license of not more than \$600;
- (b) Proof satisfactory to the Board that the requirements of subsection 2 have been met; and
- (c) All other information required by the Board to complete an application for a license.

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

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

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

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

- (a) A limited license to practice podiatry pursuant to NRS 635.075; or
- (b) A provisional license to practice podiatry pursuant to NRS 635.082.

Sec. 35. NRS 635.065 is hereby amended to read as follows:

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

- (a) An affidavit signed by the applicant that:

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

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

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

2. ~~The~~ Except as otherwise provided in section 9 or 33 of this act, the Board may require an applicant who has been licensed to practice podiatry in another state or the District of Columbia to:

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

- (b) Submit satisfactory proof that:

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

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

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

Sec. 36. NRS 641B.275 is hereby amended to read as follows:

641B.275 1. The Board shall grant a provisional license to engage in social work as a social worker to a person:

(a) Who applies to take the next available examination and who is otherwise eligible to be a social worker pursuant to subsection 1 of NRS 641B.220; or

(b) Who:

(1) Possesses a baccalaureate degree or a master's degree in a related field of study from an accredited college or university recognized by the Board; and

(2) Presents evidence of enrollment in a program of study leading to a degree in social work at a college or university accredited by the Council on Social Work Education or which is a candidate for such accreditation and which is approved by the Board.

2. The Board shall grant a provisional license to engage in social work as an independent social worker to a person who applies to take the next available examination and who is otherwise eligible to be an independent social worker pursuant to subsection 1 of NRS 641B.230.

3. The Board shall grant a provisional license to engage in social work as a clinical social worker to a person who applies to take the next available examination and who is otherwise eligible to be a clinical social worker pursuant to subsection 1 of NRS 641B.240.

4. *The Board may grant a provisional license to engage in social work as an independent social worker or as a clinical social worker pursuant to a plan of supervision established by the Board by regulation to a person who is an active member of, or the spouse of an active member of, the Armed Forces of the United States if:*

(a) The person applied for a license to engage in social work as an independent social worker or a clinical social worker without examination pursuant to NRS 641B.270; and

(b) The Board deemed that the state in which the person holds a license to engage in the practice of social work did not have licensing requirements at the time the license was issued that are substantially equivalent to the requirements set forth in this chapter.

5. The Board shall establish by regulation the period during which a provisional license issued pursuant to this section will be valid. The period must be:

(a) ~~[No]~~ Not longer than 9 months for a person who is granted a provisional license to engage in social work pursuant to paragraph (a) of subsection 1 or subsection 2 or 3; and

(b) ~~[No]~~ Not longer than 3 years for a person who is granted a provisional license to engage in social work pursuant to paragraph (b) of subsection 1.

Sec. 37. (Deleted by amendment.)

Sec. 40.3. Chapter 637A of NRS is hereby amended by adding thereto a new section to read as follows:

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

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

(b) Is an active member of, or the spouse of an active member of, the Armed Forces of the United States, a veteran or the surviving spouse of a veteran.

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

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

(1) Satisfies the requirements of subsection 1;

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

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

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

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

(c) Any other information required by the Board.

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

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

5. At any time before making a final decision on an application for a license by endorsement pursuant to this section, the Board may grant a provisional license authorizing an applicant to practice as a hearing aid specialist in accordance with regulations adopted by the Board.

6. As used in this section, "veteran" has the meaning ascribed to it in NRS 417.005.

Sec. 40.6. NRS 637A.160 is hereby amended to read as follows:

637A.160 1. ~~[Subject to the provisions of]~~ Except as otherwise provided in NRS 637A.170, and section 40.3 of this act, any person who intends to commence business as a hearing aid specialist must comply with the following requirements:

- (a) Make application for examination.
- (b) Take and pass the examination.
- (c) Pay the prescribed fees, including the annual license fee and the initial license fee prescribed in NRS 637A.210.
- (d) Submit all information required to complete the application.

2. The license must be issued and delivered by the Secretary to the licensee therein named upon compliance by the licensee with the requirements prescribed in subsection 1.

Sec. 40.9. NRS 637A.210 is hereby amended to read as follows:

637A.210 1. The Board shall charge fees which must not exceed the following:

For a license as a hearing aid specialist:

Application fee.....	\$250
Examination fee	200
Initial license fee.....	100
Annual license fee.....	200
Duplicate license fee	20
Inactive status fee.....	100

For a license as an apprentice to a hearing aid specialist:

Application fee.....	\$250
Annual license fee.....	100
Inactive status fee.....	100

For all licenses issued by the Board:

Lapsed renewal fee	\$100
Reinstatement fee.....	100

2. If an applicant submits an application for a license by endorsement pursuant to section 40.3 of this act, the Board shall collect not more than one-half of the fee set forth in subsection 1 for the initial issuance of the license.

~~[Sec. 37.5.]~~ Sec. 86. 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. 38.]~~ Sec. 87. This act becomes effective on July 1, 2015.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Assembly Bill No. 89 allows the Board of Hearing Aid Specialists to issue a license by endorsement to practice as a hearing aid specialist to an applicant licensed in good standing in another jurisdiction. This amendment is necessary due to the fact that we have merged the audiologist and hearing aid boards.

Amendment adopted.

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

Assembly Bill No. 94.

Bill read third time.

Remarks by Senator Atkinson.

Assembly Bill No. 94 authorizes each county and city clerk to establish a system to distribute sample ballots by electronic means to each registered voter who chooses to receive a sample ballot in this manner. The system may include electronic mail or electronic access through a website. The measure provides that an e-mail address provided by a registered voter is confidential and not a public record and may not be disclosed by the county or city clerk or voter registrar. The e-mail address may only be used to distribute a sample ballot electronically and to communicate with the voter regarding the voting process.

This bill is effective upon passage and approval for the purposes of adopting regulations and performing other administrative tasks, and on January 1, 2016, for all other purposes.

Roll call on Assembly Bill No. 94:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 94 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:15 p.m.

SENATE IN SESSION

At 7:19 p.m.

President Hutchison presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Settlemeyer moved that the action whereby Amendment No. 875 to Assembly Bill No. 89 was adopted be rescinded.

Motion carried.

Senator Settlemeyer moved that the bill be taken from the General File and placed on the General File on the third Agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 238.

Bill read third time.

Remarks by Senator Brower.

Assembly Bill No. 238 provides that in a common-interest community with fewer than 1,000 units, a bid must be solicited for a project estimated to cost 3 percent or more of the unit-owners' association's annual budget. In a common-interest community with 1,000 or more units, a bid must be sought if the project is estimated to cost 1 percent or more of the association's annual budget. This bill is effective on July 1, 2015.

Roll call on Assembly Bill No. 238:

YEAS—15.

NAYS—Manendo, Parks, Segerblom, Spearman, Woodhouse—5.

EXCUSED—Smith.

Assembly Bill No. 238 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 437.

Bill read third time.

Remarks by Senator Kieckhefer.

Assembly Bill No. 437 appropriates from the State General Fund to the Reserve for Statutory Contingency Account the sum of \$1 million to restore the balance in the account.

Roll call on Assembly Bill No. 437:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 437 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 467.

Bill read third time.

Remarks by Senator Kieckhefer.

Assembly Bill No. 467 appropriates \$1,193,577 from the General Fund to the Department of Corrections for an unanticipated shortfall in transfers from the Inmate Welfare Account for prison medical care for the current Fiscal Year.

Roll call on Assembly Bill No. 467:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 467 having received a constitutional majority,
Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 7:23 p.m.

SENATE IN SESSION

At 8:12 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President

Your Senate Committee on Senate Parliamentary Rules and Procedures has approved the consideration of: Amendment No. 932 to Assembly Bill No. 49; Amendment No. 913 to Assembly Bill No. 240; Amendment No. 958 to Assembly Bill No. 263.

JAMES A. SETTELMAYER, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 353.

Bill read second time.

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

Amendment No. 827.

SUMMARY—Enacts provisions relating to sexual orientation conversion therapy. (BDR 54-748)

AN ACT relating to mental health professionals; prohibiting certain practitioners from providing sexual orientation conversion therapy to a minor; ~~providing a civil cause of action relating to the prohibition;~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law regulates certain mental health professionals including psychiatrists, psychologists, licensed marriage and family therapists, certain registered nurses and certain licensed clinical or independent social workers. (Chapters 630, 632, 633 and 641-641B of NRS) ~~Section 1 of this~~ This bill prohibits certain mental health professionals from providing sexual orientation conversion therapy to a person who is under 18 years of age. ~~Section 2 of this bill provides that a person who received such therapy when the person was under the age of 18 years may bring a cause of action against the mental health professional who provided the therapy and may collect actual or presumed damages.~~

~~Existing law provides that an action based upon liability created by statute be commenced within 3 years. (NRS 11.190) Section 2 provides that the statute of limitations for a claim provided for under this bill does not begin to run until the person who received the therapy reaches the age of 18 years or until the person discovers or reasonably should have discovered that he or she received such therapy when the person was under the age of 18 years.~~

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

Section 1. Chapter 629 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A psychotherapist shall not provide any sexual orientation conversion therapy to a person who is under 18 years of age regardless of the willingness of the person or his or her parent or legal guardian to authorize such therapy.

2. As used in this section:

(a) "Psychotherapist" means:

(1) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry of the American Osteopathic Association;

(2) A psychologist licensed to practice in this State pursuant to chapter 64I of NRS;

(3) A social worker holding a master's degree in social work and licensed in this State as an independent social worker or a clinical social worker pursuant to chapter 641B of NRS;

(4) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State pursuant to chapter 632 of NRS; or

(5) A marriage and family therapist or clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

(b) "Sexual orientation conversion therapy" means any psychotherapy, counseling, hypnosis or other treatment or therapy aimed at altering the sexual or romantic attraction, desire or conduct of a person toward persons of the same sex so that such sexual or romantic attraction, desire or conduct is eliminated, reduced or redirected toward persons of the opposite sex. The term does not include treatment aimed at altering the sexual or romantic attraction, desire or conduct of a person towards children or persons related by consanguinity.

Sec. 2. ~~[Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Any person who received sexual orientation conversion therapy from a psychotherapist in violation of section 1 of this act may bring a cause of action against the psychotherapist if the person was under the age of 18 years during any period of the sexual orientation conversion therapy.~~

~~2. A plaintiff who prevails in an action brought pursuant to this section may recover the plaintiff's actual damages, which shall be deemed to be at least \$5,000, plus costs and reasonable attorney's fees.~~

~~3. The statute of limitations for an action brought under this section does not commence until the later of the date on which:~~

~~(a) The person discovers or reasonably should have discovered that he or she received sexual orientation conversion therapy when he or she was under the age of 18 years; or~~

~~(b) The person reaches 18 years of age.~~

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

~~(a) "Psychotherapist" has the meaning ascribed to it in section 1 of this act.~~

~~(b) "Sexual orientation conversion therapy" has the meaning ascribed to it in section 1 of this act.] (Deleted by amendment.)~~

Sec. 3. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On January 1, 2016, for all other purposes.

Senator Settelmeyer moved the adoption of the amendment.

Remarks by Senator Settelmeyer.

Amendment No. 827 makes one change to Senate Bill No. 353. The amendment deletes section 2 of the bill which provides that a person who received sexual orientation conversion therapy when the person was under the age of 18 years may bring a cause of action against the mental health professional who provided the therapy and may collect actual or presumed damages.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 360.

Bill read second time.

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

Amendment No. 925.

SUMMARY—Provides for an interim study ~~[to investigate the viability of establishing entities to help finance the use and harnessing]~~ concerning energy efficiency programs and the financing of clean energy in this State. (BDR S-41)

AN ACT relating to energy efficiency; directing the Legislative ~~[Commission to appoint a committee]~~ Committee on Energy to conduct an interim study concerning the development, viability, expansion and implementation of energy efficiency programs and the viability of establishing green banks and similar entities to help finance the use and harnessing of clean energy in this State, for both commercial and residential properties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Legislative Committee on Energy and directs the Committee to take a variety of actions with respect to matters related to energy policy within this State. (NRS 218E.800-218E.815) Section ~~[1]~~ 1.5 of this bill directs the ~~[Legislative Commission to appoint a committee]~~ Committee to conduct an interim study concerning : (1) the development, viability, expansion and implementation of energy efficiency programs; and (2) the viability of establishing green banks and similar entities to help finance the use and harnessing of clean energy projects in this State, for both commercial and residential properties. The ~~[committee will consist of seven members]~~ Committee will consult with entities and interests from various

backgrounds including government, public utilities, real estate development and finance. Section 2 of this bill directs the Governor's Office of Energy (the Office of Energy created within the Office of the Governor) to provide administrative and technical assistance to the ~~{committee.}~~ Committee. Section 3 of this bill defines the terms "clean energy," "green bank," ~~{the}~~ "Legislative Committee on Energy" and "Office of Energy."

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

Section 1. The Legislature hereby finds and declares that:

1. Developing sustainable and reliable energy efficiency programs is critical to the future of Nevada's economy and competitiveness;

2. Energy production and energy efficiency programs in Nevada should be diverse, stable, affordable, technologically advanced and environmentally sound;

3. Attracting investors and participants in energy efficiency programs from private businesses and industries is paramount to establishing an energy policy in Nevada consistent with Nevada's energy goals for the 21st century; and

4. The efficient use of energy frees public and private money for use in other areas such as education, infrastructure, public health and public safety.

Sec. 1.5. 1. The Legislative ~~{Commission shall appoint a committee to}~~ Committee on Energy shall conduct an interim study concerning ~~{the}~~ :

(a) The development, viability, expansion and implementation of energy efficiency programs in this State, including, without limitation, programs for businesses and industries in this State, energy efficiency resource standards and other energy efficiency incentive programs; and

(b) The viability of establishing green banks and similar entities to help finance the use and harnessing of clean energy projects in this State, for both commercial and residential properties.

2. ~~{The committee must be composed of seven voting members as follows:~~

~~{(a) One member who is a member of the}~~ In carrying out the duties set forth in this section, the Committee shall consult with and solicit input from the following entities and interests:

(a) The Public Utilities Commission of Nevada;

(b) ~~{One member who is employed by a}~~ A utility company regulated by the Public Utilities Commission of Nevada;

(c) ~~{One member who represents the}~~ The Office of Energy;

(d) ~~{One member who is employed by a}~~ A financial institution in this State ~~{and who}~~ that has expertise in the financing of clean energy projects;

(e) ~~{One member who represents the}~~ The Office of the State Treasurer;

(f) ~~{One member who is employed by a}~~ A residential or commercial builder in this State ~~{and who}~~ that has expertise in the installation and integration of clean energy products and techniques in residential or commercial building projects; ~~{and}~~

(g) ~~One member who represents an~~ An association of residential or commercial real estate developers ~~;~~ ;

(h) As determined appropriate by the Committee, other persons, businesses, state agencies, entities, interests or other organizations with expertise in matters relevant to energy efficiency programs, including, without limitation, consumers, representatives from organizations that promote energy efficiency and representatives from businesses and industries that may be affected by any recommendations of the Committee; and

(i) Any other person determined appropriate by the Committee.

3. ~~The Legislative Commission shall appoint a Chair and Vice Chair committee.~~

~~4.~~ The ~~committee~~ Committee shall study, without limitation:

(a) The existing energy efficiency incentive programs within this State and existing clean energy programs and financial activities occurring within this State, including, without limitation, programs and activities of state governmental agencies, the Public Utilities Commission of Nevada, local governmental entities within this State, public and private utilities serving customers in this State and other private entities and organizations within this State.

(b) Other states' laws, regulations and policies relating to energy efficiency incentive programs and energy efficiency resource standards.

(c) The methods of capitalization, structure, organization and financing of green banks and similar entities that assist in financing the production and harnessing of clean energy in the United States and outside the United States.

~~(c)~~ (d) The sources, types and amounts of private capital leveraged or invested in connection with green banks and similar entities for financing clean energy.

~~(d)~~ (e) The current and potential size, in this State, of existing and potential markets for clean energy.

~~(e)~~ (f) The need to provide reasonably priced financing or establish related market structures to increase clean energy market penetration and fill any existing market gaps.

~~(f)~~ (g) Potential financial instruments or services to be used by a green bank or a similar entity for helping to finance and harness projects in this State, including, without limitation, loans, leases, credit enhancements, warehouses and securitization.

~~(g)~~ (h) The need for a green bank or similar entity to finance clean energy in this State.

~~(h)~~ (i) The impact and advisability of implementing legislation regarding energy efficiency resource standards and any other energy efficiency incentive programs considered by the Committee.

4. The Committee may accept any gifts, grants or donations to assist the Committee in carrying out the duties set forth in this section.

5. If the ~~committee~~ Committee determines that a green bank or similar entity is needed to help finance or harness projects of clean energy in this State, the ~~committee~~ Committee shall provide recommendations regarding:

- (a) The legal steps required to create such an entity;
- (b) Capital resources that can be used to pay for the entity;
- (c) The structure and organization of the entity;
- (d) The markets in this State that such an entity should serve; and
- (e) The types of financing activities the entity should undertake.

6. On or before January 1, 2017, the ~~committee~~ Committee shall submit a report of its findings, including, without limitation, any recommendations for legislation, to ~~the~~ the:

(a) The Director of the Legislative Counsel Bureau for distribution to the 79th Session of the Nevada Legislature;

(b) The Public Utilities Commission of Nevada; and

(c) The Director of the Office of Energy.

Sec. 2. The Office of Energy, in consultation with the Public Utilities Commission of Nevada and with the encouraged cooperation of various public and private utilities in this State, shall provide administrative and technical assistance to the ~~committee appointed pursuant to section 1 of this act.~~ Committee.

Sec. 3. As used in sections ~~1.5~~ 1.5 and 2 of this act:

1. "Clean energy" includes:

(a) Energy produced from renewable resources, including, without limitation, biomass, fuel cells, geothermal, solar, waterpower, wind or any other source of energy that occurs naturally or is regenerated naturally; and

(b) Energy saved as a result of the installation and use of products or technologies that are energy efficient.

2. "Green bank" means an institution that exists or is created to help harness or use clean energy and includes features or properties such as, without limitation:

(a) The institution is public or quasi-public.

(b) The institution provides or helps to provide financing that is low-cost, or long-term, or both, for projects that generate clean energy.

(c) The leveraging of private investment by way of the stimulating investment of public money.

(d) The reduction of market inefficiencies.

(e) Greater deployment of the use of clean energy.

(f) Recycling of public capital, so that investment in clean energy may increase without affecting taxpayers.

3. "Legislative Committee on Energy" or "Committee" means the Legislative Committee on Energy created by NRS 218E.805.

4. "Office of Energy" means the Office of Energy created within the Office of the Governor by NRS 701.150.

Sec. 4. 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. 5. This act becomes effective on July 1, 2015.

Senator Spearman moved the adoption of the amendment.

Remarks by Senator Spearman.

Amendment No. 925 to Senate Bill No. 360 does three things: 1) assigns the interim study set forth in the bill to the ongoing Legislative Committee on Energy; 2) assigns to the ongoing Legislative Committee on Energy the energy efficiency study set forth in Senate Concurrent Resolution No. 4; and Senate Concurrent Resolution No. 3) adds language to give greater flexibility to the Committee on Energy to consult with any number of entities, organizations and government agencies regarding these studies on green banks and energy efficiency.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 385.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 780.

SUMMARY—Revises provisions related to tow cars. (BDR 58-967)

AN ACT relating to tow cars; prohibiting operators of tow cars from towing certain vehicles to any location other than a designated vehicle storage lot under certain circumstances; revising provisions relating to operators of tow cars; providing civil and criminal penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes an insurance company to designate vehicle storage lots to which certain vehicles insured by the insurance company must be towed under certain circumstances. Existing law also requires an operator of a tow car who fails to tow a vehicle to a vehicle storage lot designated by an insurance company to forfeit the charge for towing and storage of the vehicle and tow the vehicle free of charge to the designated lot. (NRS 706.4489) Section 3 of this bill prohibits an operator of a tow car from: (1) towing a vehicle to a location other than a vehicle storage lot designated by the insurance company that provides coverage for the vehicle unless the owner or operator of the vehicle directs the operator of the tow car to tow the vehicle to a location that is not a vehicle storage lot pursuant to section 16 of this bill; or (2) seeking authorization from an owner or operator of a vehicle to tow the vehicle to a location other than the designated vehicle storage lot. Section 3 also imposes civil penalties on an operator of a tow car who fails to tow certain vehicles to certain vehicle storage lots designated by an insurance company.

Existing law requires a law enforcement officer to make a good faith effort to determine the identity of the insurance company that provides coverage for the vehicle before the vehicle is towed. (NRS 706.4489) Section 16 requires

the operator of a tow car to make a good faith effort to determine the identity of the insurance company that provides coverage for the vehicle if the law enforcement officer does not communicate that information to the operator. Section 16 also requires the operator of a tow car to: (1) retain any documents provided by a law enforcement officer indicating the identity of the insurance company that provides coverage for the vehicle; and (2) provide copies of such documents to a vehicle storage lot upon delivery of the vehicle to the vehicle storage lot.

Section 16 additionally prohibits an owner or operator of a vehicle from directing an operator of a tow car to tow the vehicle to a vehicle storage lot other than the vehicle storage lot designated by the insurance company, but authorizes an owner or operator of a vehicle to direct an operator of a tow car to tow the vehicle to a location other than a vehicle storage lot. If an owner or operator of a vehicle directs an operator of a tow car to tow the vehicle to such a location, ~~the owner or operator of the vehicle~~ a law enforcement officer, if one is on the scene, must confirm ~~in writing that: (1) he or she~~ that the owner or operator of the vehicle directed the operator of the tow car to tow the vehicle to such a location, ~~and~~ ~~(2) that~~ the operator of the tow car did not solicit the owner or operator of the vehicle to tow the vehicle to such a location. The law enforcement officer must also note the decision of the owner or operator of the vehicle in any report of the incident. If no law enforcement officer is on the scene, the operator of the tow car must have the owner or operator of the vehicle confirm in writing that he or she directed the towing of the vehicle to a location other than a vehicle storage lot and that the operator of the tow car did not solicit the owner or operator of the vehicle to tow the vehicle to such a location. The operator of the tow car is required to retain ~~such written~~ a copy of any documentation ~~provided by the law enforcement officer or agency or any written confirmation obtained from the owner or operator of the vehicle.~~

Existing law requires an operator of a tow car to maintain a dispatcher's log identifying certain information for each vehicle towed. (NRS 706.4465) Section 13 of this bill requires an operator to record the insurance company of each vehicle towed if such information is known.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *As used in NRS 706.445 to 706.453, inclusive, and sections 2 and 3 of this act, "insurance company" means any entity authorized to provide insurance for motor vehicles in this State, including, without limitation, a captive insurer, as defined in NRS 694C.060, and a person qualified as a self-insurer, pursuant to NRS 485.380.*

Sec. 3. 1. *Except as otherwise provided in NRS 706.4489, an operator of a tow car who is required to tow a vehicle to a designated vehicle storage lot pursuant to that section shall not tow the vehicle to another location. If an*

operator of a tow car fails to tow a vehicle to the designated vehicle storage lot when required pursuant to NRS 706.4489, the operator of the tow car must:

- (a) Forfeit the charge for towing and storage of the vehicle; and*
- (b) Tow the vehicle free of charge to the vehicle storage lot designated by the insurance company or its representative not later than 24 hours after receiving a demand, which must be made in writing or by electronic mail, from the insurance company or its representative.*

2. An operator of a tow car who is required to tow a vehicle to a designated vehicle storage lot pursuant to NRS 706.4489 shall not solicit the owner or operator of the vehicle to divert the towing of the vehicle to a location other than the designated vehicle storage lot or solicit or market other services performed by a third party. Towing services performed pursuant to a request or demand by the owner or operator of a vehicle that the vehicle be towed to a location other than the designated vehicle storage lot does not relieve the operator of a tow car of any obligation relating to towing services performed without the prior consent of the owner or operator of a vehicle.

3. If an operator of a tow car violates the provisions of subsection 1 or 2, the Authority may:

- (a) For a first offense, impose an administrative fine of not more than \$5,000.*
- (b) For a second offense within a period of 24 consecutive months, impose an administrative fine of not more than \$10,000.*
- (c) For a third offense within a period of 24 consecutive months, impose an administrative fine of not more than \$15,000.*
- (d) For a fourth or subsequent offense within a period of 24 consecutive months, impose an administrative fine of not more than \$20,000.*

4. Before imposing a fine pursuant to subsection 3, the Authority shall provide notice to the holder of the certificate of public convenience and necessity and conduct a hearing pursuant to the provisions of chapter 233B of NRS and NRS 706.286.

5. All administrative fines imposed and collected by the Authority pursuant to this section are payable to the State Treasurer and must be credited to a separate account to be used by the Authority to enforce the provisions of this chapter.

Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, *and sections 2 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 706.158 is hereby amended to read as follows:

706.158 The provisions of NRS 706.011 to 706.791, inclusive, *and sections 2 and 3 of this act* relating to brokers do not apply to any person whom the Authority determines is:

1. A motor club which holds a valid certificate of authority issued by the Commissioner of Insurance;

2. A bona fide charitable organization, such as a nonprofit corporation or a society, organization or association for educational, religious, scientific or charitable purposes; or

3. A broker of transportation services provided by an entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421.

Sec. 6. NRS 706.163 is hereby amended to read as follows:

706.163 The provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act* do not apply to vehicles leased to or owned by:

1. The Federal Government or any instrumentality thereof.

2. Any state or a political subdivision thereof.

Sec. 7. NRS 706.166 is hereby amended to read as follows:

706.166 The Authority shall:

1. Subject to the limitation provided in NRS 706.168 and to the extent provided in this chapter, supervise and regulate:

(a) Every fully regulated carrier and broker of regulated services in this State in all matters directly related to those activities of the motor carrier and broker actually necessary for the transportation of persons or property, including the handling and storage of that property, over and along the highways.

(b) Every operator of a tow car concerning the rates and charges assessed for towing services performed without the prior consent of the operator of the vehicle or the person authorized by the owner to operate the vehicle and pursuant to the provisions of NRS 706.011 to 706.791, inclusive ~~[-]~~, *and sections 2 and 3 of this act*.

2. Supervise and regulate the storage of household goods and effects in warehouses and the operation and maintenance of such warehouses in accordance with the provisions of this chapter and chapter 712 of NRS.

3. Enforce the standards of safety applicable to the employees, equipment, facilities and operations of those common and contract carriers subject to the Authority or the Department by:

(a) Providing training in safety;

(b) Reviewing and observing the programs or inspections of the carrier relating to safety; and

(c) Conducting inspections relating to safety at the operating terminals of the carrier.

4. To carry out the policies expressed in NRS 706.151, adopt regulations providing for agreements between two or more fully regulated carriers or two or more operators of tow cars relating to:

(a) Fares of fully regulated carriers;

(b) All rates of fully regulated carriers and rates of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle;

- (c) Classifications;
- (d) Divisions;
- (e) Allowances; and

(f) All charges of fully regulated carriers and charges of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, including charges between carriers and compensation paid or received for the use of facilities and equipment.

➡ These regulations may not provide for collective agreements which restrain any party from taking free and independent action.

5. Review decisions of the Taxicab Authority appealed to the Authority pursuant to NRS 706.8819.

Sec. 8. NRS 706.286 is hereby amended to read as follows:

706.286 1. When a complaint is made against any fully regulated carrier or operator of a tow car by any person that:

(a) Any of the rates, tolls, charges or schedules, or any joint rate or rates assessed by any fully regulated carrier or by any operator of a tow car for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle are in any respect unreasonable or unjustly discriminatory;

(b) Any of the provisions of NRS 706.445 to 706.453, inclusive, *and sections 2 and 3 of this act* have been violated;

(c) Any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory; or

(d) Any service is inadequate,

➡ the Authority shall investigate the complaint. After receiving the complaint, the Authority shall give a copy of it to the carrier or operator of a tow car against whom the complaint is made. Within a reasonable time thereafter, the carrier or operator of a tow car shall provide the Authority with its written response to the complaint according to the regulations of the Authority.

2. If the Authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 706.2865.

Sec. 9. NRS 706.2885 is hereby amended to read as follows:

706.2885 1. A certificate of public convenience and necessity, permit or license issued in accordance with this chapter is not a franchise and may be revoked.

2. The Authority may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee,

suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, *and sections 2 and 3 of this act* for a period not to exceed 60 days.

3. Upon receipt of a written complaint or on its own motion, the Authority may, after investigation and hearing, revoke any certificate, permit or license. If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes the grantee's interest in the certificate, permit or license by so notifying the Authority in writing, the Authority may revoke the certificate, permit or license without a hearing.

4. The proceedings thereafter are governed by the provisions of chapter 233B of NRS.

Sec. 10. NRS 706.321 is hereby amended to read as follows:

706.321 1. Except as otherwise provided in subsection 2, every common or contract motor carrier shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

(1) Be open to public inspection; and

(2) Include all rates, fares and charges which the carrier has established and which are in force at the time of filing for any service performed in connection therewith by any carrier controlled and operated by it.

(b) As a part of that schedule, all regulations of the carrier that in any manner affect the rates or fares charged or to be charged for any service and all regulations of the carrier that the carrier has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~[-]~~, *and sections 2 and 3 of this act*.

2. Every operator of a tow car shall file with the Authority:

(a) Within a time to be fixed by the Authority, schedules and tariffs that must:

(1) Be open to public inspection; and

(2) Include all rates and charges for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which the operator has established and which are in force at the time of filing.

(b) As a part of that schedule, all regulations of the operator of the tow car which in any manner affect the rates charged or to be charged for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle and all regulations of the operator of the tow car that the operator has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~[-]~~, *and sections 2 and 3 of this act*.

3. No changes may be made in any schedule, including schedules of joint rates, or in the regulations affecting any rates or charges, except upon 30 days' notice to the Authority, and all those changes must be plainly indicated on any new schedules filed in lieu thereof 30 days before the time they are to take effect. The Authority, upon application of any carrier, may

prescribe a shorter time within which changes may be made. The 30 days' notice is not applicable when the carrier gives written notice to the Authority 10 days before the effective date of its participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have been previously filed with and approved by the Authority.

4. The Authority may at any time, upon its own motion, investigate any of the rates, fares, charges, regulations, practices and services filed pursuant to this section and, after hearing, by order, make such changes as may be just and reasonable.

5. The Authority may dispense with the hearing on any change requested in rates, fares, charges, regulations, practices or service filed pursuant to this section.

6. All rates, fares, charges, classifications and joint rates, regulations, practices and services fixed by the Authority are in force, and are prima facie lawful, from the date of the order until changed or modified by the Authority, or pursuant to NRS 706.2883.

7. All regulations, practices and service prescribed by the Authority must be enforced and are prima facie reasonable unless suspended or found otherwise in an action brought for the purpose, or until changed or modified by the Authority itself upon satisfactory showing made.

Sec. 11. NRS 706.4463 is hereby amended to read as follows:

706.4463 1. In addition to the other requirements of this chapter, each operator of a tow car shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of public convenience and necessity from the Authority before the operator provides any services other than those services which the operator provides as a private motor carrier of property pursuant to the provisions of this chapter;

(b) Use a tow car of sufficient size and weight which is appropriately equipped to transport safely the vehicle which is being towed; and

(c) Comply with the provisions of NRS 706.011 to 706.791, inclusive ~~[-]~~, *and sections 2 and 3 of this act.*

2. A person who wishes to obtain a certificate of public convenience and necessity to operate a tow car must:

(a) File an application with the Authority; and

(b) Submit to the Authority a complete set of fingerprints of each natural person who is identified by the Authority as a significant principal, partner, officer, manager, member, director or trustee of the applicant and written permission authorizing the Authority to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The Authority shall issue a certificate of public convenience and necessity to an operator of a tow car if it determines that the applicant:

(a) Complies with the requirements of paragraphs (b) and (c) of subsection 1;

(b) Complies with the requirements of the regulations adopted by the Authority pursuant to the provisions of this chapter;

(c) Has provided evidence that the applicant has filed with the Authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291; and

(d) Has provided evidence that the applicant has filed with the Authority schedules and tariffs pursuant to subsection 2 of NRS 706.321.

4. An applicant for a certificate has the burden of proving to the Authority that the proposed operation will meet the requirements of subsection 3.

5. The Authority may hold a hearing to determine whether an applicant is entitled to a certificate only if:

(a) Upon the expiration of the time fixed in the notice that an application for a certificate of public convenience and necessity is pending, a petition to intervene has been granted by the Authority; or

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a determination as to whether the applicant has complied with the requirements of subsection 3.

Sec. 12. NRS 706.4464 is hereby amended to read as follows:

706.4464 1. An operator of a tow car who is issued a certificate of public convenience and necessity may transfer it to another operator of a tow car qualified pursuant to the provisions of NRS 706.011 to 706.791, inclusive, *and sections 2 and 3 of this act*, but no such transfer is valid for any purpose until a joint application to make the transfer is made to the Authority by the transferor and the transferee, and the Authority has authorized the substitution of the transferee for the transferor. The application must include a complete set of fingerprints of each natural person who is identified by the Authority as a significant principal, partner, officer, manager, member, director or trustee of the transferee and written permission authorizing the Authority to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. No transfer of stock of a corporate operator of a tow car subject to the jurisdiction of the Authority is valid without the prior approval of the Authority if the effect of the transfer would be to change the corporate control of the operator of a tow car or if a transfer of 15 percent or more of the common stock of the operator of a tow car is proposed.

2. The Authority shall approve an application filed with it pursuant to subsection 1 if it determines that the transferee:

(a) Complies with the provisions of NRS 706.011 to 706.791, inclusive, *and sections 2 and 3 of this act* and the regulations adopted by the Authority pursuant to those provisions;

(b) Uses equipment that is in compliance with the regulations adopted by the Authority;

(c) Has provided evidence that the transferee has filed with the Authority a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required for every operator of a tow car pursuant to the provisions of NRS 706.291; and

(d) Has provided evidence that the transferee has filed with the Authority schedules and tariffs pursuant to NRS 706.321 which contain rates and charges and the terms and conditions that the operator of the tow car requires to perform towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which do not exceed the rates and charges that the transferor was authorized to assess for the same services.

3. The Authority may hold a hearing concerning an application submitted pursuant to this section only if:

(a) Upon the expiration of the time fixed in the notice that an application for transfer of a certificate of public convenience and necessity is pending, a petition to intervene has been granted by the Authority; or

(b) The Authority finds that after reviewing the information provided by the applicant and inspecting the operations of the applicant, it cannot make a determination as to whether the applicant has complied with the requirements of subsection 2.

4. The Authority shall not hold a hearing on an application submitted pursuant to this section if the application is made to transfer the certificate of public convenience and necessity from a natural person or partners to a corporation whose controlling stockholders will be substantially the same person or partners.

5. The approval by the Authority of an application for transfer of a certificate of public convenience and necessity of an operator of a tow car is not valid after the expiration of the term for the transferred certificate.

Sec. 13. NRS 706.4465 is hereby amended to read as follows:

706.4465 The operator shall maintain a dispatcher's log which shows for each vehicle towed:

1. The date and time the call to provide towing was received.
2. The name of the person requesting that the vehicle be towed.
3. The date and time a tow car was dispatched to provide the towing.
4. The date and time the tow car arrived at the location of the vehicle to be towed.

5. The date and time the towing was completed.

6. The model, make, year of manufacture, vehicle identification number and license plate number of the towed motor vehicle.

7. *The name of the insurance company that provides coverage for the towed vehicle, if the operator determines the identity of the insurance company or is otherwise informed of the identity of the insurance company.*

Sec. 14. NRS 706.4483 is hereby amended to read as follows:

706.4483 1. The Authority shall act upon complaints regarding the failure of an operator of a tow car to comply with the provisions of NRS 706.011 to 706.791, inclusive ~~[]~~, *and sections 2 and 3 of this act.*

2. In addition to any other remedies that may be available to the Authority to act upon complaints, the Authority may order the release of towed motor vehicles, cargo or personal property upon such terms and conditions as the Authority determines to be appropriate.

Sec. 15. NRS 706.4487 is hereby amended to read as follows:

706.4487 The Legislature hereby finds and declares that:

1. Towing a vehicle, either after an accident or after the vehicle is stolen and subsequently recovered, to a vehicle storage lot designated by the insurer of the vehicle will result in the placement of vehicle storage lots in more locations, as insurance companies will designate as many vehicle storage lots as are necessary to provide coverage throughout the county, thus enhancing safety by limiting both the time and distance that a tow car is traveling with a towed vehicle.

2. Authorizing insurance companies to designate vehicle storage lots will enhance safety by ensuring that the vehicles towed thereto are stored in locations which:

- (a) Guarantee safe access to the vehicles by their owners; and
- (b) Protect the property of the owners of the vehicles, including, without limitation, the vehicles themselves.

3. The provisions of NRS 706.4489 *and section 3 of this act* constitute an exercise of the safety regulatory authority of this State with respect to motor vehicles.

Sec. 16. NRS 706.4489 is hereby amended to read as follows:

706.4489 1. An insurance company may designate one or more vehicle storage lots to which all vehicles that are towed at the request of a law enforcement officer:

- (a) Following an accident; or
- (b) Following recovery after having been stolen,

➔ and which are insured by that insurance company must be towed pursuant to subsection 2. The designation of a vehicle storage lot must be provided in writing by the insurance company, its representative or the owner or operator of the vehicle storage lot to all providers of towing services that have obtained a certificate of public convenience and necessity and operate in the same geographical area in which the designated vehicle storage lot is situated.

2. If a law enforcement officer requests that an operator of a tow car tow a vehicle following an accident or following recovery after having been stolen and the vehicle is not otherwise subject to impoundment, the law enforcement officer shall make a good faith effort to determine the identity of the insurance company that provides coverage for the ~~owner of the~~ vehicle. If the law enforcement officer determines the identity of the insurance company, he or she shall inform the operator of the tow car of the identity of

the insurance company. *If the law enforcement officer does not inform the operator of the tow car of the identity of the insurance company, the operator of the tow car shall make a good faith effort to determine the identity of the insurance company from the law enforcement officer and the owner or operator of the vehicle.* If the operator of the tow car:

(a) Is informed by a law enforcement officer of the identity of the insurance company that provides coverage for the ~~owner of the~~ vehicle; or

(b) Otherwise determines the identity of the insurance company that provides coverage for the ~~owner of the~~ vehicle,

➡ and the insurance company has designated a vehicle storage lot pursuant to subsection 1, the operator of the tow car shall tow the vehicle to the designated vehicle storage lot unless the owner or operator of the vehicle, pursuant to subsection 4, or a representative of the insurance company has directed otherwise. *The owner or operator of the vehicle shall be deemed to have consented to towing the vehicle to the vehicle storage lot designated by the insurance company that provides coverage for the vehicle.*

3. ~~[If an operator of a tow car fails to tow a vehicle to the designated vehicle storage lot pursuant to subsection 2, the operator of the tow car shall:~~

~~—(a) Forfeit the charge for towing and storage of the vehicle; and~~

~~—(b) Tow the vehicle free of charge to the vehicle storage lot designated by the insurance company or its representative not later than 24 hours after receiving a demand, which must be made in writing or by electronic mail, from the insurance company or its representative.]~~ *The operator of a tow car shall retain any documents provided by a law enforcement officer pursuant to subsection 2 indicating the identity of the insurance company that provides coverage for a vehicle that is towed at the request of the law enforcement officer. The operator of a tow car shall provide copies of such documents to a vehicle storage lot upon delivery of the vehicle to the vehicle storage lot.*

4. *An owner or operator of a vehicle shall not direct an operator of a tow car to tow the vehicle to a vehicle storage lot other than the vehicle storage lot designated by the insurance company pursuant to subsection 1, but may direct an operator of a tow car to tow the vehicle to a location other than a vehicle storage lot. If an owner or operator of a vehicle directs an operator of a tow car to tow the vehicle to such a location, ~~the operator of the tow car shall require the owner or operator of the vehicle to confirm in writing that he or she~~ a law enforcement officer, if one is on the scene, shall confirm that the owner or operator of the vehicle directed the operator of the tow car to tow the vehicle to a location other than the designated vehicle storage lot and that the operator of the tow car did not solicit the owner or operator of the vehicle in violation of subsection 2 of section 3 of this act ~~f-1~~, and shall note the decision of the owner or operator of the vehicle in any report of the incident. If a law enforcement officer is not on the scene, the operator of the tow car shall require the owner or operator of the vehicle to confirm in writing on a form prescribed by the Authority that he or she directed the operator of the tow car to tow the vehicle to a location other than the*

designated vehicle storage lot and that the operator of the tow car did not solicit the owner or operator of the vehicle in violation of subsection 2 of section 3 of this act. The operator of the tow car shall retain ~~such written documentation.~~ a copy of any documentation provided by the law enforcement officer or agency and any form signed by the owner or operator of the vehicle.

5. The owners of a vehicle storage lot designated by an insurance company pursuant to subsection 1 shall agree in writing to indemnify the relevant law enforcement agencies and their officers, employees, agents and representatives from any liability relating to the towing of a vehicle insured by the designating insurance company and to the storing of the vehicle at the vehicle storage lot if the law enforcement officer who requested the towing of the vehicle made a good faith effort to comply with the provisions of subsection 2.

~~{5-}~~ 6. A vehicle storage lot must:

(a) Maintain adequate, accessible and secure storage within the State of Nevada for any vehicle that is towed to the vehicle storage lot;

(b) Comply with all standards a law enforcement agency may adopt pursuant to NRS 706.4485 to protect the health, safety and welfare of the public;

(c) Comply with all local laws and ordinances applicable to that business, including, without limitation, local laws and ordinances relating to business licenses, zoning, building and fire codes, parking, paving, lights and security; and

(d) If the vehicle storage lot is a salvage pool as that term is defined in NRS 487.400, comply with all applicable requirements imposed pursuant to NRS 487.400 to 487.510, inclusive.

~~{6-}~~ 7. If a vehicle storage lot has rates and charges that have been approved by the Authority for the storage of a vehicle, the vehicle storage lot is not required to assess those rates and charges for the storage of a vehicle that is towed to the vehicle storage lot in accordance with this section, but may not assess a rate or charge in excess of those approved rates and charges. If a vehicle storage lot does not have rates and charges that have been approved by the Authority, it may not assess a rate or charge in excess of the rates and charges for the storage of a vehicle that have been approved by the law enforcement agency that requested the tow. If the requesting law enforcement agency does not have approved rates and charges, the vehicle storage lot may not assess a rate or charge in excess of the rates and charges for the storage of a vehicle that have been approved by the largest law enforcement agency in the county. An operator of a tow car who tows a vehicle to a vehicle storage lot pursuant to this section:

(a) Shall assess the rates and charges approved by the Authority for towing the vehicle.

(b) Is entitled to payment from the operator of the vehicle storage lot at the time the vehicle is towed to the vehicle storage lot.

~~{7.}~~ 8. Before designating a vehicle storage lot pursuant to subsection 1, an insurance company must obtain the approval of the Authority. The Authority shall approve the designation if the Authority determines that the vehicle storage lot has:

- (a) Executed an indemnification agreement that meets the requirements of subsection ~~{4.}~~ 5;
- (b) Satisfied the requirements of subsection ~~{5.}~~ 6; and
- (c) Otherwise satisfied the requirements of this section.

~~{8.}~~ 9. The provisions of this section apply only to a county whose population is 700,000 or more.

~~{9.}~~ 10. As used in this section:

(a) "Boat" means any vessel or other watercraft, other than a seaplane, used or capable of being used as a means of transportation on the water.

(b) "Vehicle" has the meaning ascribed to it in NRS 706.146 and includes all terrain vehicles and boats.

(c) "Vehicle storage lot" means a business which, for a fee, stores vehicles that are towed at the request of a law enforcement officer following an accident or following recovery after having been stolen and includes, without limitation, a salvage pool, as that term is defined in NRS 487.400, which operates a vehicle storage lot in accordance with the provisions of this section. The term does not include a salvage pool that has not elected to operate a vehicle storage lot in accordance with the provisions of this section and is operating within the scope of its authority pursuant to NRS 487.400 to 487.510, inclusive.

Sec. 17. NRS 706.453 is hereby amended to read as follows:

706.453 The provisions of NRS 706.445 to 706.451, inclusive, *and sections 2 and 3 of this act* do not apply to automobile wreckers who are licensed pursuant to chapter 487 of NRS.

Sec. 18. NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, the provisions of NRS 706.011 to 706.791, inclusive, *and sections 2 and 3 of this act* do not apply to:

(a) The transportation by a contractor licensed by the State Contractors' Board of the contractor's own equipment in the contractor's own vehicles from job to job.

(b) Any person engaged in transporting the person's own personal effects in the person's own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by the person in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on

television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

(g) The transportation by a private school of persons or property in connection with the operation of the school or related school activities, so long as the vehicle that is used to transport the persons or property does not have a gross vehicle weight rating of 26,001 pounds or more and is not registered pursuant to NRS 706.801 to 706.861, inclusive.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of paragraph (d) of subsection 1 of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to paragraph (b) of subsection 1 of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, *and sections 2 and 3 of this act*, 706.471, 706.473, 706.475 and 706.6411 which authorize the Authority to issue:

(a) Except as otherwise provided in paragraph (b), certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

(b) Certificates of public convenience and necessity to operators of tow cars and to regulate rates for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle apply to operators of tow cars.

4. Any person who operates pursuant to a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to the person's actual operation as prescribed in this chapter, computed from the date when that operation began.

5. As used in this section, "private school" means a nonprofit private elementary or secondary educational institution that is licensed in this State.

Sec. 19. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act* apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act* or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~§§~~, *and sections 2 and 3 of this act*;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~§§~~, *and sections 2 and 3 of this act*;

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~§§~~, *and sections 2 and 3 of this act*;

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

➔ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

➔ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person

may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 20. NRS 706.781 is hereby amended to read as follows:

706.781 In addition to all the other remedies provided by NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act*, for the prevention and punishment of any violation of the provisions thereof and of all orders of the Authority or the Department, the Authority or the Department may compel compliance with the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 and 3 of this act*, and with the orders of the Authority or the Department by proceedings in mandamus, injunction or by other civil remedies.

Sec. 21. NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may, to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

- (a) Repair, safeguard or eliminate a dangerous structure or condition;
- (b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS;
- (c) Clear weeds and noxious plant growth; or
- (d) Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section, ➤ to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

- (a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the public nuisance.

(2) If the public nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the public nuisance.

(3) Afforded an opportunity for a hearing before the designee of the board relating to the order of abatement and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

(4) Afforded an opportunity for a hearing before the designee of the board relating to the imposition of civil penalties and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

(b) Provide that the date specified in the notice by which the owner must abate the public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the public nuisance on the property if the owner fails to abate the public nuisance.

(d) Provide for civil penalties for each day that the owner did not abate the public nuisance after the date specified in the notice by which the owner was required to abate the public nuisance.

3. In any county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 may authorize the county to request the operator of a tow car to abate a public nuisance by towing abandoned or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means if the conditions of subsection 4 are satisfied. The operator of a tow car requested to tow a vehicle pursuant to this section must comply with the provisions of NRS 706.445 to 706.453, inclusive ~~and~~, *and sections 2 and 3 of this act.*

4. The county may abate the public nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance or request abatement by the operator of a tow car pursuant to subsection 3 if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance on the owner's property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance within the period specified in the order; or

(c) The board or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the public nuisance within the period specified in the order.

5. In addition to any other reasonable means for recovering money expended by the county to abate the public nuisance and, except as otherwise provided in subsection 6, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the board or its designee may make the expense and civil penalties a special assessment against the property upon which the public nuisance is located, and this special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

6. Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 5 by the board or its designee unless:

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the public nuisance or the date specified in the order of the board or court by which the owner must abate the public nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

7. If a designee of the board imposes a special assessment pursuant to subsection 5, the designee shall submit a written report to the board at least once each calendar quarter that sets forth, for each property against which such an assessment has been imposed:

(a) The street address or assessor's parcel number of the property;

(b) The name of each owner of record of the property as of the date of the assessment; and

(c) The total amount of the assessment, stating the amount assessed for the expense of abatement and any amount assessed for civil penalties.

8. As used in this section, "dangerous structure or condition" means a structure or condition that is a public nuisance which may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated by the board as a public nuisance in the ordinance, rule or regulation.

Sec. 22. NRS 268.4122 is hereby amended to read as follows:

268.4122 1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

- (a) Repair, safeguard or eliminate a dangerous structure or condition;
 - (b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or
 - (c) Clear weeds and noxious plant growth,
- to protect the public health, safety and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:

- (a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition.

(2) If the condition is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the condition.

(3) Afforded an opportunity for a hearing before the designee of the governing body relating to the order of abatement and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

(4) Afforded an opportunity for a hearing before the designee of the governing body relating to the imposition of civil penalties and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

(d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

(e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. In any county whose population is 700,000 or more, an ordinance adopted pursuant to subsection 1 may authorize the city to request the operator of a tow car to abate a condition by towing abandoned or junk vehicles which are not concealed from ordinary public view by means of inside storage, suitable fencing, opaque covering, trees, shrubbery or other means if the governing body or its designee has directed the abatement of the condition pursuant to subsection 4. The operator of a tow car requested to

tow a vehicle by a city pursuant to this section must comply with the provisions of NRS 706.445 to 706.453, inclusive ~~[]~~, *and sections 2 and 3 of this act.*

4. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition or request abatement by the operator of a tow car pursuant to subsection 3 if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

5. In addition to any other reasonable means for recovering money expended by the city to abate the condition and, except as otherwise provided in subsection 6, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1, the governing body or its designee may make the expense and civil penalties a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

6. Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 5 by the governing body or its designee unless:

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than \$5,000.

7. If a designee of the governing body imposes a special assessment pursuant to subsection 5, the designee shall submit a written report to the governing body at least once each calendar quarter that sets forth, for each property against which such an assessment has been imposed:

(a) The street address or assessor's parcel number of the property;

(b) The name of each owner of record of the property as of the date of the assessment; and

(c) The total amount of the assessment, stating the amount assessed for the expense of abatement and any amount assessed for civil penalties.

8. As used in this section, "dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.413 with respect to minimum levels of health, maintenance or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

Senator Hammond moved the adoption of the amendment.

Remarks by Senator Hammond.

Amendment No. 780 to Assembly Bill No. 385 provides that if the owner or operator of a vehicle directs an operator of a tow car to tow the vehicle to a location other than a vehicle storage lot, a law enforcement officer must confirm that the vehicle owner or operator provided such direction if one is on the scene.

If a law enforcement officer is not on the scene, the tow car operator must have the vehicle owner or operator confirm in writing that he or she directed the tow to another location, and that the tow car operator did not solicit the owner or operator of the vehicle to tow the vehicle to such a location.

Amendment adopted.

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

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

Motion carried.

Senate in recess at 8:17 p.m.

SENATE IN SESSION

At 8:21 p.m.

President Hutchison presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 276.

Bill read third time.

Remarks by Senator Kieckhefer.

Senate Bill No. 276, as amended, requires the Division of Public and Behavioral Health (DPBH) to reallocate medical marijuana establishment certificates between counties under certain circumstances. Senate Bill No. 276 also allows for the DPBH to relocate medical marijuana establishment certificates from one location to another under the same local government under certain circumstances. Additionally, Senate Bill No. 276 authorizes the transfer of ownership of a medical marijuana establishment to another party after complying with certain requirements of the DPBH.

This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on October 1, 2015, for all other purposes. The one-time increase to the number of medical marijuana dispensary certificates expires by limitation on December 31, 2015.

Roll call on Senate Bill No. 276:

YEAS—17.

NAYS—Brower, Gustavson, Hardy—3.

EXCUSED—Smith.

Senate Bill No. 276 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 475.

Bill read third time.

Remarks by Senator Goicoechea.

Senate Bill No. 475 authorizes a county or city found to exist in a severe financial emergency to file a petition in bankruptcy with a federal bankruptcy court if: 1) the Nevada Tax Commission determines that the county or city is in severe financial emergency and that the emergency is unlikely to cease within three years; and 2) the county or city obtains approval from the Governor to file the petition.

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

Roll call on Senate Bill No. 475:

YEAS—11.

NAYS—Atkinson, Denis, Ford, Kihuen, Manendo, Parks, Segerblom, Spearman, Woodhouse—9.

EXCUSED—Smith.

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 49.

Bill read third time.

The following amendment was proposed by Senator Brower:

Amendment No. 932.

SUMMARY—Revises provisions governing crimes. (BDR 15-158)

AN ACT relating to crimes; establishing the crime of unlawful dissemination of an intimate image of a person; prohibiting certain acts relating to an intimate image of another person; revising provisions relating to sexual assault and the abuse of a child; setting forth provisions relating to expert testimony in a prosecution for pandering or sex trafficking; revising provisions concerning acts of open or gross lewdness, open and indecent or obscene exposure, lewdness with a child and statutory sexual seduction; ~~revising provisions relating to sexual conduct between certain pupils and certain employees of or volunteers at a school and between certain students~~

~~and certain employees of a college or university,]~~ setting forth various provisions relating to the admissibility of evidence and expert testimony in criminal and juvenile delinquency actions; prohibiting a court from ordering the victim of or a witness to a sexual offense to take or submit to a psychological or psychiatric examination in certain criminal or juvenile delinquency actions; authorizing the court to exclude in certain circumstances the testimony of a licensed psychologist, psychiatrist or clinical worker; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-6.5 of this bill establish the crime of unlawful dissemination of an intimate image of a person. Section 3 defines the term "intimate image" generally as a photograph, film, videotape or other recorded image, or any reproduction thereof, which depicts: (1) the fully exposed nipple of the female breast of another person; or (2) one or more persons engaged in sexual conduct. Section 3 also provides that an image which would otherwise constitute an intimate image is not an intimate image if the person depicted in the image: (1) is not clearly identifiable; (2) voluntarily exposed himself or herself in a public or commercial setting; or (3) is a public figure.

Section 5 provides that a person commits the crime of unlawful dissemination of an intimate image and is guilty of a category D felony when, with the intent to harass, harm or terrorize another person, the person electronically disseminates or sells an intimate image which depicts the other person and the other person: (1) did not give prior consent to the electronic dissemination or sale; (2) had a reasonable expectation that the intimate image would be kept private and would not be made visible to the public; and (3) was at least 18 years of age when the intimate image was created. Section 5 also sets forth certain exceptions regarding when an intimate image may be lawfully electronically disseminated. Under section 6, a person is guilty of a category D felony if he or she demands payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view. Section 6.5 provides that the provisions of sections 1-6 must not be construed to impose liability on an interactive computer service, as that term is defined in federal law, for any content provided by another person.

Existing law provides that a person who forces another person under certain circumstances to make a sexual penetration on himself or herself or another, or on a beast, is guilty of sexual assault. (NRS 200.366) Section 8 of this bill additionally provides that a person who commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast, is guilty of sexual assault. Section 8 further provides that, except in certain circumstances, such provisions do not apply to a person who commits any such act upon a child under the age of 14 years if the person committing

the act is less than 18 years of age and is not more than 2 years older than the person upon whom the act is committed.

Existing law also provides that a person who commits any act of open or gross lewdness or who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty of a gross misdemeanor for the first offense and a category D felony for any subsequent offense. (NRS 201.210, 201.220) Under sections 13 and 14 of this bill, if a person commits any such offense and he or she has previously been convicted of a sexual offense, or if the person commits any such offense in the presence of a child under the age of 18 years or a vulnerable person, the person is guilty of a category D felony.

Additionally, under existing law, a person who commits certain acts with a child under the age of 14 years is guilty of lewdness with a child and is guilty of a category A felony. (NRS 201.230) Section 15 of this bill provides that a person is guilty of lewdness with a child if the person: (1) is 18 years of age or older and commits certain acts with a child under the age of 16 years; or (2) is under the age of 18 years and commits certain acts with a child under the age of 14 years. Section 15 also provides that if a person commits lewdness with: (1) a child under the age of 14, he or she is guilty of a category A felony; and (2) a child who is 14 or 15, he or she is guilty of a category B felony.

Section 7 of this bill revises the definition of the term "statutory sexual seduction," and section 8.5 of this bill revises the penalties imposed for the crime of statutory sexual seduction.

Section 10 of this bill provides that certain persons are guilty of a category A felony if they willfully cause, permit or allow a child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect, and substantial bodily or mental harm results to the child which includes certain severe injuries.

~~[Sections 18 and 19 of this bill revise the punishment imposed for: (1) certain employees of or volunteers at a school who engage in sexual conduct with certain pupils; and (2) certain employees of a college or university who engage in sexual conduct with certain students.]~~

Sections 12, 23 and 24 of this bill revise various provisions relating to the admissibility of expert testimony and evidence in certain criminal and juvenile delinquency cases. Section 12 provides that in a prosecution for pandering or sex trafficking, certain expert testimony that is offered by the prosecution or defense is admissible for any relevant purpose, but certain other expert testimony cannot be offered against the defendant to prove the occurrence of an act which forms the basis of a criminal charge against the defendant. Under section 23, expert testimony offered by the prosecution or defense which concerns the behavior of a defendant in preparing a child under the age of 18 or a vulnerable person for sexual abuse by the defendant is admissible for any purpose. Section 24 prohibits a court in a criminal or

juvenile delinquency action relating to the commission of a sexual offense from ordering a victim of or witness to a sexual offense to take or submit to a psychological or psychiatric examination. Section 24 also authorizes the court to exclude the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on a victim or witness in certain circumstances.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6.5, inclusive, of this act.

Sec. 2. *As used in sections 2 to 6.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Intimate image":*

1. *Except as otherwise provided in subsection 2, includes, without limitation, a photograph, film, videotape or other recorded image which depicts:*

(a) The fully exposed nipple of the female breast of another person, including through transparent clothing; or

(b) One or more persons engaged in sexual conduct.

2. *Does not include an image which would otherwise constitute an intimate image pursuant to subsection 1, but in which the person depicted in the image:*

(a) Is not clearly identifiable;

(b) Voluntarily exposed himself or herself in a public or commercial setting; or

(c) Is a public figure.

Sec. 4. *"Sexual conduct" has the meaning ascribed to it in NRS 200.700.*

Sec. 5. 1. *Except as otherwise provided in subsection 3, a person commits the crime of unlawful dissemination of an intimate image when, with the intent to harass, harm or terrorize another person, the person electronically disseminates or sells an intimate image which depicts the other person and the other person:*

(a) Did not give prior consent to the electronic dissemination or the sale of the intimate image;

(b) Had a reasonable expectation that the intimate image would be kept private and would not be made visible to the public; and

(c) Was at least 18 years of age when the intimate image was created.

2. *A person who commits the crime of unlawful dissemination of an intimate image is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

3. *The provisions of this section do not apply to the electronic dissemination of an intimate image for the purpose of:*

(a) A legitimate public interest;

(b) Reporting unlawful conduct;

- (c) Any lawful law enforcement or correctional activity;
- (d) Investigation or prosecution of a violation of this section; or
- (e) Preparation for or use in any legal proceeding.

4. A person who commits the crime of unlawful dissemination of an intimate image is not considered a sex offender and is not subject to registration or community notification as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.

Sec. 6. Any person who demands payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 6.5. 1. The provisions of sections 2 to 6.5, inclusive, of this act must not be construed to impose liability on an interactive computer service for any content provided by another person.

2. As used in subsection 1, "interactive computer service" has the meaning ascribed to it in 47 U.S.C. 230(f)(2).

Sec. 7. NRS 200.364 is hereby amended to read as follows:

200.364 As used in NRS 200.364 to 200.3784, inclusive, unless the context otherwise requires:

1. "Offense involving a pupil" means any of the following offenses:
 - (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.
2. "Perpetrator" means a person who commits a sexual offense, an offense involving a pupil or sex trafficking.
3. "Sex trafficking" means a violation of subsection 2 of NRS 201.300.
4. "Sexual offense" means any of the following offenses:
 - (a) Sexual assault pursuant to NRS 200.366.
 - (b) Statutory sexual seduction pursuant to NRS 200.368.
5. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. *The term does not include any such conduct for medical purposes.*

6. "Statutory sexual seduction" means ~~—(a) Ordinary~~ ordinary sexual intercourse, anal intercourse, ~~[cunnilingus or fellatio]~~ or sexual penetration committed by a person 18 years of age or older with a person ~~[under the age of 16 years; or~~
~~—(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons.]~~ who is 14 or 15 years of age and who is at least 4 years younger than the perpetrator.

7. "Victim" means a person who is a victim of a sexual offense, an offense involving a pupil or sex trafficking.

Sec. 8. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person ~~[who subjects]~~ *is guilty of sexual assault if he or she:*

(a) *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.]~~ ; or

(b) *Commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast.*

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. *The provisions of this section do not apply to a person who is less than 18 years of age and who commits any of the acts described in paragraph (b) of subsection 1 if the person is not more than 2 years older than the person upon whom the act was committed unless:*

(a) *The person committing the act uses force or threatens the use of force;*
or

(b) *The person committing the act knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct.*

6. 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 201.230;
- (c) Sado-masochistic abuse pursuant to NRS 201.262; or
- (d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

Sec. 8.5. NRS 200.368 is hereby amended to read as follows:

200.368 ~~[Except under circumstances where a greater penalty is provided in NRS 201.540, a]~~ A person who commits statutory sexual seduction shall be punished:

1. If the person is 21 years of age or older ~~[, for a category C felony as provided in NRS 193.130.]~~ at the time of the commission of the offense, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

2. ~~[If]~~ Except as otherwise provided in subsection 3, if the person is under the age of 21 years, for a gross misdemeanor.

3. *If the person is under the age of 21 years and has previously been convicted of a sexual offense, as defined in NRS 179D.097, for a category D felony as provided in NRS 193.130.*

Sec. 9. NRS 200.400 is hereby amended to read as follows:

200.400 1. As used in this section:

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Strangulation" has the meaning ascribed to it in NRS 200.481.

2. A person who is convicted of battery with the intent to commit mayhem, robbery or grand larceny is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

3. A person who is convicted of battery with the intent to kill is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years.

4. A person who is convicted of battery with the intent to commit sexual assault shall be punished:

(a) If the crime results in substantial bodily harm to the victim or is committed by strangulation, for a category A felony 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 10 years has been served . ~~‡~~

~~↪ as determined by the verdict of the jury, or the judgment of the court if there is no jury.‡~~

(b) If the crime does not result in substantial bodily harm to the victim and the victim is 16 years of age or older, for a category A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of life with the possibility of parole.

(c) If the crime does not result in substantial bodily harm to the victim and the victim is a child under the age of 16, for a category A felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of life with the possibility of parole.

↪ In addition to any other penalty, a person convicted pursuant to this subsection may be punished by a fine of not more than \$10,000.

Sec. 10. NRS 200.508 is hereby amended to read as follows:

200.508 1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(2) *If the child is less than 18 years of age and the resulting harm includes, without limitation, one or more of the following injuries:*

(I) Skull fracture;

(II) Depressed skull fracture;

(III) Cerebral laceration;

(IV) Cerebral contusion;

(V) Subarachnoid hemorrhage;

(VI) Subdural hemorrhage in the brain, neck or spinal cord;

(VII) Epidural hemorrhage;

(VIII) Intracranial hemorrhage;

(IX) *Cerebral edema caused by trauma;*

(X) *Multiple fractures of the skull or face with injuries to other bones of the body;*

(XI) *Contusion of the cerebellum or brain stem;*

(XII) *Optic nerve injury;*

(XIII) *Retinal hemorrhage;*

(XIV) *Loss of eyesight;*

(XV) *Loss of hearing; or*

(XVI) *Speech impairment or loss of speech,*

➔ *is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, or for a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.*

(3) In all other such cases to which subparagraph (1) or (2) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, 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; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years,

➔ *unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.*

2. A person who is responsible for the safety or welfare of a child pursuant to NRS 432B.130 and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished 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; or

(2) *If the child is less than 18 years of age and the resulting harm includes, without limitation, one or more of the following injuries:*

(I) *Skull fracture;*

- (II) *Depressed skull fracture;*
- (III) *Cerebral laceration;*
- (IV) *Cerebral contusion;*
- (V) *Subarachnoid hemorrhage;*
- (VI) *Subdural hemorrhage in the brain, neck or spinal cord;*
- (VII) *Epidural hemorrhage;*
- (VIII) *Intracranial hemorrhage;*
- (IX) *Cerebral edema caused by trauma;*
- (X) *Multiple fractures of the skull or face with injuries to other bones*

of the body;

- (XI) *Contusion of the cerebellum or brain stem;*
- (XII) *Optic nerve injury;*
- (XIII) *Retinal hemorrhage;*
- (XIV) *Loss of eyesight;*
- (XV) *Loss of hearing; or*
- (XVI) *Speech impairment or loss of speech,*

➔ *is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, or for a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.*

(3) In all other such cases to which subparagraph (1) or (2) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

➔ unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that the person delivers or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

4. As used in this section:

(a) "Abuse or neglect" means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

(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 the child is abused or neglected.

(c) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) "Physical injury" means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

(e) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior.

Sec. 11. NRS 200.604 is hereby amended to read as follows:

200.604 1. Except as otherwise provided in subsection 4, a person shall not knowingly and intentionally capture an image of the private area of another person:

(a) Without the consent of the other person; and

(b) Under circumstances in which the other person has a reasonable expectation of privacy.

2. Except as otherwise provided in subsection 4, a person shall not distribute, disclose, display, transmit or publish an image that the person knows or has reason to know was made in violation of subsection 1.

3. ~~{A}~~ *Unless a greater penalty is provided pursuant to section 5 of this act, a person who violates this section:*

(a) For a first offense, is guilty of a gross misdemeanor.

(b) For a second or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. This section does not prohibit any lawful law enforcement or correctional activity, including, without limitation, capturing, distributing, disclosing, displaying, transmitting or publishing an image for the purpose of investigating or prosecuting a violation of this section.

5. If a person is charged with a violation of this section, any image of the private area of a victim that is contained within:

(a) Court records;

(b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;

(c) Records of criminal history, as that term is defined in NRS 179A.070; and

(d) Records in the Central Repository for Nevada Records of Criminal History,

↪ is confidential and, except as otherwise provided in subsections 6 and 7, must not be inspected by or released to the general public.

6. An image that is confidential pursuant to subsection 5 may be inspected or released:

(a) As necessary for the purposes of investigation and prosecution of the violation;

(b) As necessary for the purpose of allowing a person charged with a violation of this section and his or her attorney to prepare a defense; and

(c) Upon authorization by a court of competent jurisdiction as provided in subsection 7.

7. A court of competent jurisdiction may authorize the inspection or release of an image that is confidential pursuant to subsection 5, upon application, if the court determines that:

(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the inspection or release; and

(b) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

8. As used in this section:

(a) "Broadcast" means to transmit electronically an image with the intent that the image be viewed by any other person.

(b) "Capture," with respect to an image, means to videotape, photograph, film, record by any means or broadcast.

(c) "Female breast" means any portion of the female breast below the top of the areola.

(d) "Private area" means the naked or undergarment clad genitals, pubic area, buttocks or female breast of a person.

(e) "Under circumstances in which the other person has a reasonable expectation of privacy" means:

(1) Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of his or her private area would be captured; or

(2) Circumstances in which a reasonable person would believe that his or her private area would not be visible to the public, regardless of whether the person is in a public or private place.

Sec. 12. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

In a prosecution for pandering or sex trafficking pursuant to NRS 201.300, expert testimony concerning:

1. *The prostitution subculture, including, without limitation, the effect of physical, emotional or mental abuse on the beliefs, behavior and perception of the alleged victim of the pandering or sex trafficking that is offered by the prosecution or defense is admissible for any relevant purpose, including, without limitation, to demonstrate:*

(a) The dynamics of and the manipulation and psychological control measures used in the relationship between a prostitute and a person who engages in pandering or sex trafficking in violation of NRS 201.300; and

(b) The normal behavior and language used in the prostitution subculture.

2. *The effect of pandering or sex trafficking may not be offered against a defendant pursuant to subsection 1 to prove the occurrence of an act which forms the basis of a criminal charge against the defendant.*

Sec. 13. NRS 201.210 is hereby amended to read as follows:

201.210 1. A person who commits any act of open or gross lewdness is guilty:

(a) ~~For~~ *Except as otherwise provided in this subsection, for the first offense, of a gross misdemeanor.*

(b) *For any subsequent offense, or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097, of a category D felony and shall be punished as provided in NRS 193.130.*

(c) *For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.*

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open or gross lewdness.

Sec. 14. NRS 201.220 is hereby amended to read as follows:

201.220 1. A person who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty:

(a) ~~For~~ *Except as otherwise provided in this subsection, for the first offense, of a gross misdemeanor.*

(b) *For any subsequent offense, or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097, of a category D felony and shall be punished as provided in NRS 193.130.*

(c) *For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.*

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open and indecent or obscene exposure of her body.

Sec. 15. NRS 201.230 is hereby amended to read as follows:

201.230 1. A person ~~who~~ *is guilty of lewdness with a child if he or she:*

(a) *Is 18 years of age or older and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of ~~14~~ 16 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child ~~[is guilty of lewdness with a child.]~~ ; or*

(b) *Is under the age of 18 years and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the*

age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child.

2. Except as otherwise provided in ~~subsection 3,~~ subsections 4 and 5, a person who commits lewdness with a child *under the age of 14 years* is guilty of a category A felony and shall be punished 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, and may be further punished by a fine of not more than \$10,000.

3. *Except as otherwise provided in subsection 4, a person who commits lewdness with a child who is 14 or 15 years of age is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than \$10,000.*

4. ~~[A]~~ Except as otherwise provided in subsection 5, a person who commits lewdness with a child and who has been previously convicted of:

(a) Lewdness with a child 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 lewdness with a child 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.

~~[4.]~~ 5. *A person who is under the age of 18 years and who commits lewdness with a child under the age of 14 years commits a delinquent act.*

6. For the purpose of this section, "other sexual offense against a child" has the meaning ascribed to it in subsection ~~[5]~~ 6 of NRS 200.366.

Sec. 16. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, *and section 12 of this act*, unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.
2. "Child" means a person less than 18 years of age.
3. "Induce" means to persuade, encourage, inveigle or entice.
4. "Prostitute" means a male or female person who for a fee, monetary consideration or other thing of value engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

5. "Prostitution" means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.

6. "Sexual conduct" means any of the acts enumerated in subsection 4.

7. "Transports" means to transport or cause to be transported, by any means of conveyance, into, through or across this State, or to aid or assist in obtaining such transportation.

Sec. 17. NRS 201.520 is hereby amended to read as follows:

201.520 "Sexual conduct" means:

1. Ordinary sexual intercourse;
2. Anal intercourse;
3. Fellatio, cunnilingus or other oral-genital contact;
4. Physical contact by a person with the unclothed genitals or pubic area of another person for the purpose of arousing or gratifying the sexual desire of either person;
5. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purpose of arousing or gratifying the sexual desire of either person;
6. Masturbation or the lewd exhibition of unclothed genitals; ~~{or}~~
7. Sado-masochistic abuse ~~{-}~~; or
8. *Any lewd or lascivious act upon or with the body, or any part or member thereof, of another person.*

Sec. 18. 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 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, 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 2 years and a maximum term of not more than 6 20 years, and may be further punished by a fine of not more than \$5,000. \$10,000.~~

~~3. 2- For the purposes of {subsections} subsection 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.}~~ 3. The provisions of this section do not apply to a person who is married to the pupil.

Sec. 19. ~~[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 or 17 years of age and who is enrolled in or attending the college or university at which the person is employed;~~
- ~~is guilty of a category [C] B felony and shall be punished [as provided in NRS 193.130.] by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and may be further punished by a fine of not more than \$10,000.~~

~~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.} (Deleted by amendment.)~~

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 48.045 is hereby amended to read as follows:

48.045 1. Evidence of a person's character or a trait of his or her character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, except:

(a) Evidence of a person's character or a trait of his or her character offered by an accused, and similar evidence offered by the prosecution to rebut such evidence;

(b) Evidence of the character or a trait of character of the victim of the crime offered by an accused, subject to the procedural requirements of NRS 48.069 where applicable, and similar evidence offered by the prosecution to rebut such evidence; and

(c) Unless excluded by NRS 50.090, evidence of the character of a witness, offered to attack or support his or her credibility, within the limits provided by NRS 50.085.

2. Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

3. *Nothing in this section shall be construed to prohibit the admission of evidence in a criminal prosecution for a sexual offense that a person committed another crime, wrong or act that constitutes a separate sexual offense. As used in this subsection, "sexual offense" has the meaning ascribed to it in NRS 179D.097.*

Sec. 22. Chapter 50 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 and 24 of this act.

Sec. 23. 1. *In any criminal or juvenile delinquency action, expert testimony offered by the prosecution or defense which concerns the behavior of a defendant in preparing a child under the age of 18 years or a vulnerable person as defined in NRS 200.5092 for sexual abuse by the defendant is admissible for any relevant purpose. Such expert testimony may concern, without limitation:*

(a) The effect on the victim from the defendant creating a physical or emotional relationship with the victim before the sexual abuse; and

(b) Any behavior of the defendant that was intended to reduce the resistance of the victim to the sexual abuse or reduce the likelihood that the victim would report the sexual abuse.

2. *As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.*

Sec. 24. 1. *In any criminal or juvenile delinquency action relating to the commission of a sexual offense, a court may not order the victim of or a witness to the sexual offense to take or submit to a psychological or psychiatric examination.*

2. *The court may exclude the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on the victim or witness if:*

(a) There is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness by a licensed psychologist, psychiatrist or clinical worker; and

(b) The victim or witness refuses to submit to an additional psychological or psychiatric examination by a licensed psychologist, psychiatrist or clinical worker.

3. *In determining whether there is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness pursuant to subsection 2, the court must consider whether:*

(a) There is a reasonable basis for believing that the mental or emotional state of the victim or witness may have affected his or her ability to perceive and relate events relevant to the criminal prosecution; and

(b) Any corroboration of the offense exists beyond the testimony of the victim or witness.

4. If the court determines there is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness, the court shall issue a factual finding that details with particularity the reasons why an additional psychological or psychiatric examination of the victim or witness is warranted.

5. If the court issues a factual finding pursuant to subsection 4 and the victim or witness consents to an additional psychological or psychiatric examination, the court shall set the parameters for the examination consistent with the purpose of determining the ability of the victim or witness to perceive and relate events relevant to the criminal prosecution.

6. As used in this section, "sexual offense" includes, without limitation:

- (a) Sexual assault 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 of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;*
- (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) Lewdness with a child pursuant to NRS 201.230;*
- (j) Sexual penetration of a dead human body pursuant to NRS 201.450;*
- (k) 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 section;*
- (l) 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;*
- (m) Luring a child or a person with mental illness pursuant to NRS 201.560;*
- (n) An offense that is found to be sexually motivated pursuant to NRS 175.547 or 207.193;*
- (o) Pandering of a child pursuant to NRS 201.300;*
- (p) Any other offense that has an element involving a sexual act or sexual conduct with another person; or*
- (q) Any attempt or conspiracy to commit an offense listed in this subsection.*

Sec. 25. NRS 50.260 is hereby amended to read as follows:

50.260 As used in NRS 50.260 to 50.345, inclusive, and section 23 of this act, unless the context otherwise requires, "prohibited substance" has the meaning ascribed to it in NRS 484C.080.

Sec. 26. NRS 432B.140 is hereby amended to read as follows:

432B.140 Negligent treatment or maltreatment of a child occurs if a child *has been subjected to harmful behavior that is terrorizing, degrading, painful or emotionally traumatic*, has been abandoned, is without proper care, control ~~and~~ or supervision or lacks the subsistence, education, shelter, medical care or other care 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.

Sec. 27. 1. The amendatory provisions of sections 1 to 5, inclusive, 6.5 and 11 of this act apply to an intimate image that is electronically disseminated or sold on or after October 1, 2015.

2. The amendatory provisions of section 6 of this act apply to an intimate image that is electronically disseminated or sold before, on or after October 1, 2015, if, on or after October 1, 2015, a person:

(a) Demands payment of money, property, services or anything else of value from a person in exchange for removing the intimate image from public view; or

(b) Directly or indirectly counsels, hires, commands, induces or otherwise procures another person to demand payment of money, property, services or anything else of value from a person in exchange for removing the intimate image from public view.

3. The amendatory provisions of sections 7 to 10, inclusive, 13, 14, 15, 17, 18, 19 and 26 of this act apply to an offense that is committed on or after October 1, 2015.

4. The amendatory provisions of sections 12, 16 and 20 to 25, inclusive, of this act apply to a court proceeding that is commenced on or after October 1, 2015.

5. As used in this section, "intimate image" has the meaning ascribed to it in section 3 of this act.

Sec. 28. (Deleted by amendment.)

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

This amendment would clarify language in the bill to ensure that it conforms with another bill that we previously passed this 78th Session.

Amendment adopted.

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

Assembly Bill No. 51.

Bill read third time.

Remarks by Senator Brower.

Assembly Bill No. 51 requires certain broker dealers and investment advisors to complete periodic training in the identification and reporting of exploitation of older persons and vulnerable persons. It also authorizes the administrator of the Securities Division of the Office of the Secretary of the State to adopt by regulation certain filing requirements, registration exemptions and other things consistent with the federal "Jump Start Our Business Startups Act."

Roll call on Assembly Bill No. 51:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 51 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 89.

Bill read third time.

Remarks by Senators Settelmeyer and Spearman.

SENATOR SETTELMEYER:

This is an omnibus bill for the veterans. Assembly Bill No. 89 enacts provisions relating, generally, to the employment of veterans and enacts certain other provisions relating, generally, to professionals. The measure requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to gather and report aggregate unemployment data concerning veterans to the Interagency Council on Veterans Affairs on a quarterly basis. The bill also requires a regulatory body to prepare and submit an annual report to the Council on the number of veterans who have applied for a license, who have been issued a license or who have renewed a license.

Assembly Bill No. 89 explicitly allows private employers to adopt employment policies that provide a hiring preference on the basis of an applicant being a veteran or the spouse of a veteran, subject to review by the Nevada Equal Rights Commission. Additionally, Assembly Bill No. 89 provides for an exemption from the driving skills test in order to receive a commercial driver's license for persons with military experience in driving such vehicles.

The bill 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 the provider or professional: holds a valid and unrestricted license by endorsement to practice in the District of Columbia or another state or territory of the United States; is an active member or veteran of, or the spouse or surviving spouse of an active member or veteran of, the Armed Forces of the United States; and meets certain other requirements.

Additionally, certain regulatory bodies must grant a license by endorsement to a qualified professional who is licensed in another state or territory and is also an active member, veteran, spouse of an active member, or surviving spouse of a veteran of the Armed Forces of the United States, to practice his or her respective profession in this State.

A qualified health care professional who receives a license by endorsement is entitled to at least a 50 percent reduction in the fee for the initial issuance of a license or an examination as a prerequisite to licensure. The measure also authorizes certain regulatory bodies to enter into a reciprocal agreement with the corresponding regulatory authority in another state or territory of the U.S. for the purposes of authorizing a licensee to practice concurrently in Nevada and another jurisdiction under certain circumstances. The bill is effective on July 1, 2015.

SENATOR SPEARMAN:

I am pleased to rise in support of this bill. I find it rather difficult to understand how the preference given to veterans is different from the preference we asked for surviving children of veterans for day care. I understand the language here is clear and gives preference to veterans and spouse of veterans. I urge your support. At least, we can get something done for veterans.

Roll call on Assembly Bill No. 89:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 89 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 93.

Bill read third time.

Remarks by Senator Settlemeyer.

Assembly Bill No. 93 is a fantastic bill. The bill requires or encourages psychiatrists, physicians, advanced practice registered nurses, psychologists, clinical professional counselors, marriage and family therapists, social workers, alcohol and drug abuse counselors, problem gambling counselor and other persons licensed or certified to practice in various related fields to complete instruction on suicide prevention and awareness.

The bill is effective on July 1, 2016. However, the continuing education requirements for the licensed professionals provided for in this bill expire by limitation on June 30, 2026.

Roll call on Assembly Bill No. 93:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 93 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Kieckhefer moved that Assembly Bill No. 117 be taken from the General File and placed on the Secretary's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 128.

Bill read third time.

Remarks by Senator Brower.

Assembly Bill No. 128 replaces an example of a form for power of attorney for health care decisions with a new example, including a form for end-of-life decisions.

Roll call on Assembly Bill No. 128:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 128 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 178.

Bill read third time.

Remarks by Senator Harris.

Assembly Bill No. 178 authorizes a school to develop a plan of behavior when a student is suspended for any reason and requires that the school principal deem a student to be a habitual disciplinary problem under certain circumstances, which additionally includes failure to enter into and participate in a plan of behavior as a reason for being deemed a habitual discipline problem.

Roll call on Assembly Bill No. 178:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 178 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 240.

Bill read third time.

The following amendment was proposed by Senator Harris:

Amendment No. 913.

SUMMARY—Revises provisions governing ~~liens of a unit-owners' association.~~ common-interest communities. (BDR 10-821)

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 relating to the nonjudicial foreclosure of a unit-owners' association's lien; authorizing a right of redemption after the foreclosure of an association's lien by sale under certain circumstances; 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. Generally, the association's lien is prior to all other liens on a unit, except: (1) liens recorded before the recordation of the declaration; (2) the first security interest on the unit; and (3) liens for real estate taxes and other governmental assessments or charges against the unit. 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 is commonly referred to as the "super-priority lien." (NRS 116.3116) Existing law authorizes a unit-owners' association to foreclose its lien through a nonjudicial foreclosure process. (NRS 116.31162-116.31168)

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 3.5 of this bill provides that if there is an impound account established for the payment of property taxes or insurance premiums, the holder of the first security interest, if other than a credit union, is required to establish such an impound account for advance contributions for the payment of certain

assessments. Section 3.5 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 3.5, 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 3.5 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 4.7 of this bill provides that after a sale of a unit to enforce the association's lien, the unit's owner or a holder of a security interest on the unit may redeem the unit by paying certain amounts to the purchaser within 60 days after the sale. If the unit's owner redeems the unit, the unit's owner is restored to his or her ownership of the unit. If a holder of a security interest on the unit redeems the unit, that holder is entitled to a deed without warranty which conveys to the holder all title of the unit's owner to the unit. Section 4.7 further provides that upon expiration of the redemption period, any failure to comply with the requirements of existing law for the foreclosure of the association's lien does not affect the rights of a bona fide purchaser or encumbrancer for value.

Section 7.5 of this bill authorizes the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations to carry out the provisions of section 3.5 relating to impound accounts, including, without limitation, requirements for bonding, servicing costs and conflicts of interest for entities servicing such accounts.

Section 8 of this bill provides that : (1) 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 after January 1, 2016; and (2) the amendatory provisions ~~for this bill~~ related to the right of redemption apply only to a sale to enforce an association's lien that occurs on or after July 1, 2015.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 3.5. 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)]~~ Except as otherwise provided in subsection 4, if the holder of the security interest described in paragraph (b) of subsection 2 or the holder's authorized agent ~~[may]~~ has established an escrow account, loan trust account or other impound account 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 also 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) Assessments for capital expenditures based on the periodic budget adopted by the association pursuant to NRS 116.3115.

4. The provisions of subsection 3 do not apply to a security interest held by a credit union as defined in NRS 678.070.

5. 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.

6. 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.

7. 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.]~~ 8. 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.]~~ 9. 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.]~~ 10. 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.]~~ 11. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

~~[9.]~~ 12. 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.]~~ 13. 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.]~~ 14. 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. 4. (Deleted by amendment.)

Sec. 4.3. NRS 116.31164 is hereby amended to read as follows:

116.31164 1. The sale must be conducted in the county in which the common-interest community or part of it is situated, and may be conducted by the association, its agent or attorney, or a title insurance company or escrow agent licensed to do business in this State, except that the sale may be made at the office of the association if the notice of the sale so provided, whether the unit is located within the same county as the office of the association or not. The association or other person conducting the sale may from time to time postpone the sale by such advertisement and notice as it considers reasonable or, without further advertisement or notice, by proclamation made to the persons assembled at the time and place previously set and advertised for the sale.

2. On the day of sale originally advertised or to which the sale is postponed, at the time and place specified in the notice or postponement, the person conducting the sale may sell the unit at public auction to the highest cash bidder. Unless otherwise provided in the declaration or by agreement, the association may purchase the unit and hold, lease, mortgage or convey it. The association may purchase by a credit bid up to the amount of the unpaid

assessments and any permitted costs, fees and expenses incident to the enforcement of its lien.

3. After the sale, the person conducting the sale shall:

(a) ~~Make, execute and, after payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the grantee all title of the unit's owner to the unit;~~

~~—(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his or her successor or assign; and~~

~~—(c) Comply with the provisions of subsection 2 of NRS 116.31166; and~~

(b) Apply the proceeds of the sale for the following purposes in the following order:

(1) The reasonable expenses of sale;

(2) The reasonable expenses of securing possession before sale, holding, maintaining, and preparing the unit for sale, including payment of taxes and other governmental charges, premiums on hazard and liability insurance, and, to the extent provided for by the declaration, reasonable attorney's fees and other legal expenses incurred by the association;

(3) Satisfaction of the association's lien;

(4) Satisfaction in the order of priority of any subordinate claim of record; and

(5) Remittance of any excess to the unit's owner.

Sec. 4.7. NRS 116.31166 is hereby amended to read as follows:

116.31166 1. *Every sale of a unit pursuant to NRS 116.31162 to 116.31168, inclusive, vests in the purchaser the title of the unit's owner subject to the right of redemption provided by this section.*

2. *After the sale conducted pursuant to NRS 116.31164, the person conducting the sale shall:*

(a) *Give to the purchaser a certificate of the sale containing:*

(1) *A particular description of the unit sold;*

(2) *The price bid for the unit;*

(3) *The whole price paid; and*

(4) *A statement that the unit is subject to redemption; and*

(b) *Record a copy of the certificate in the office of the county recorder of the county in which the unit or part of it is located.*

3. *A unit sold pursuant to NRS 116.31162 to 116.31168, inclusive, may be redeemed by the unit's owner whose interest in the unit was extinguished by the sale, or his or her successor in interest, or any holder of a recorded security interest that is subordinate to the lien on which the unit was sold, or that holder's successor in interest. The unit's owner whose interest in the unit was extinguished, the holder of the recorded security interest on the unit or a successor in interest of those persons may redeem the property at any time within 60 days after the sale by paying:*

(a) *The purchaser the amount of his or her purchase price, with interest at the rate of 1 percent per month thereon in addition, to the time of redemption, plus:*

(1) The amount of any assessment paid to the association by the purchaser before the redemption;

(2) The amount of any assessment, taxes or payments toward liens which were created before the purchase and which the purchaser may have paid thereon after the purchase, and interest on such amount;

(3) If the purchaser is also a creditor having a prior lien to that of the redemptioner, other than the association's lien under which the purchase was made, the amount of such lien, and interest on such amount; and

(4) Any reasonable amount expended by the purchaser which is reasonably necessary to maintain and repair the unit in accordance with the standards set forth in the governing documents, including, without limitation, any provisions governing maintenance, standing water or snow removal.

(b) The association the amount of any assessments not paid to the association after the purchase and before the redemption.

(c) If the redemptioner is the holder of a recorded security interest on the unit or the holder's successor in interest, the amount of any lien before his or her own lien, with interest, but the association's lien under which the unit was sold is not required to be so paid as a lien.

4. Notice of redemption must be served by the person redeeming the unit on the person who conducted the sale and on the person from whom the unit is redeemed, together with:

(a) If the person redeeming the unit is the unit's owner whose interest in the unit was extinguished by the sale or his or her successor in interest, a certified copy of the deed to the unit and, if the person redeeming the unit is the successor of that unit's owner, a copy of any document necessary to establish that the person is the successor of the unit's owner.

(b) If the person redeeming the unit is the holder of a recorded security interest on the unit or the holder's successor in interest:

(1) An original or certified copy of the deed of trust securing the unit or a certified copy of any other recorded security interest of the holder.

(2) A copy of any assignment necessary to establish the claim of the person redeeming the unit, verified by the affidavit of that person, or that person's agent, or of a subscribing witness thereto.

(3) An affidavit by the person redeeming the unit, or that person's agent, showing the amount then actually due on the lien.

5. If the unit's owner whose interest in the unit was extinguished by the sale redeems the property as provided in this section:

(a) The effect of the sale is terminated, and the unit's owner is restored to his or her interest in the unit, subject to any security interest on the unit that existed at the time of sale; and

(b) The person to whom the redemption amount was paid must execute and deliver to the unit's owner a certificate of redemption, acknowledged or approved before a person authorized to take acknowledgments of conveyances of real property, and the certificate must be recorded in the

office of the recorder of the county in which the unit or part of the unit is situated.

6. If the holder of a recorded security interest redeems the unit as provided in this section and the period for a redemption set forth in subsection 3 has expired, the person conducting the sale shall:

(a) Make, execute and, if the amount required to redeem the unit is paid to the person from whom the unit is redeemed, deliver to the person who redeemed the unit or his or her successor or assign, a deed without warranty which conveys to the person who redeemed the unit all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the person who redeemed the unit, or his or her successor or assign.

7. If no redemption is made within 60 days after the date of sale, the person conducting the sale shall:

(a) Make, execute and, if payment is made, deliver to the purchaser, or his or her successor or assign, a deed without warranty which conveys to the purchaser all title of the unit's owner to the unit; and

(b) Deliver a copy of the deed to the Ombudsman within 30 days after the deed is delivered to the purchaser, or his or her successor or assign.

8. The recitals in a deed made pursuant to ~~NRS 116.31164~~ subsection 6 or 7 of:

(a) Default, the mailing of the notice of delinquent assessment, and the mailing and recording of the notice of default and election to sell;

(b) The elapsing of the ~~[90 days;]~~ 90-day period set forth in paragraph (c) of subsection 1 of NRS 116.31162; and

(c) The giving of notice of sale,
 ➔ are conclusive proof of the matters recited.

~~[2.—Such a]~~

9. A deed containing ~~[those]~~ the recitals set forth in subsection 8 is conclusive against the unit's former owner, his or her heirs and assigns, and all other persons. The receipt for the purchase money contained in such a deed is sufficient to discharge the purchaser from obligation to see to the proper application of the purchase money.

~~[3.—The sale of a unit pursuant to NRS 116.31162, 116.31163 and 116.31164 vests in the purchaser the title of the unit's owner without equity or right of redemption.]~~

10. Upon the expiration of the redemption period set forth in subsection 3, any failure to comply with the provisions of NRS 116.3116 to 116.31168, inclusive, does not affect the rights of a bona fide purchaser or bona fide encumbrancer for value.

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 7.5. 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 5 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. 8. 1. The amendatory provisions of NRS 116.3116, as amended by section 3.5 of this act, apply to a security interest described in paragraph (b) of subsection 2 of that section that is recorded on or after January 1, 2016.

2. The amendatory provisions of NRS 116.31164 and 116.31166, as amended by sections 4.3 and 4.7 of this act, apply only to a sale of a unit pursuant to NRS 116.3116 to 116.31168, inclusive, as amended by sections 4.3 and 4.7 of this act, that occurs on or after July 1, 2015.

Sec. 9. (Deleted by amendment.)

Sec. 10. 1. This ~~act~~ section becomes effective upon passage and approval.

2. Sections 3.5 and 7.5 of this act become effective:

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

(b) On January 1, 2016, for all other purposes.

3. Sections 4.3, 4.7 and 8 of this act become effective on July 1, 2015.

Senator Harris moved the adoption of the amendment.

Remarks by Senator Harris.

The amendment: requires the establishment of an impound account for the payment of certain assessments; and under certain circumstances, providing for the payment of assessments for common expenses from the impound account; and authorizes the Commission for Common Interest Communities and Condominium Hotels to adopt regulations to carry out the requirement for impound accounts.

Amendment adopted.

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

Assembly Bill No. 263.

Bill read third time.

The following amendment was proposed by Senator Brower:

Amendment No. 958.

SUMMARY—Revises provisions governing the custody and support of children. (BDR 11-199)

AN ACT relating to domestic relations; repealing certain provisions relating to the custody of children and enacting certain similar provisions relating to the custody of children; prohibiting a parent who has primary or joint physical custody of a child pursuant to an order, judgment or decree of a court from relocating with the child outside this State or to certain locations within this State without the written consent of the ~~[noncustodial]~~ other parent or the permission of the court as the circumstances require; authorizing ~~a non-relocating parent to recover~~ an award of reasonable attorney's fees and costs to a parent in certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth provisions concerning the custody of children as it relates to the dissolution of marriage. (NRS 125.450-125.520) Section 19 of this bill repeals almost all of these provisions. Sections 3-12 of this bill add such repealed provisions, with certain revisions, to chapter 125C of NRS, which concerns custody and visitation of children generally. The addition of such provisions to chapter 125C of NRS expands their applicability to the custody of all children regardless of whether they were born to parents who were married or unmarried.

Section 4 provides that absent a determination by a court regarding the custody of a child, each parent has joint legal custody and joint physical custody of the child until otherwise ordered by a court. Sections 5 and 6 provide that if a parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with a child, such a demonstration or attempted demonstration creates a presumption that joint legal and physical custody, respectively, is in the best interest of the child. Section 7 authorizes a court to award primary physical custody to a parent if the court determines that joint physical custody is not in the best interest of a child, and sets forth circumstances in which an award of joint physical custody is presumed not to be in the best interest of a child. Section 7 also sets forth the circumstances in

which a court may award primary physical custody to a mother or father of a child born out of wedlock.

Existing law requires a parent with primary physical custody of a child who intends to move outside this State with the child to: (1) obtain the written consent of the noncustodial parent; or (2) if the noncustodial parent refuses to give such consent, petition the court for permission to move with the child. (NRS 125C.200) Section 16 of this bill additionally requires a parent with primary physical custody of a child to take such actions if the parent intends to relocate to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child. Section 13 of this bill requires a parent who has joint physical custody of a child pursuant to an order, judgment or decree of a court and wants to relocate outside this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child to: (1) obtain the written consent of the non-relocating parent; or (2) if the non-relocating parent refuses to give such consent, petition the court for primary physical custody of the child for the purpose of relocating. Sections 13 and 16 also authorize the court to award reasonable attorney's fees and costs to a relocating parent or custodial parent, respectively, if the non-relocating parent or noncustodial parent refused to give consent to the relocation: (1) without having reasonable grounds for such refusal; or (2) for the purpose of harassing the relocating or custodial parent.

Section 14 of this bill requires a parent who files a petition for permission to relocate with a child to demonstrate to the court certain reasons and benefits relating to the relocation. Section 14 also requires the court to consider certain factors in determining whether to allow a parent to relocate with a child. Under section 18 of this bill, a parent who relocates with a child without the ~~required~~ written consent of the ~~noncustodial~~ other parent or the permission of the court or before the court enters an order granting the parent primary physical custody of the child and permission to relocate with the child, as applicable, is guilty of a category D felony unless the parent: (1) demonstrates a compelling excuse for the relocation; or (2) relocated to protect the child or the parent from danger. Additionally, section 15 of this bill provides that if a parent relocates with a child in violation of section 18: (1) the court cannot consider any post-relocation facts or circumstances regarding the welfare of the child or the relocating parent in making any determination; and (2) the non-relocating parent can recover reasonable attorney's fees and costs incurred as a result of the relocating parent's violation.

Section 18 further provides that a parent who, pursuant to section 4, has joint legal and physical custody of a child because a court has not made a determination regarding the custody of the child is prohibited from willfully concealing or removing the child from the custody of the other parent with the specific intent to frustrate the efforts of the other parent to establish or

maintain a meaningful relationship with the child. Unless a parent who takes such actions can demonstrate to the satisfaction of the court that he or she was protecting the child or himself or herself from an act that constitutes domestic violence, the parent is guilty of a category D felony.

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

Section 1. NRS 125.040 is hereby amended to read as follows:

125.040 1. In any suit for divorce the court may, in its discretion, upon application by either party and notice to the other party, require either party to pay moneys necessary to assist the other party in accomplishing one or more of the following:

- (a) To provide temporary maintenance for the other party;
- (b) To provide temporary support for children of the parties; or
- (c) To enable the other party to carry on or defend such suit.

2. The court may make any order affecting property of the parties, or either of them, which it may deem necessary or desirable to accomplish the purposes of this section. Such orders shall be made by the court only after taking into consideration the financial situation of each of the parties.

3. The court may make orders pursuant to this section concurrently with orders pursuant to ~~[NRS 125.470.]~~ *section 12 of this act.*

Sec. 2. Chapter 125C of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 15, inclusive, of this act.

Sec. 3. *The Legislature declares that it is the policy of this State:*

1. *To ensure that minor children have frequent associations and a continuing relationship with both parents after the parents have ended their relationship, become separated or dissolved their marriage;*

2. *To encourage such parents to share the rights and responsibilities of child rearing; and*

3. *To establish that such parents have an equivalent duty to provide their minor children with necessary maintenance, health care, education and financial support. As used in this subsection, "equivalent" must not be construed to mean that both parents are responsible for providing the same amount of financial support to their children.*

Sec. 4. 1. *The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.*

2. *If a court has not made a determination regarding the custody of a child, each parent has joint legal custody and joint physical custody of the child until otherwise ordered by a court of competent jurisdiction.*

Sec. 5. 1. *When a court is making a determination regarding the legal custody of a child, there is a presumption, affecting the burden of proof, that joint legal custody would be in the best interest of a minor child if:*

(a) *The parents have agreed to an award of joint legal custody or so agree in open court at a hearing for the purpose of determining the legal custody of the minor child; or*

(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.

2. The court may award joint legal custody without awarding joint physical custody.

Sec. 6. 1. When a court is making a determination regarding the physical custody of a child, there is a preference that joint physical custody would be in the best interest of a minor child if:

(a) The parents have agreed to an award of joint physical custody or so agree in open court at a hearing for the purpose of determining the physical custody of the minor child; or

(b) A parent has demonstrated, or has attempted to demonstrate but has had his or her efforts frustrated by the other parent, an intent to establish a meaningful relationship with the minor child.

2. For assistance in determining whether an award of joint physical custody is appropriate, the court may direct that an investigation be conducted.

Sec. 7. 1. A court may award primary physical custody to a parent if the court determines that joint physical custody is not in the best interest of a child. An award of joint physical custody is presumed not to be in the best interest of the child if:

(a) The court determines by substantial evidence that a parent is unable to adequately care for a minor child for at least 146 days of the year;

(b) A child is born out of wedlock and the provisions of subsection 2 are applicable; or

(c) Except as otherwise provided in subsection 6 of section 8 of this act or NRS 125C.210, there has been a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that a parent has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child. The presumption created by this paragraph is a rebuttable presumption.

2. A court may award primary physical custody of a child born out of wedlock to:

(a) The mother of the child if:

(1) The mother has not married the father of the child;

(2) A judgment or order of a court, or a judgment or order entered pursuant to an expedited process, determining the paternity of the child has not been entered; and

(3) The father of the child:

(I) Is not subject to any presumption of paternity under NRS 126.051;

(II) Has never acknowledged paternity pursuant to NRS 126.053; or

(III) Has had actual knowledge of his paternity but has abandoned the child.

(b) The father of the child if:

(1) The mother has abandoned the child; and

(2) *The father has provided sole care and custody of the child in her absence.*

3. *As used in this section:*

(a) *"Abandoned" means that a mother or father has:*

(1) *Failed, for a continuous period of not less than 6 months, to provide substantial personal and economic support to the child; or*

(2) *Knowingly declined, for a continuous period of not less than 6 months, to have any meaningful relationship with the child.*

(b) *"Expedited process" has the meaning ascribed to it in NRS 126.161.*

Sec. 8. 1. *In any action for determining physical custody of a minor child, the sole consideration of the court is the best interest of the child. If it appears to the court that joint physical custody would be in the best interest of the child, the court may grant physical custody to the parties jointly.*

2. *Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.*

3. *The court shall award physical custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:*

(a) *To both parents jointly pursuant to section 6 of this act or to either parent pursuant to section 7 of this act. If the court does not enter an order awarding joint physical custody of a child after either parent has applied for joint physical custody, the court shall state in its decision the reason for its denial of the parent's application.*

(b) *To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.*

(c) *To any person related within the fifth degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.*

(d) *To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.*

4. *In determining the best interest of the child, the court shall consider and set forth its specific findings concerning, among other things:*

(a) *The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his or her physical custody.*

(b) *Any nomination of a guardian for the child by a parent.*

(c) *Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.*

(d) *The level of conflict between the parents.*

(e) *The ability of the parents to cooperate to meet the needs of the child.*

(f) *The mental and physical health of the parents.*

(g) *The physical, developmental and emotional needs of the child.*

(h) *The nature of the relationship of the child with each parent.*

(i) *The ability of the child to maintain a relationship with any sibling.*

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

(k) Whether either parent or any other person seeking physical custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

(l) Whether either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child.

5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint physical custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving either party;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

(c) The likelihood of future injury;

(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors which the court deems relevant to the determination.

➡ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. A determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking physical custody has committed any act of abduction against the child or any other child creates a rebuttable presumption that sole or joint physical custody or unsupervised visitation of the child by the perpetrator of the abduction is not in the best interest of the child. If the parent or other person seeking physical custody does not rebut the presumption, the court

shall not enter an order for sole or joint physical custody or unsupervised visitation of the child by the perpetrator and the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of abduction occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other person from whom the child was abducted.

8. For the purposes of subsection 7, any of the following acts constitute conclusive evidence that an act of abduction occurred:

(a) A conviction of the defendant of any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct;

(b) A plea of guilty or nolo contendere by the defendant to any violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct; or

(c) An admission by the defendant to the court of the facts contained in the charging document alleging a violation of NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

9. If, after a court enters a final order concerning physical custody of the child, a magistrate determines there is probable cause to believe that an act of abduction has been committed against the child or any other child and that a person who has been awarded sole or joint physical custody or unsupervised visitation of the child has committed the act, the court shall, upon a motion to modify the order concerning physical custody, reconsider the previous order concerning physical custody pursuant to subsections 7 and 8.

10. As used in this section:

(a) "Abduction" means the commission of an act described in NRS 200.310 to 200.340, inclusive, or 200.359 or a law of any other jurisdiction that prohibits the same or similar conduct.

(b) "Domestic violence" means the commission of any act described in NRS 33.018.

Sec. 9. 1. Before the court makes an order awarding custody to any person other than a parent, without the consent of the parents, it shall make a finding that an award of custody to a parent would be detrimental to the child and the award to a nonparent is required to serve the best interest of the child.

2. No allegation that parental custody would be detrimental to the child, other than a statement of that ultimate fact, may appear in the pleadings.

3. The court may exclude the public from any hearing on this issue.

Sec. 10. 1. In any action for determining the custody of a minor child, the court may, except as otherwise provided in this section and NRS 125C.0601 to 125C.0693, inclusive, and chapter 130 of NRS:

(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of the child, make such an order for the custody, care, education, maintenance and support of the minor child as appears in his or her best interest; and

(b) At any time modify or vacate its order, even if custody was determined pursuant to an action for divorce and the divorce was obtained by default without an appearance in the action by one of the parties.

➡ The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.

2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires the modification or termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it.

3. Any order for custody of a minor child entered by a court of another state may, subject to the provisions of NRS 125C.0601 to 125C.0693, inclusive, and to the jurisdictional requirements in chapter 125A of NRS, be modified at any time to an order of joint custody.

4. A party may proceed pursuant to this section without counsel.

5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.

6. All orders authorized by this section must be made in accordance with the provisions of chapter 125A of NRS and NRS 125C.0601 to 125C.0693, inclusive, and must contain the following language:

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague

Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

8. *If a parent of the child lives in a foreign country or has significant commitments in a foreign country:*

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning the child to his or her habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

9. *Except where a contract providing otherwise has been executed pursuant to NRS 123.080, the obligation for care, education, maintenance and support of any minor child created by any order entered pursuant to this section ceases:*

(a) Upon the death of the person to whom the order was directed; or

(b) When the child reaches 18 years of age if the child is no longer enrolled in high school, otherwise, when the child reaches 19 years of age.

10. *As used in this section, a parent has "significant commitments in a foreign country" if the parent:*

(a) Is a citizen of a foreign country;

(b) Possesses a passport in his or her name from a foreign country;

(c) Became a citizen of the United States after marrying the other parent of the child; or

(d) Frequently travels to a foreign country.

Sec. 11. 1. *The court may, when appropriate, require the parents to submit to the court a plan for carrying out the court's order concerning custody.*

2. *Access to records and other information pertaining to a minor child, including, without limitation, medical, dental and school records, must not be denied to a parent for the reason that the parent is not the child's custodial parent.*

Sec. 12. 1. *If, during any action for determining the custody of a minor child, either before or after the entry of a final order concerning the custody of a minor child, it appears to the court that any minor child of either party has been, or is likely to be, taken or removed out of this State or concealed within this State, the court shall forthwith order such child to be produced*

before it and make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.

2. If, during any action for determining the custody of a minor child, either before or after the entry of a final order concerning the custody of a minor child, the court finds that it would be in the best interest of the minor child, the court may enter an order providing that a party may, with the assistance of the appropriate law enforcement agency, obtain physical custody of the child from the party having physical custody of the child. The order must provide that if the party obtains physical custody of the child, the child must be produced before the court as soon as practicable to allow the court to make such disposition of the child's custody as appears most advantageous to and in the best interest of the child and most likely to secure to him or her the benefit of the final order or the modification or termination of the final order to be made in his or her behalf.

3. If the court enters an order pursuant to subsection 2 providing that a party may obtain physical custody of a child, the court shall order that party to give the party having physical custody of the child notice at least 24 hours before the time at which he or she intends to obtain physical custody of the child, unless the court deems that requiring the notice would likely defeat the purpose of the order.

4. All orders for a party to appear with a child issued pursuant to this section may be enforced by issuing a warrant of arrest against that party to secure his or her appearance with the child.

5. A proceeding under this section must be given priority on the court calendar.

Sec. 13. 1. If joint physical custody has been established pursuant to an order, judgment or decree of a court and one parent intends to relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the relocating parent desires to take the child with him or her, the relocating parent shall, before relocating:

(a) Attempt to obtain the written consent of the non-relocating parent to relocate with the child; and

(b) If the non-relocating parent refuses to give that consent, petition the court for primary physical custody for the purpose of relocating.

2. The court may award reasonable attorney's fees and costs to the relocating parent if the court finds that the non-relocating parent refused to consent to the relocating parent's relocation with the child:

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the relocating parent.

3. A parent who relocates with a child pursuant to this section before the court enters an order granting the parent primary physical custody of the

child and permission to relocate with the child is subject to the provisions of NRS 200.359.

Sec. 14. 1. In every instance of a petition for permission to relocate with a child that is filed pursuant to NRS 125C.200 or section 13 of this act, the relocating parent must demonstrate to the court that:

(a) There exists a sensible, good-faith reason for the move, and the move is not intended to deprive the non-relocating parent of his or her parenting time;

(b) The best interests of the child are ~~substantially better~~ served by allowing the relocating parent to relocate ~~with the child~~; and

(c) The child and the relocating parent will benefit from an actual advantage ~~that currently exists or is certain to exist before the time~~ as a result of the relocation; and

~~(d) If the parents currently share joint custody of the child, the child will do substantially better in the new location than the child would if he or she remained in this State with the non-relocating parent.~~

2. If a relocating parent demonstrates to the court the provisions set forth in subsection 1, the court must then weigh the following factors and the impact of each on the child, the relocating parent and the non-relocating parent, including, without limitation, the extent to which the compelling interests of the child, the relocating parent and the non-relocating parent are accommodated:

(a) The extent to which the relocation is likely to improve the quality of life for the child and the relocating parent;

(b) Whether the motives of the relocating parent are honorable and not designed to frustrate or defeat any visitation rights accorded to the non-relocating parent;

(c) Whether the relocating parent will comply with any substitute visitation orders issued by the court if permission to relocate is granted;

(d) Whether the motives of the non-relocating parent are honorable in resisting the petition for permission to relocate or to what extent any opposition to the petition for permission to relocate is intended to secure a financial advantage in the form of ongoing support obligations or otherwise;

(e) Whether there will be a realistic opportunity for the non-relocating parent to maintain a visitation schedule that will adequately foster and preserve the parental relationship between the child and the non-relocating parent if permission to relocate is granted; and

(f) Any other factor necessary to assist the court in determining whether to grant permission to relocate.

3. A parent who desires to relocate with a child pursuant to NRS 125C.200 or section 13 of this act has the burden of proving that relocating with the child is in the best interest of the child.

Sec. 15. If a parent with primary physical custody or joint physical custody relocates with a child in violation of NRS 200.359:

1. *The court shall not consider any post-relocation facts or circumstances regarding the welfare of the child or the relocating parent in making any determination.*

2. *If the non-relocating parent files an action in response to the violation, the non-relocating parent is entitled to recover reasonable attorney's fees and costs incurred as a result of the violation.*

Sec. 16. NRS 125C.200 is hereby amended to read as follows:

125C.200 1. *If primary physical custody has been established pursuant to an order, judgment or decree of a court and the custodial parent intends to ~~[move]~~ relocate his or her residence to a place outside of this State or to a place within this State that is at such a distance that would substantially impair the ability of the other parent to maintain a meaningful relationship with the child, and the custodial parent desires to take the child with him or her, the custodial parent ~~[must, as soon as possible and before the planned move, attempt]~~ shall ~~[try]~~, before relocating:*

(a) *Attempt to obtain the written consent of the noncustodial parent to ~~[move]~~ relocate with the child ~~[from this State. If]~~ ; and*

(b) *If the noncustodial parent refuses to give that consent, ~~[the custodial parent shall, before leaving this State with the child,]~~ petition the court for permission to ~~[move]~~ relocate with the child. ~~[The failure of a parent to comply with the provisions of this section may be considered as a factor if a change of custody is requested by the noncustodial parent.]~~*

2. *The court may award reasonable attorney's fees and costs to the custodial parent if the court finds that the noncustodial parent refused to consent to the custodial parent's relocation with the child:*

(a) Without having reasonable grounds for such refusal; or

(b) For the purpose of harassing the custodial parent.

3. *A parent who relocates with a child pursuant to this section without the written consent of the noncustodial parent or the permission of the court is subject to the provisions of NRS 200.359.*

Sec. 17. NRS 146.010 is hereby amended to read as follows:

146.010 Except as otherwise provided in this chapter or in ~~[NRS 125.510,]~~ *section 10 of this act*, if a person dies leaving a surviving spouse or a minor child or minor children, the surviving spouse, minor child or minor children are entitled to remain in possession of the homestead and of all the wearing apparel and provisions in the possession of the family, and all the household furniture, and are also entitled to a reasonable provision for their support, to be allowed by the court.

Sec. 18. NRS 200.359 is hereby amended to read as follows:

200.359 1. A person having a limited right of custody to a child by operation of law or pursuant to an order, judgment or decree of any court, including a judgment or decree which grants another person rights to custody or visitation of the child, or any parent having no right of custody to the child, who:

(a) In violation of an order, judgment or decree of any court willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child; or

(b) In the case of an order, judgment or decree of any court that does not specify when the right to physical custody or visitation is to be exercised, removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation,
 ➔ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. ~~[A]~~ *Except as otherwise provided in this subsection, a parent who has joint legal and physical custody of a child pursuant to ~~[NRS 125.465]~~ section 4 of this act shall not willfully conceal or remove the child from the custody of the other parent with the specific intent to ~~[deprive]~~ frustrate the efforts of the other parent ~~[of the parent and child]~~ to establish or maintain a meaningful relationship ~~[]~~ with the child.* A person who violates this subsection shall be punished as provided in subsection 1 ~~[]~~ *unless the person demonstrates to the satisfaction of the court that he or she violated this subsection to protect the child or himself or herself from an act that constitutes domestic violence pursuant to NRS 33.018.*

3. If the mother of a child has primary physical custody pursuant to subsection 2 of ~~[NRS 126.031]~~ *section 7 of this act*, the father of the child shall not willfully conceal or remove the child from the physical custody of the mother. If the father of a child has primary physical custody pursuant to subsection 2 of ~~[NRS 126.031]~~ *section 7 of this act*, the mother of the child shall not willfully conceal or remove the child from the physical custody of the father. A person who violates this subsection shall be punished as provided in subsection 1.

4. *A parent who has joint physical custody of a child pursuant to an order, judgment or decree of a court shall not relocate with the child pursuant to section 13 of this act without the written consent of the non-relocating parent or before the court enters an order granting the parent primary physical custody of the child and permission to relocate with the child ~~if~~ as applicable.* A person who violates this subsection shall be punished as provided in subsection 1.

5. *A parent who has primary physical custody of a child pursuant to an order, judgment or decree of a court shall not relocate with the child pursuant to NRS 125C.200 without the written consent of the non-relocating parent or the permission of the court. A person who violates this subsection shall be punished as provided in subsection 1.*

6. Before an arrest warrant may be issued for a violation of this section, the court must find that:

(a) This is the home state of the child, as defined in NRS 125A.085; and

(b) There is cause to believe that the entry of a court order in a civil proceeding brought pursuant to chapter 125, 125A or 125C of NRS will not

be effective to enforce the rights of the parties and would not be in the best interests of the child.

~~{5-}~~ 7. Upon conviction for a violation of this section, the court shall order the defendant to pay restitution for any expenses incurred in locating or recovering the child.

~~{6-}~~ 8. The prosecuting attorney may recommend to the judge that the defendant be sentenced as for a misdemeanor and the judge may impose such a sentence if the judge finds that:

(a) The defendant has no prior conviction for this offense and the child has suffered no substantial harm as a result of the offense; or

(b) The interests of justice require that the defendant be punished as for a misdemeanor.

~~{7-}~~ 9. A person who aids or abets any other person to violate this section shall be punished as provided in subsection 1.

~~{8-}~~ 10. *In addition to the exemption set forth in subsection 11, subsections 4 and 5 do not apply to a person who demonstrates a compelling excuse, to the satisfaction of the court, for relocating with a child in violation of NRS 125C.200 or section 13 of this act.*

11. This section does not apply to a person who detains, conceals, ~~{or}~~ removes *or relocates with* a child to protect the child from the imminent danger of abuse or neglect or to protect himself or herself from imminent physical harm, and reported the detention, concealment, ~~{or}~~ removal *or relocation* to a law enforcement agency or an agency which provides child welfare services within 24 hours after detaining, concealing, ~~{or}~~ removing *or relocating with* the child, or as soon as the circumstances allowed. As used in this subsection:

(a) "Abuse or neglect" has the meaning ascribed to it in paragraph (a) of subsection 4 of NRS 200.508.

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

Sec. 19. NRS 125.460, 125.465, 125.470, 125.480, 125.490, 125.500, 125.510, 125.520 and 126.031 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

125.460 State policy.

125.465 Married parents have joint custody until otherwise ordered by court.

125.470 Order for production of child before court; determinations concerning physical custody of child.

125.480 Best interests of child; preferences; presumptions when court determines parent or person seeking custody is perpetrator of domestic violence or has committed act of abduction against child or any other child.

125.490 Joint custody.

125.500 Award of custody to person other than parent.

125.510 Court orders; modification or termination of orders; form for orders; court may order parent to post bond if parent resides in or has significant commitments in foreign country.

125.520 Plan for carrying out court's order; access to child's records.

126.031 Relationship of parent and child not dependent on marriage; primary physical custody of child born out of wedlock.

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

This proposed amendment makes certain technical changes to the bill that came to light in the course of discussions this afternoon.

Amendment adopted.

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

Assembly Bill No. 325.

Bill read third time.

Remarks by Senator Brower.

Assembly Bill No. 325 provides for the licensure and regulation of private professional guardians by the Commissioner of Financial Institutions and exempts certain financial entities from these licensing requirements. The measure also sets forth the persons, including those who live outside the State, who are allowed to provide a court-appointed guardianship before a court appoints a public or private professional guardian, as long as the person is willing and able to do so and is otherwise qualified and suitable.

Roll call on Assembly Bill No. 325:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 325 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 328.

Bill read third time.

Remarks by Senator Lipparelli.

Assembly Bill No. 328 specifies that whenever a due-process hearing is held pursuant to the federal Individuals with Disabilities Education Act for the identification, evaluation or disciplinary action of a public school pupil with a disability, the Superintendent of Public Instruction must provide to a complainant the names of three hearing officers selected on an impartial basis from a list maintained by the Department of Education. The complainant must return to the Superintendent, within two days, a list which places the three names in order of preference. If the complainant does not respond within two days or if a hearing must be expedited, the Superintendent is authorized to select a hearing officer.

The local educational agency or charter school, as applicable, involved in the complaint must pay the cost of the hearing and procedures must be in place to avoid a conflict of interest. The decision of a hearing officer may be appealed to the Department. Finally, the State Board of Education is required to prescribe certain regulations related to hearing officers and redacted due-process hearing and appeal decisions must be posted for public access on the Department's website.

This bill is effective upon passage and approval for the purpose of adopting regulations and performing administrative tasks, and on July 1, 2016, for all other purposes.

Roll call on Assembly Bill No. 328:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 328 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 341.

Bill read third time.

Remarks by Senator Hammond.

Assembly Bill No. 341 requires the board of trustees of each school district and the governing body of each charter school that serves pupils in kindergarten or grades 1, 2 or 3 to prescribe an early literacy screening assessment for each pupil who has indicators for dyslexia and needs intervention. If an early literacy screening confirms that a pupil has indicators for dyslexia, the school board or governing body of a charter school is required to address the needs of a pupil through the response to scientific, research-based intervention system of instruction.

Each affected school is required to designate at least one employee to receive training in effective methods of intervention for pupils with dyslexia; such training shall be provided to a school's learning strategist if one has been designated. These schools must also designate at least one employee who serves pupils in kindergarten or grades 1, 2 or 3 to receive professional development regarding dyslexia, including methods to recognize indicators for dyslexia. This professional development must be delivered by the learning strategist if one has been designated or may be delivered over the Internet.

Roll call on Assembly Bill No. 341:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 341 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 409.

Bill read third time.

Remarks by Senator Settlemeyer.

Assembly Bill No. 409 requires makeup artists who work in licensed cosmetological establishments to register with the State Board of Cosmetology. The measure establishes certain requirements that a makeup artist, other than a makeup artist required to be registered, must meet to practice makeup artistry in this State. The Board is authorized to take certain disciplinary actions against any makeup artist who fails to comply with the requirements set forth in applicable statutory provisions or regulations adopted by the Board.

This bill also eliminates passing a nationally recognized written examination as a requirement for certain applicants who are licensed in a branch of cosmetology in another state or jurisdiction to obtain a license to practice that branch of cosmetology in this State. The bill is effective upon passage and approval.

Roll call on Assembly Bill No. 409:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 409 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 447.

Bill read third time.

Remarks by Senator Woodhouse.

Assembly Bill No. 447 revises provisions relating to the Statewide Performance Evaluation System used to evaluate the overall performance of educational personnel. This bill excludes the use of student achievement data in the System for School Year 2015–2016.

For School Year 2016–2017, it reduces from 50 percent to 20 percent the weighting of student achievement data within the System, and evenly divides the weighting among statewide and local examinations, as designated by the State Board of Education; allows a school district to choose one or more of the local assessments designated by the State Board or to apply to use a different assessment.

Beginning in School Year 2017-2018, the bill increases the weighting of student achievement data within the System from 20 percent to 40 percent; makes supervisors of principals also subject to the System; authorizes the State Board to determine which other licensed personnel are evaluated and the manner in which their performance is measured; and requires first-year probationary personnel or those who are post-probationary and deemed minimally effective or ineffective to receive three scheduled observations and one summative evaluation each school year. All other personnel subject to the System must receive at least one scheduled observation and one summative evaluation each year. Assembly Bill No. 447: provides for less frequent observations of probationary teachers evaluated as effective or highly effective; authorizes school districts to apply to the State Board to use a different, but equivalent, evaluation system and tools; and repeals several obsolete statutory provisions.

This bill is effective on July 1, 2017, for the purpose of setting the permanent weighting of student achievement data at 40 percent, and on July 1, 2015, for all other purposes. I urge your support.

Roll call on Assembly Bill No. 447:

YEAS—20.

NAYS—None.

EXCUSED—Smith.

Assembly Bill No. 447 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 8:46 p.m.

SENATE IN SESSION

At 11:06 p.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Senate Committee on Senate Parliamentary Rules and Procedures has approved the consideration of Amendment No. 964 to Assembly Bill No. 49.

JAMES A. SETTELMAYER, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Assembly Bills Nos. 167, 172 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Roberson moved that Assembly Bill No. 421 be taken from the General File and placed on the General File on the fifth Agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 353.

Bill read third time.

Remarks by Senators Atkinson, Hardy, Spearman, Ford and Parks.

SENATOR ATKINSON:

Senate Bill No. 353 prohibits a psychotherapist from providing sexual orientation conversion therapy to a person who is under 18 years of age. This bill is effective upon passage and approval for the purpose of adopting any regulation and performing any other preparatory administrative tasks, and on January 1, 2016, for all other purposes. I urge passage.

SENATOR HARDY:

I rise in opposition to the bill. When a person is going through any counseling of any kind, it is not necessarily what happens in the therapy but the perception. For example, when you tell a patient they have cancer, they do not remember anything else from that visit. The perception of what happens is used when you have a tool like active listening that is used in psychotherapy. If the patient makes a statement, the therapist would respond, "So, you feel that way. Tell me more about it." The patient would respond with more information. They might then go home and tell a parent or someone else what you said, and they might think you said they should not be doing something.

Puberty is a difficult time with a lot of need. Counseling requires listening and active listening and the perception can be, as written on line 17 where it says, "any psychotherapy counseling, hypnosis or any treatment of therapy aimed at...", the perception can be the counseling is aimed at altering the sexual or romantic attraction, desire or conduct. If a person comes in and has what we call a sexual addiction to either or both genders, you are then in a position, as a counselor, of trying to help that person with their sexual addiction. You will not be able to help them using the standard counseling techniques. Almost any person who does counseling, of any kind, is thus in danger of "breaking the law" by doing any counseling of any kind no matter what, simply because of the nature of counseling. How do you perform counseling without discussing feelings or attractions? This puts all counselors, psychotherapists and others who have the ability to counsel in a tenuous and awkward position, and I will not be supporting it.

SENATOR SPEARMAN:

I rise in strong support of this legislation having served as a pastor with local churches for more than 30 years. I have seen the devastation that has come from people who were supposed to be using counseling as a tool to help people get better and instead were mixing it with their own dogma, making it a weapon. I have presided over funerals of young people who killed themselves because someone perverted counseling and made it a dogmatic expectation. Having served as a pastoral and family counselor, I can say this with a blessed assurance, that for those who indeed want to help people recognize that even early on, different does not mean deviant.

Real counselors help people come to grips with who they are and who God made them to be. I rise in strong support and urge everyone else's support as well.

SENATOR FORD:

I rise with a brief statement that every major medical group that has considered or discussed this issue opposes conversion therapy—every single medical group that has considered it opposes conversion therapy—and they do that because it is considered psychologically damaging to the patient. That is all I feel I need to say and hopefully others will be persuaded by that because we need to support this bill.

SENATOR PARKS:

Conversion therapy is also referred to as reparative therapy and is a treatment that aims to change a person's sexual orientation. The practice is widely considered to be psychologically dangerous and has been discredited by all major American medical, psychiatric, psychological and professional counseling organizations. People who have undergone conversion therapy have reported increased anxiety, depression, thoughts of suicide and in some cases, suicide itself. Senate Bill No. 353 will simply ban the practice for anyone under the age of 18. Three states have passed legislation banning this practice: California, New Jersey and, recently, Oregon which passed its bill on May 7. There have been court challenges to this legislation, and I would like to stress that the 9th Circuit Court has upheld California's legislation. Recently, the federal court in New Jersey has been upheld and the U.S. Supreme Court has decided not to take on appeal of challenges to this. I urge your support.

SENATOR HARDY:

To be clear, I am not speaking in favor of sexual orientation conversion therapy. It has been well documented there are problems with this. The reality is there is counseling that occurs all the time that needs to deal with nitty-gritty issues of life—attractions whatever they are. If we put a ban or a law against something related to counseling, we are going to put the person doing the counseling in an awkward position because they will not be able to address anything the person under 18 wants to address without possibly being perceived by someone in the family as delivering conversion therapy.

We should not be doing conversion therapy; I agree with that. A professional counselor who is ethical is not going to try to do something to someone to change them. Rather, they are going to try to help them deal with themselves. This bill puts a wide net around people when it uses the words "any psychotherapy counseling...". I am still against this bill.

Roll call on Senate Bill No. 353:

YEAS—14.

NAYS—Goicoechea, Gustavson, Hammond, Hardy, Lipparelli—5.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 353 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 360.

Bill read third time.

Remarks by Senator Spearman.

Senate Bill No. 360 directs the Legislative Committee on Energy to study the viability of establishing green banks and similar entities to help finance the use and harnessing of clean energy projects in Nevada. If the Committee determines that a green bank or similar entity is needed in this State, it must provide recommendations regarding: 1) the legal steps required to create such an entity; 2) the capital resources that can be used to pay for the entity; 3) the structure and organization of the entity; 4) the markets that such an entity should serve; and 5) the types of financing activities the entity should undertake.

Senate Bill No. 360 also directs the Committee to study the development, viability, expansion and implementation of energy efficiency programs in Nevada, including programs for businesses and industries, energy efficiency resource standards and other energy efficiency incentives. The bill is effective on July 1, 2015.

Roll call on Senate Bill No. 360:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Senate Bill No. 360 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 49.

Bill read third time.

The following amendment was proposed by Senator Brower:

Amendment No. 964.

SUMMARY—Revises provisions governing crimes. (BDR 15-158)

AN ACT relating to crimes; establishing the crime of unlawful dissemination of an intimate image of a person; prohibiting certain acts relating to an intimate image of another person; revising provisions relating to sexual assault and the abuse of a child; setting forth provisions relating to expert testimony in a prosecution for pandering or sex trafficking; revising provisions concerning acts of open or gross lewdness, open and indecent or obscene exposure, lewdness with a child and statutory sexual seduction; setting forth various provisions relating to the admissibility of evidence and expert testimony in criminal and juvenile delinquency actions; prohibiting a court from ordering the victim of or a witness to a sexual offense to take or submit to a psychological or psychiatric examination in certain criminal or juvenile delinquency actions; authorizing the court to exclude in certain circumstances the testimony of a licensed psychologist, psychiatrist or clinical worker; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-6.5 of this bill establish the crime of unlawful dissemination of an intimate image of a person. Section 3 defines the term "intimate image" generally as a photograph, film, videotape or other recorded image, or any reproduction thereof, which depicts: (1) the fully exposed nipple of the female breast of another person; or (2) one or more persons engaged in sexual conduct. Section 3 also provides that an image which would otherwise constitute an intimate image is not an intimate image if the person depicted in the image: (1) is not clearly identifiable; (2) voluntarily exposed himself or herself in a public or commercial setting; or (3) is a public figure.

Section 5 provides that a person commits the crime of unlawful dissemination of an intimate image and is guilty of a category D felony when, with the intent to harass, harm or terrorize another person, the person

electronically disseminates or sells an intimate image which depicts the other person and the other person: (1) did not give prior consent to the electronic dissemination or sale; (2) had a reasonable expectation that the intimate image would be kept private and would not be made visible to the public; and (3) was at least 18 years of age when the intimate image was created. Section 5 also sets forth certain exceptions regarding when an intimate image may be lawfully electronically disseminated. Under section 6, a person is guilty of a category D felony if he or she demands payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view. Section 6.5 provides that the provisions of sections 1-6 must not be construed to impose liability on an interactive computer service, as that term is defined in federal law, for any content provided by another person.

Existing law provides that a person who forces another person under certain circumstances to make a sexual penetration on himself or herself or another, or on a beast, is guilty of sexual assault. (NRS 200.366) Section 8 of this bill additionally provides that a person who commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast, is guilty of sexual assault. Section 8 further provides that, except in certain circumstances, such provisions do not apply to a person who commits any such act upon a child under the age of 14 years if the person committing the act is less than 18 years of age and is not more than 2 years older than the person upon whom the act is committed.

Existing law also provides that a person who commits any act of open or gross lewdness or who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty of a gross misdemeanor for the first offense and a category D felony for any subsequent offense. (NRS 201.210, 201.220) Under sections 13 and 14 of this bill, if a person commits any such offense and he or she has previously been convicted of a sexual offense, or if the person commits any such offense in the presence of a child under the age of 18 years or a vulnerable person, the person is guilty of a category D felony.

Additionally, under existing law, a person who commits certain acts with a child under the age of 14 years is guilty of lewdness with a child and is guilty of a category A felony. (NRS 201.230) Section 15 of this bill provides that a person is guilty of lewdness with a child if the person: (1) is 18 years of age or older and commits certain acts with a child under the age of 16 years; or (2) is under the age of 18 years and commits certain acts with a child under the age of 14 years. Section 15 also provides that if a person commits lewdness with: (1) a child under the age of 14, he or she is guilty of a category A felony; and (2) a child who is 14 or 15, he or she is guilty of a category B felony.

Section 7 of this bill revises the definition of the term "statutory sexual seduction," and section 8.5 of this bill revises the penalties imposed for the crime of statutory sexual seduction.

~~[Section 10 of this bill provides that certain persons are guilty of a category A felony if they willfully cause, permit or allow a child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect, and substantial bodily or mental harm results to the child which includes certain severe injuries.]~~

Sections 12, 23 and 24 of this bill revise various provisions relating to the admissibility of expert testimony and evidence in certain criminal and juvenile delinquency cases. Section 12 provides that in a prosecution for pandering or sex trafficking, certain expert testimony that is offered by the prosecution or defense is admissible for any relevant purpose, but certain other expert testimony cannot be offered against the defendant to prove the occurrence of an act which forms the basis of a criminal charge against the defendant. Under section 23, expert testimony offered by the prosecution or defense which concerns the behavior of a defendant in preparing a child under the age of 18 or a vulnerable person for sexual abuse by the defendant is admissible for any purpose. Section 24 prohibits a court in a criminal or juvenile delinquency action relating to the commission of a sexual offense from ordering a victim of or witness to a sexual offense to take or submit to a psychological or psychiatric examination. Section 24 also authorizes the court to exclude the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on a victim or witness in certain circumstances.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6.5, inclusive, of this act.

Sec. 2. *As used in sections 2 to 6.5, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Intimate image":*

1. *Except as otherwise provided in subsection 2, includes, without limitation, a photograph, film, videotape or other recorded image which depicts:*

(a) The fully exposed nipple of the female breast of another person, including through transparent clothing; or

(b) One or more persons engaged in sexual conduct.

2. *Does not include an image which would otherwise constitute an intimate image pursuant to subsection 1, but in which the person depicted in the image:*

(a) Is not clearly identifiable;

(b) *Voluntarily exposed himself or herself in a public or commercial setting; or*

(c) *Is a public figure.*

Sec. 4. *"Sexual conduct" has the meaning ascribed to it in NRS 200.700.*

Sec. 5. 1. *Except as otherwise provided in subsection 3, a person commits the crime of unlawful dissemination of an intimate image when, with the intent to harass, harm or terrorize another person, the person electronically disseminates or sells an intimate image which depicts the other person and the other person:*

(a) *Did not give prior consent to the electronic dissemination or the sale of the intimate image;*

(b) *Had a reasonable expectation that the intimate image would be kept private and would not be made visible to the public; and*

(c) *Was at least 18 years of age when the intimate image was created.*

2. *A person who commits the crime of unlawful dissemination of an intimate image is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

3. *The provisions of this section do not apply to the electronic dissemination of an intimate image for the purpose of:*

(a) *A legitimate public interest;*

(b) *Reporting unlawful conduct;*

(c) *Any lawful law enforcement or correctional activity;*

(d) *Investigation or prosecution of a violation of this section; or*

(e) *Preparation for or use in any legal proceeding.*

4. *A person who commits the crime of unlawful dissemination of an intimate image is not considered a sex offender and is not subject to registration or community notification as a sex offender pursuant to NRS 179D.010 to 179D.550, inclusive.*

Sec. 6. *Any person who demands payment of money, property, services or anything else of value from a person in exchange for removing an intimate image from public view is guilty of a category D felony and shall be punished as provided in NRS 193.130.*

Sec. 6.5. 1. *The provisions of sections 2 to 6.5, inclusive, of this act must not be construed to impose liability on an interactive computer service for any content provided by another person.*

2. *As used in subsection 1, "interactive computer service" has the meaning ascribed to it in 47 U.S.C. 230(f)(2).*

Sec. 7. *NRS 200.364 is hereby amended to read as follows:*

200.364 *As used in NRS 200.364 to 200.3784, inclusive, unless the context otherwise requires:*

1. *"Offense involving a pupil" means any of the following offenses:*

(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.*

2. "Perpetrator" means a person who commits a sexual offense, an offense involving a pupil or sex trafficking.

3. "Sex trafficking" means a violation of subsection 2 of NRS 201.300.

4. "Sexual offense" means any of the following offenses:

(a) Sexual assault pursuant to NRS 200.366.

(b) Statutory sexual seduction pursuant to NRS 200.368.

5. "Sexual penetration" means cunnilingus, fellatio, or any intrusion, however slight, of any part of a person's body or any object manipulated or inserted by a person into the genital or anal openings of the body of another, including sexual intercourse in its ordinary meaning. *The term does not include any such conduct for medical purposes.*

6. "Statutory sexual seduction" means ~~the~~:

~~—(a) Ordinary} ordinary sexual intercourse, anal intercourse, {cunnilingus or fellatio} or sexual penetration committed by a person 18 years of age or older with a person {under the age of 16 years; or~~

~~—(b) Any other sexual penetration committed by a person 18 years of age or older with a person under the age of 16 years with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of either of the persons,} who is 14 or 15 years of age and who is at least 4 years younger than the perpetrator.~~

7. "Victim" means a person who is a victim of a sexual offense, an offense involving a pupil or sex trafficking.

Sec. 8. NRS 200.366 is hereby amended to read as follows:

200.366 1. A person ~~{who subjects}~~ *is guilty of sexual assault if he or she:*

(a) 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.} ; or

(b) Commits a sexual penetration upon a child under the age of 14 years or causes a child under the age of 14 years to make a sexual penetration on himself or herself or another, or on a beast.

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. *The provisions of this section do not apply to a person who is less than 18 years of age and who commits any of the acts described in paragraph (b) of subsection 1 if the person is not more than 2 years older than the person upon whom the act was committed unless:*

(a) *The person committing the act uses force or threatens the use of force; or*

(b) *The person committing the act knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his or her conduct.*

6. 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 201.230;

(c) Sado-masochistic abuse pursuant to NRS 201.262; or

(d) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony.

Sec. 8.5. NRS 200.368 is hereby amended to read as follows:

200.368 ~~[Except under circumstances where a greater penalty is provided in NRS 201.540, a]~~ A person who commits statutory sexual seduction shall be punished:

1. If the person is 21 years of age or older ~~for a category C felony as provided in NRS 193.130.]~~ *at the time of the commission of the offense, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.*

2. ~~[[If]]~~ *Except as otherwise provided in subsection 3, if the person is under the age of 21 years, for a gross misdemeanor.*

3. *If the person is under the age of 21 years and has previously been convicted of a sexual offense, as defined in NRS 179D.097, for a category D felony as provided in NRS 193.130.*

Sec. 9. NRS 200.400 is hereby amended to read as follows:

200.400 1. As used in this section:

(a) "Battery" means any willful and unlawful use of force or violence upon the person of another.

(b) "Strangulation" has the meaning ascribed to it in NRS 200.481.

2. A person who is convicted of battery with the intent to commit mayhem, robbery or grand larceny is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

3. A person who is convicted of battery with the intent to kill is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years.

4. A person who is convicted of battery with the intent to commit sexual assault shall be punished:

(a) If the crime results in substantial bodily harm to the victim or is committed by strangulation, for a category A felony 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 10 years has been served . ~~for~~

~~as determined by the verdict of the jury, or the judgment of the court if there is no jury.]~~

(b) If the crime does not result in substantial bodily harm to the victim and the victim is 16 years of age or older, for a category A felony by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of life with the possibility of parole.

(c) If the crime does not result in substantial bodily harm to the victim and the victim is a child under the age of 16, for a category A felony by imprisonment in the state prison for a minimum term of not less than 5 years and a maximum term of life with the possibility of parole.

➔ In addition to any other penalty, a person convicted pursuant to this subsection may be punished by a fine of not more than \$10,000.

Sec. 10. NRS 200.508 is hereby amended to read as follows:

200.508 1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(2) ~~If the child is less than 18 years of age and the resulting harm includes, without limitation, one or more of the following injuries:~~

- ~~(I) Skull fracture;~~
- ~~(II) Depressed skull fracture;~~
- ~~(III) Cerebral laceration;~~
- ~~(IV) Cerebral contusion;~~
- ~~(V) Subarachnoid hemorrhage;~~
- ~~(VI) Subdural hemorrhage in the brain, neck or spinal cord;~~
- ~~(VII) Epidural hemorrhage;~~
- ~~(VIII) Intracranial hemorrhage;~~
- ~~(IX) Cerebral edema caused by trauma;~~
- ~~(X) Multiple fractures of the skull or face with injuries to other bones of the body;~~
- ~~(XI) Contusion of the cerebellum or brain stem;~~
- ~~(XII) Optic nerve injury;~~
- ~~(XIII) Retinal hemorrhage;~~
- ~~(XIV) Loss of eyesight;~~
- ~~(XV) Loss of hearing; or~~
- ~~(XVI) Speech impairment or loss of speech;~~

~~is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, or for a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.~~

~~(3)~~ In all other such cases to which subparagraph (1) ~~for (2)~~ does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, 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; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years,

➔ unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

2. A person who is responsible for the safety or welfare of a child pursuant to NRS 432B.130 and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished 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; or

(2) ~~If the child is less than 18 years of age and the resulting harm includes, without limitation, one or more of the following injuries:~~

~~(I) Skull fracture;~~
~~(II) Depressed skull fracture;~~
~~(III) Cerebral laceration;~~
~~(IV) Cerebral contusion;~~
~~(V) Subarachnoid hemorrhage;~~
~~(VI) Subdural hemorrhage in the brain, neck or spinal cord;~~
~~(VII) Epidural hemorrhage;~~
~~(VIII) Intracranial hemorrhage;~~
~~(IX) Cerebral edema caused by trauma;~~
~~(X) Multiple fractures of the skull or face with injuries to other bones of the body;~~

~~(XI) Contusion of the cerebellum or brain stem;~~

~~(XII) Optic nerve injury;~~

~~(XIII) Retinal hemorrhage;~~

~~(XIV) Loss of eyesight;~~

~~(XV) Loss of hearing; or~~

~~(XVI) Speech impairment or loss of speech;~~

~~is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 5 years has been served, or for a definite term of 15 years, with eligibility for parole beginning when a minimum of 5 years has been served.~~

~~(3)~~ In all other such cases to which subparagraph (1) ~~for (2)~~ does not apply, is guilty of a category B felony and shall be punished by

imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

➡ unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that the person delivers or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

4. As used in this section:

(a) "Abuse or neglect" means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

(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 the child is abused or neglected.

(c) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) "Physical injury" means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

(e) "Substantial mental harm" means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior.

Sec. 11. NRS 200.604 is hereby amended to read as follows:

200.604 1. Except as otherwise provided in subsection 4, a person shall not knowingly and intentionally capture an image of the private area of another person:

(a) Without the consent of the other person; and

(b) Under circumstances in which the other person has a reasonable expectation of privacy.

2. Except as otherwise provided in subsection 4, a person shall not distribute, disclose, display, transmit or publish an image that the person knows or has reason to know was made in violation of subsection 1.

3. ~~[A]~~ *Unless a greater penalty is provided pursuant to section 5 of this act, a person who violates this section:*

(a) For a first offense, is guilty of a gross misdemeanor.

(b) For a second or subsequent offense, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. This section does not prohibit any lawful law enforcement or correctional activity, including, without limitation, capturing, distributing, disclosing, displaying, transmitting or publishing an image for the purpose of investigating or prosecuting a violation of this section.

5. If a person is charged with a violation of this section, any image of the private area of a victim that is contained within:

(a) Court records;

(b) Intelligence or investigative data, reports of crime or incidents of criminal activity or other information;

(c) Records of criminal history, as that term is defined in NRS 179A.070; and

(d) Records in the Central Repository for Nevada Records of Criminal History,

↪ is confidential and, except as otherwise provided in subsections 6 and 7, must not be inspected by or released to the general public.

6. An image that is confidential pursuant to subsection 5 may be inspected or released:

(a) As necessary for the purposes of investigation and prosecution of the violation;

(b) As necessary for the purpose of allowing a person charged with a violation of this section and his or her attorney to prepare a defense; and

(c) Upon authorization by a court of competent jurisdiction as provided in subsection 7.

7. A court of competent jurisdiction may authorize the inspection or release of an image that is confidential pursuant to subsection 5, upon application, if the court determines that:

(a) The person making the application has demonstrated to the satisfaction of the court that good cause exists for the inspection or release; and

(b) Reasonable notice of the application and an opportunity to be heard have been given to the victim.

8. As used in this section:

(a) "Broadcast" means to transmit electronically an image with the intent that the image be viewed by any other person.

(b) "Capture," with respect to an image, means to videotape, photograph, film, record by any means or broadcast.

(c) "Female breast" means any portion of the female breast below the top of the areola.

(d) "Private area" means the naked or undergarment clad genitals, pubic area, buttocks or female breast of a person.

(e) "Under circumstances in which the other person has a reasonable expectation of privacy" means:

(1) Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of his or her private area would be captured; or

(2) Circumstances in which a reasonable person would believe that his or her private area would not be visible to the public, regardless of whether the person is in a public or private place.

Sec. 12. Chapter 201 of NRS is hereby amended by adding thereto a new section to read as follows:

In a prosecution for pandering or sex trafficking pursuant to NRS 201.300, expert testimony concerning:

1. *The prostitution subculture, including, without limitation, the effect of physical, emotional or mental abuse on the beliefs, behavior and perception of the alleged victim of the pandering or sex trafficking that is offered by the prosecution or defense is admissible for any relevant purpose, including, without limitation, to demonstrate:*

(a) The dynamics of and the manipulation and psychological control measures used in the relationship between a prostitute and a person who engages in pandering or sex trafficking in violation of NRS 201.300; and

(b) The normal behavior and language used in the prostitution subculture.

2. *The effect of pandering or sex trafficking may not be offered against a defendant pursuant to subsection 1 to prove the occurrence of an act which forms the basis of a criminal charge against the defendant.*

Sec. 13. NRS 201.210 is hereby amended to read as follows:

201.210 1. A person who commits any act of open or gross lewdness is guilty:

(a) ~~For~~ *Except as otherwise provided in this subsection, for the first offense, of a gross misdemeanor.*

(b) *For any subsequent offense, or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097, of a category D felony and shall be punished as provided in NRS 193.130.*

(c) *For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.*

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open or gross lewdness.

Sec. 14. NRS 201.220 is hereby amended to read as follows:

201.220 1. A person who makes any open and indecent or obscene exposure of his or her person, or of the person of another, is guilty:

(a) ~~For~~ *Except as otherwise provided in this subsection, for the first offense, of a gross misdemeanor.*

(b) For any subsequent offense, *or if the person has previously been convicted of a sexual offense as defined in NRS 179D.097*, of a category D felony and shall be punished as provided in NRS 193.130.

(c) *For an offense committed in the presence of a child under the age of 18 years or a vulnerable person as defined in paragraph (a) of subsection 7 of NRS 200.5092, of a category D felony and shall be punished as provided in NRS 193.130.*

2. For the purposes of this section, the breast feeding of a child by the mother of the child does not constitute an act of open and indecent or obscene exposure of her body.

Sec. 15. NRS 201.230 is hereby amended to read as follows:

201.230 1. A person ~~[who]~~ *is guilty of lewdness with a child if he or she:*

(a) *Is 18 years of age or older and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of ~~[14]~~ 16 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child ~~[is guilty of lewdness with a child.]~~ ; or*

(b) *Is under the age of 18 years and willfully and lewdly commits any lewd or lascivious act, other than acts constituting the crime of sexual assault, upon or with the body, or any part or member thereof, of a child under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of that child.*

2. Except as otherwise provided in ~~[subsection 3,]~~ *subsections 4 and 5*, a person who commits lewdness with a child *under the age of 14 years* is guilty of a category A felony and shall be punished 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, and may be further punished by a fine of not more than \$10,000.

3. *Except as otherwise provided in subsection 4, a person who commits lewdness with a child who is 14 or 15 years of age is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years and may be further punished by a fine of not more than \$10,000.*

4. ~~[A]~~ *Except as otherwise provided in subsection 5, a person who commits lewdness with a child and who has been previously convicted of:*

(a) Lewdness with a child 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 lewdness with a child 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.*

~~[4-]~~ 5. *A person who is under the age of 18 years and who commits lewdness with a child under the age of 14 years commits a delinquent act.*

6. For the purpose of this section, "other sexual offense against a child" has the meaning ascribed to it in subsection ~~[5]~~ 6 of NRS 200.366.

Sec. 16. NRS 201.295 is hereby amended to read as follows:

201.295 As used in NRS 201.295 to 201.440, inclusive, *and section 12 of this act*, unless the context otherwise requires:

1. "Adult" means a person 18 years of age or older.
2. "Child" means a person less than 18 years of age.
3. "Induce" means to persuade, encourage, inveigle or entice.
4. "Prostitute" means a male or female person who for a fee, monetary consideration or other thing of value engages in sexual intercourse, oral-genital contact or any touching of the sexual organs or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either person.

5. "Prostitution" means engaging in sexual conduct with another person in return for a fee, monetary consideration or other thing of value.

6. "Sexual conduct" means any of the acts enumerated in subsection 4.

7. "Transports" means to transport or cause to be transported, by any means of conveyance, into, through or across this State, or to aid or assist in obtaining such transportation.

Sec. 17. NRS 201.520 is hereby amended to read as follows:

201.520 "Sexual conduct" means:

1. Ordinary sexual intercourse;
2. Anal intercourse;
3. Fellatio, cunnilingus or other oral-genital contact;
4. Physical contact by a person with the unclothed genitals or pubic area of another person for the purpose of arousing or gratifying the sexual desire of either person;

5. Penetration, however slight, by a person of an object into the genital or anal opening of the body of another person for the purpose of arousing or gratifying the sexual desire of either person;

6. Masturbation or the lewd exhibition of unclothed genitals; ~~[or]~~

7. Sado-masochistic abuse ~~[]~~; *or*

8. *Any lewd or lascivious act upon or with the body, or any part or member thereof, of another person.*

Sec. 18. 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 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, 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} subsection 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.} 3. The provisions of this section do not apply to a person who is married to the pupil.~~

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 48.045 is hereby amended to read as follows:

48.045 1. Evidence of a person's character or a trait of his or her character is not admissible for the purpose of proving that the person acted in conformity therewith on a particular occasion, except:

(a) Evidence of a person's character or a trait of his or her character offered by an accused, and similar evidence offered by the prosecution to rebut such evidence;

(b) Evidence of the character or a trait of character of the victim of the crime offered by an accused, subject to the procedural requirements of

NRS 48.069 where applicable, and similar evidence offered by the prosecution to rebut such evidence; and

(c) Unless excluded by NRS 50.090, evidence of the character of a witness, offered to attack or support his or her credibility, within the limits provided by NRS 50.085.

2. Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

3. *Nothing in this section shall be construed to prohibit the admission of evidence in a criminal prosecution for a sexual offense that a person committed another crime, wrong or act that constitutes a separate sexual offense. As used in this subsection, "sexual offense" has the meaning ascribed to it in NRS 179D.097.*

Sec. 22. Chapter 50 of NRS is hereby amended by adding thereto the provisions set forth as sections 23 and 24 of this act.

Sec. 23. 1. *In any criminal or juvenile delinquency action, expert testimony offered by the prosecution or defense which concerns the behavior of a defendant in preparing a child under the age of 18 years or a vulnerable person as defined in NRS 200.5092 for sexual abuse by the defendant is admissible for any relevant purpose. Such expert testimony may concern, without limitation:*

(a) *The effect on the victim from the defendant creating a physical or emotional relationship with the victim before the sexual abuse; and*

(b) *Any behavior of the defendant that was intended to reduce the resistance of the victim to the sexual abuse or reduce the likelihood that the victim would report the sexual abuse.*

2. *As used in this section, "sexual abuse" has the meaning ascribed to it in NRS 432B.100.*

Sec. 24. 1. *In any criminal or juvenile delinquency action relating to the commission of a sexual offense, a court may not order the victim of or a witness to the sexual offense to take or submit to a psychological or psychiatric examination.*

2. *The court may exclude the testimony of a licensed psychologist, psychiatrist or clinical worker who performed a psychological or psychiatric examination on the victim or witness if:*

(a) *There is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness by a licensed psychologist, psychiatrist or clinical worker; and*

(b) *The victim or witness refuses to submit to an additional psychological or psychiatric examination by a licensed psychologist, psychiatrist or clinical worker.*

3. *In determining whether there is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness pursuant to subsection 2, the court must consider whether:*

(a) There is a reasonable basis for believing that the mental or emotional state of the victim or witness may have affected his or her ability to perceive and relate events relevant to the criminal prosecution; and

(b) Any corroboration of the offense exists beyond the testimony of the victim or witness.

4. *If the court determines there is a prima facie showing of a compelling need for an additional psychological or psychiatric examination of the victim or witness, the court shall issue a factual finding that details with particularity the reasons why an additional psychological or psychiatric examination of the victim or witness is warranted.*

5. *If the court issues a factual finding pursuant to subsection 4 and the victim or witness consents to an additional psychological or psychiatric examination, the court shall set the parameters for the examination consistent with the purpose of determining the ability of the victim or witness to perceive and relate events relevant to the criminal prosecution.*

6. *As used in this section, "sexual offense" includes, without limitation:*

(a) Sexual assault 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 of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation;

(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) Lewdness with a child pursuant to NRS 201.230;

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

(k) 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 section;

(l) 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;

(m) Luring a child or a person with mental illness pursuant to NRS 201.560;

(n) An offense that is found to be sexually motivated pursuant to NRS 175.547 or 207.193;

(o) Pandering of a child pursuant to NRS 201.300;

(p) Any other offense that has an element involving a sexual act or sexual conduct with another person; or

(q) Any attempt or conspiracy to commit an offense listed in this subsection.

Sec. 25. NRS 50.260 is hereby amended to read as follows:

50.260 As used in NRS 50.260 to 50.345, inclusive, *and section 23 of this act*, unless the context otherwise requires, "prohibited substance" has the meaning ascribed to it in NRS 484C.080.

Sec. 26. NRS 432B.140 is hereby amended to read as follows:

432B.140 Negligent treatment or maltreatment of a child occurs if a child *has been subjected to harmful behavior that is terrorizing, degrading, painful or emotionally traumatic*, has been abandoned, is without proper care, control ~~and~~ or supervision or lacks the subsistence, education, shelter, medical care or other care 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.

Sec. 27. 1. The amendatory provisions of sections 1 to 5, inclusive, 6.5 and 11 of this act apply to an intimate image that is electronically disseminated or sold on or after October 1, 2015.

2. The amendatory provisions of section 6 of this act apply to an intimate image that is electronically disseminated or sold before, on or after October 1, 2015, if, on or after October 1, 2015, a person:

(a) Demands payment of money, property, services or anything else of value from a person in exchange for removing the intimate image from public view; or

(b) Directly or indirectly counsels, hires, commands, induces or otherwise procures another person to demand payment of money, property, services or anything else of value from a person in exchange for removing the intimate image from public view.

3. The amendatory provisions of sections 7 to 10, inclusive, 13, 14, 15, 17, 18, 19 and 26 of this act apply to an offense that is committed on or after October 1, 2015.

4. The amendatory provisions of sections 12, 16 and 20 to 25, inclusive, of this act apply to a court proceeding that is commenced on or after October 1, 2015.

5. As used in this section, "intimate image" has the meaning ascribed to it in section 3 of this act.

Sec. 28. (Deleted by amendment.)

Senator Brower moved the adoption of the amendment.

Remarks by Senator Brower.

After some further discussions with the various stakeholders and one of one of our own experts from this Body, the consensus was that we should delete certain portions of section 10 of the bill to improve it. That is exactly what this amendment does.

Amendment adopted.

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

Assembly Bill No. 163.

Bill read third time.

Remarks by Senator Lipparelli.

Assembly Bill No. 163 authorizes a board of county commissioners, board of directors of a county fire protection district or board of fire commissioners of certain other districts to approve a petition submitted by certain persons or business entities within the county or district to create a rangeland fire protection association if the petitioners meet certain requirements. Additionally, the bill provides for the routine evaluation of rangeland fire protection districts during the term of a cooperative agreement based on certain criteria and requires the State Forester Firewarden to adopt regulations relating to the formation, operation and training of the members of such an association.

This bill is effective upon passage and approval for the purposes of adopting regulations and performing preparatory administrative tasks and on the date on which the State Forester Firewarden adopts a regulation concerning the formation, operation and training of the members of a rangeland fire protection association or January 1, 2016, whichever is earlier, for all other purposes.

Roll call on Assembly Bill No. 163:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 163 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 240.

Bill read third time.

Remarks by Senator Harris.

Assembly Bill No. 240 provides for a right of redemption after the foreclosure of a common-interest community unit-owners' association's lien by sale under certain circumstances. After a sale of the unit to enforce an association's lien, the unit's owner or holder of the security interest on the unit may redeem the unit by paying certain amounts to the purchaser within 60 days after the sale. If no redemption is made within 60 days after the date of sale, the rights of a bona fide purchaser or encumbrancer for value are not affected.

The measure also provides that if the holder of a first security interest in a unit within a common-interest community has obtained the unit owner's consent, and if an impound account is established for property tax or insurance payments, the interest holder is required to establish an account to pay homeowner association assessments, special assessments and contributions for capital expenditures. The lender is required to pay the association quarterly or in accordance with due dates established by the association.

Further, if an impound account for assessments exists and is in good standing, no 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. A lender must notify an association within 30 days of an assessment becoming delinquent.

Finally, the bill authorizes the Commission for Common-Interest Communities and Condominium Hotels to adopt regulations necessary to implement impound accounts, including regulating entities that would service these accounts.

Provisions of the bill governing impound accounts are effective upon passage and approval for the purpose of adopting regulations and performing preparatory administrative tasks and on January 1, 2016, for all other purposes. Other provisions are effective on July 1, 2015.

Roll call on Assembly Bill No. 240:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 240 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 263.

Bill read third time.

Remarks by Senator Brower.

This bill revises certain provisions relating to the custody of children. Among other things, it recognizes the parent and child relationship even if the parents are not married and creates a presumption in favor of joint custody of a child if a parent had, or attempted to have, a meaningful relationship with the child but was frustrated by the other partner. It also adds a list of factors that must be demonstrated to the court by a parent seeking permission to relocate.

Roll call on Assembly Bill No. 263:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 263 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 385.

Bill read third time.

Remarks by Senator Hammond.

Assembly Bill No. 385 makes various changes related to tow cars.

Roll call on Assembly Bill No. 385:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 385 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson gave notice that, with the concurrence of the Assembly, the time by which final action may be taken by the second House has been extended to 6:00 a.m. of the One Hundred and Eleventh Day of the 78th Legislative Session.

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

Motion carried.

Senate in recess at 12:06 a.m.

SENATE IN SESSION

At 1:17 a.m.

President Hutchison presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Senate Committee on Senate Parliamentary rules and Procedures has approved the consideration of Amendment No. 965 to Assembly Bill No. 176.

JAMES A. SETTELMAYER, *Chair*

WAIVERS AND EXEMPTIONS

WAIVER OF JOINT STANDING RULE(S)

A Waiver requested by Senator Roberson.

For: Assembly Bill No. 167.

To Waive:

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

Has been granted effective: Friday, May 22, 2015.

MICHAEL ROBERSON

Senate Majority Leader

JOHN HAMBRICK

Speaker of the Assembly

A Waiver requested by Senator Roberson.

For: Assembly Bill No. 172.

To Waive:

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

Has been granted effective: Friday, May 22, 2015.

MICHAEL ROBERSON

Senate Majority Leader

JOHN HAMBRICK

Speaker of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Settelmeyer moved that Assembly Bill No. 176 be taken from the Secretary's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 49.

Bill read third time.

Remarks by Senator Brower.

Assembly Bill No. 49 makes certain changes to the criminal laws concerning sexual crimes, particularly crimes against children. I want to thank all of the various stakeholders for working on this bill including up to and through today to try get it as good as we can get it. I would urge the Body's support.

Roll call on Assembly Bill No. 49:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 49 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 176.

Bill read third time.

The following amendment was proposed by Senator Settelmeyer:

Amendment No. 965.

SUMMARY—~~[Requires the regional transportation commission in certain counties to establish and administer the Nevada Yellow Dot Program.]~~
Revises various provisions relating to transportation. (BDR 22-649)

AN ACT relating to transportation; requiring the regional transportation commission in certain counties to establish and administer the Nevada Yellow Dot Program; setting forth the requirements of the Program; requiring the commission in those counties to establish a campaign to raise public awareness of the Program; conferring immunity from civil liability for damages for a first responder under certain circumstances; revising provisions relating to casualty insurance for certain uses of motor vehicles; providing for the regulation of transportation network companies by the Nevada Transportation Authority; establishing requirements concerning drivers and motor vehicles operated by drivers who provide transportation services; prohibiting a local government from imposing any additional tax, fee or requirement for providing transportation services; exempting a transportation network company or driver who provides transportation services from certain provisions of law governing motor carriers; transferring responsibility for certain fees, assessments and excise taxes from the Public Utilities Commission of Nevada to the Authority; requiring an investigation and comparison of certain types of background checks; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This]~~ Section 1 of this bill: (1) requires the regional transportation commission in a county whose population is 700,000 or more (currently Clark County) to establish and administer the Nevada Yellow Dot Program in coordination with each regional transportation commission in this State; (2) requires the regional transportation commission in a county whose population is 700,000 or more (currently Clark County) to disseminate information about the Program to the public and to public safety agencies; (3) authorizes that commission to obtain grants or sponsorships for the Program; and (4) provides that first responders are immune from civil liability for damages as a result of any act or omission taken by the first responder relating to a collision or other emergency in connection with the Program.

Sections 3-46 of this bill provide for the permitting by the Nevada Transportation Authority of transportation network companies and the regulation by the Authority of the provision of transportation services. Section 19 of this bill defines a "transportation network company" as an entity that uses a digital network or software application service to connect passengers to drivers who can provide transportation services to passengers. Section 20 of this bill defines "transportation services" as the transportation by motor vehicle of one or more passengers between points chosen by the passenger or passengers and prearranged with a driver through the use of the digital network or software application service of a transportation network

company. Section 21 of this bill provides that it is the purpose and policy of the Legislature in enacting this bill to ensure the safety, reliability and cost-effectiveness of the transportation services provided by drivers affiliated with transportation network companies in this State.

Sections 4-14 of this bill establish certain requirements concerning the provision of insurance for the payment of tort liabilities arising from the operation of a motor vehicle by a driver who provides transportation services.

Section 25 of this bill prohibits any person from doing business in this State as a transportation network company unless the person holds a valid permit issued by the Authority pursuant to the provisions of sections 4-14 and 16-46 of this bill. Section 25 also: (1) empowers the Authority to regulate, pursuant to the provisions of this bill, all transportation network companies and drivers who operate or wish to operate within this State; and (2) prohibits the Authority from applying any provision of chapter 706 of NRS, relating to motor carriers, to a transportation network company or driver who operates within the provisions of sections 4-14 and 16-46 of this bill. Section 26 of this bill provides for the submission to the Authority of an application for a permit. Section 27 of this bill requires the Authority to issue a permit to an applicant upon a determination by the Authority that the applicant meets all the applicable requirements for the issuance of the permit. Section 27 of this bill further provides that a permit issued by the Authority authorizes a transportation network company to: (1) connect passengers to a driver who can provide transportation services through the use of a digital network or software application service; and (2) make its digital network or software application service available to one or more drivers to receive connections from the company. Section 27 of this bill provides that a permit issued by the Authority does not authorize a transportation network company to engage in any activity regulated pursuant to chapter 706 of NRS, relating to motor carriers. Additionally, section 27 provides that a person who is regulated pursuant to chapter 706 of NRS may be issued a permit to operate a transportation network company if the person meets the requirements for the issuance of a permit.

Section 29 of this bill authorizes a transportation network company to enter into agreements with one or more drivers to receive connections to potential passengers from the company. Section 29 also establishes the minimum qualifications for drivers and requires a transportation network company to conduct an investigation of the background of each driver, which must include a criminal background check, a search of a database containing information from the sex offender website maintained by each state and a review of the complete driving history of the driver. Further, section 29 sets forth the conditions for which a transportation network company must terminate an agreement with a driver.

Section 30 of this bill: (1) provides that a transportation network company may, on behalf of a driver, charge a fare for the provision of transportation services by the driver; and (2) places certain requirements on the company

concerning the fares and the information which must be provided to passengers concerning the amount and the calculation of fares.

Section 31 of this bill: (1) prohibits a transportation network company from allowing any driver who operates a motor vehicle that is not in compliance with all federal, state and local laws governing the operation and maintenance of a motor vehicle to be connected to potential passengers; and (2) requires annual inspections of each motor vehicle operated by a driver.

Section 32 of this bill prohibits discrimination on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression by a transportation network company or driver. Section 33 of this bill requires a transportation network company to provide to passengers certain information relating to the identification of a driver. Section 34 of this bill requires a transportation network company to provide an electronic receipt to each passenger. Section 35 of this bill allows a transportation network company to enter into certain contracts with the Department of Health and Human Services. Section 36 of this bill imposes on transportation network companies certain recordkeeping requirements. Section 37 of this bill imposes on transportation network companies certain reporting requirements.

Section 38 of this bill establishes certain requirements relating to the provision of transportation services by a driver. Section 38 also prohibits a driver from soliciting passengers or providing transportation services except to persons who have arranged for such transportation services through the digital network or software application service of a transportation network company. Section 39 of this bill prohibits a driver from consuming, using or being under the influence of any intoxicating liquor or controlled substance during any period when the driver is providing transportation services or is logged into the digital network or software application service of a transportation network company. With certain exceptions, section 40 of this bill prohibits a transportation network company from releasing the personally identifiable information of passengers.

Section 41 of this bill provides for the investigation of complaints against a transportation network company or driver. Section 42 of this bill: (1) authorizes the Authority to impose certain penalties for any violation of the provisions of sections 4-14 and 16-46 of this bill by a transportation network company or driver; and (2) provides that a person who violates any provision of sections 4-14 and 16-46 of this bill is not subject to a criminal penalty.

Section 43 of this bill provides that this bill does not exempt any person from any other laws governing the operation of a motor vehicle upon the highways of this State, except that a transportation network company or a driver who provides transportation services within the scope of a permit issued by the Authority is not subject to the provisions of existing law governing motor carriers or public utilities.

Section 44 of this bill prohibits a local government from: (1) imposing any tax or fee on a transportation network company, a driver who has entered into

an agreement with such a company or a vehicle operated by such a driver or for transportation services provided by such a driver; (2) requiring a transportation network company or driver to obtain from the local government any certificate, license or permit to provide transportation services; or (3) imposing any other requirement on the operation of a motor vehicle by a transportation network company or driver which is not of general applicability. Section 44 does not prohibit a local government from requiring a transportation network company or driver to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government. Section 44 does not prohibit an airport from requiring a transportation network company or driver to obtain a permit or certification to operate at the airport, pay a fee to operate at the airport or comply with any other requirement to operate at the airport. Section 44 also states that sections 4-14 and 16-46 of this bill do not exempt any person from the requirement to obtain a state business license and requires a transportation network company to notify each driver of the requirement.

Section 45 of this bill requires each transportation network company to provide the Authority with reports at certain times containing certain information about damages resulting from accidents involving drivers who are providing transportation services or logged into the digital network or software application service of the company and available to receive requests for transportation services. Section 45 also requires the Authority to collect these reports, determine whether the limits of coverage required pursuant to section 11 of this bill are sufficient and report to the Legislative Commission or Director of the Legislative Counsel Bureau.

Sections 47-53 and 58 of this bill revise the provisions of Assembly Bill No. 175 of this session to make the Authority, rather than the Public Utilities Commission of Nevada, responsible for carrying out the provisions of that bill relating to fees, assessments and excise taxes for transportation network companies.

Section 54 of this bill provides that: (1) a transportation network company may commence operations within this State immediately upon being issued a permit; (2) any regulation adopted by the Authority pursuant to sections 4-14 and 16-46 of this bill on or before July 1, 2017, shall not be effective for at least 30 days after filing with the Secretary of State; (3) the Authority must begin to accept applications for permits within 30 days after the effective date of section 26 of this bill; and (4) the Authority shall not issue a permit until July 1, 2015.

Section 55 of this bill requires the Nevada Transportation Authority to investigate and compare specific types of background checks to determine the efficacy, efficiency and effect on public safety and report the results of its investigation to the Legislative Commission.

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

Section 1. Chapter 277A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *In a county whose population is 700,000 or more, the commission shall establish and administer the Nevada Yellow Dot Program for the purpose of improving traffic safety.*

2. *The commission specified in subsection 1 shall coordinate with each commission in this State regarding the design, implementation and funding of the Program.*

3. *The Program must:*

(a) *Be available to any person in this State who wishes to participate in the Program by obtaining the materials described in paragraphs (b) and (c):*

(1) *At the main office or any branch office of each commission in this State;*

(2) *At the main office or any branch office of the Nevada Highway Patrol, the Department of Transportation or other location designated by the commission in a county whose population is 700,000 or more; or*

(3) *By mail, upon request.*

(b) *Provide to a participant a distinctive round yellow decal to be placed on a specified location of a vehicle in which the participant is regularly a driver or passenger, to notify first responders that important medical information concerning an occupant of the vehicle may be found in the glove compartment of the vehicle if the occupant is involved in a collision or other emergency.*

(c) *Provide to a participant a brightly colored and distinctively marked envelope and information card to be completed by the participant and kept in the glove box of a vehicle upon which the decal described in paragraph (b) has been affixed. The information card must include, without limitation, spaces for the participant to include:*

(1) *The participant's name;*

(2) *A recent photograph of the participant;*

(3) *Emergency contact information;*

(4) *Any allergies or medical conditions of the participant;*

(5) *The name and contact information of the participant's physician and a preferred hospital, if any; and*

(6) *Information, if any, regarding the participant's health insurance.*

4. *In designing materials for the Program, the commission in a county whose population is 700,000 or more shall consider any materials used by similar programs in other states to ensure, to the extent practicable, uniformity with those materials.*

5. *In a county whose population is 700,000 or more, the commission shall establish and carry out a public information campaign to raise public awareness of the Program. In carrying out that campaign, that commission*

shall disseminate information concerning the Program to public safety agencies in this State.

6. In a county whose population is 700,000 or more, the commission may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the Program, including, without limitation, any private or corporate sponsorship for the Program.

7. A first responder is not liable for any civil damages as a result of any act or omission taken by the first responder relating to a collision or other emergency, not amounting to gross negligence, including, without limitation, failure to observe a decal, failure or inability to locate an information card, or reliance on incomplete, incorrect or outdated information on an information card.

8. As used in this section, "first responder" means any police, fire or emergency medical personnel acting in the normal course of duty.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,

432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964, 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265, 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185, 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and section 36 of this act and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential

if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 3. Chapter 690B of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 14, inclusive, of this act.

Sec. 4. As used in sections 4 to 14, inclusive, of this act, the words and terms defined in sections 5 to 8, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 5. "Driver" has the meaning ascribed to it in section 18 of this act.

Sec. 6. "Transportation network company" has the meaning ascribed to it in section 19 of this act.

Sec. 7. "Transportation network company insurance" means a policy of insurance that includes coverage specifically for the use of a vehicle by a driver pursuant to sections 4 to 14, inclusive, of this act.

Sec. 8. "Transportation services" has the meaning ascribed to it in section 20 of this act.

Sec. 9. The provisions of sections 4 to 14, inclusive, of this act do not apply to a person who is regulated pursuant to chapter 704 or 706 of NRS unless the person holds a permit issued pursuant to section 27 of this act.

Sec. 10. Before allowing a natural person to be connected to a potential passenger using the digital network or software application service of a transportation network company to provide transportation services as a driver, a transportation network company shall, in writing:

1. Disclose the insurance coverage and limits of liability that the transportation network company provides for a driver while the driver is providing transportation services.

2. Notify the person that:

(a) His or her insurance for the operation of a motor vehicle required pursuant to NRS 485.185 may not provide coverage for the use of a motor vehicle to provide transportation services.

(b) If comprehensive or collision coverage was purchased in addition to such insurance, the comprehensive or collision coverage may not apply to any damage which results from the use of the motor vehicle while a driver is providing transportation services or logged into the digital network or software application service of a transportation network company and available to receive requests for transportation services.

3. Disclose to the person that, if there is a lien against a vehicle used by a driver to provide transportation services, the driver must notify the lienholder that the vehicle is being used to provide transportation services.

4. Disclose to the person that the use of a vehicle to provide transportation services may violate the contract between a driver and a lienholder.

Sec. 11. 1. Every transportation network company or driver shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375:

(a) In an amount of not less than \$1,500,000 for bodily injury to or death of one or more persons and injury to or destruction of property of others in any one accident that occurs while the driver is providing transportation services;

(b) In an amount of not less than \$50,000 for bodily injury to or death of one person in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services;

(c) Subject to the minimum amount for one person required by paragraph (b), in an amount of not less than \$100,000 for bodily injury to or death of two or more persons in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services; and

(d) In an amount of not less than \$25,000 for injury to or destruction of property of others in any one accident that occurs while the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not otherwise providing transportation services.

↪ for the payment of tort liabilities arising from the maintenance or use of the motor vehicle.

2. The transportation network company insurance required by subsection 1 may be provided through one or a combination of insurance policies provided by the transportation network company or the driver, or both.

3. Every transportation network company shall continuously provide, during any period in which the driver is providing transportation services, transportation network company insurance provided by an insurance company licensed by the Division of Insurance of the Department of Business and Industry and approved to do business in this State or a broker licensed

pursuant to chapter 685A of NRS or procured directly from a nonadmitted insurer, as defined in NRS 685A.0375, which meets the requirements of subsection 1 as primary insurance if the insurance provided by the driver:

(a) Lapses; or

(b) Fails to meet the requirements of subsection 1.

4. Notwithstanding the provisions of NRS 485.185 and 485.186 which require the owner or operator of a motor vehicle to provide insurance, transportation network company insurance shall be deemed to satisfy the requirements of NRS 485.185 or 485.186, as appropriate, regardless of whether the insurance is provided by the transportation network company or the driver, or both, if the transportation network company insurance otherwise satisfies the requirements of NRS 485.185 or 485.186, as appropriate.

5. In addition to the coverage required pursuant to subsection 1, a policy of transportation network company insurance may include additional coverage, including, without limitation, coverage for medical payments, coverage for uninsured or underinsured motorists, comprehensive coverage and collision coverage.

6. An insurer who provides transportation network company insurance shall not require a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, to deny a claim before the transportation network company insurance provides coverage for a claim.

7. An insurer who provides transportation network company insurance has a duty to defend and indemnify the driver and the transportation network company.

8. An insurer who provides transportation network company insurance which includes comprehensive coverage or collision coverage for the operation of a motor vehicle against which a lienholder holds a lien shall issue any payment for a claim under such coverage:

(a) Directly to the person who performs repairs upon the vehicle; or

(b) Jointly to the owner of the vehicle and the lienholder.

9. A transportation network company that provides transportation network company insurance for a motor vehicle is not deemed to be the owner of the motor vehicle.

Sec. 12. 1. A policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, is not required to include transportation network company insurance. An insurer providing a policy which excludes transportation network company insurance does not have a duty to defend or indemnify a driver for any claim arising during any period in which the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services.

2. An insurer who provides a policy of insurance for the operation of a motor vehicle required pursuant to NRS 485.185 or 485.186, as appropriate, may include transportation network company insurance in such a policy. An insurer may charge an additional premium for the inclusion of transportation network company insurance in such a policy.

3. An insurer who:

(a) Defends or indemnifies a driver for a claim arising during any period in which the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services; and

(b) Excludes transportation network company insurance from the policy of insurance for the operation of a motor vehicle provided to the driver.

↪ has the right of contribution against other insurers who provide coverage to the driver to satisfy the coverage required by section 11 of this act at the time of the loss.

Sec. 13. In any investigation relating to tort liability arising from the operation of a motor vehicle, each transportation network company and driver, and each insurer providing transportation network company insurance to a transportation network company or driver, who is involved in the underlying incident shall cooperate with any other party to the incident and any other insurer involved in the investigation and share information, including, without limitation:

1. The date and time of an accident involving a driver.

2. The dates and times that the driver involved in an accident logged into the digital network or software application service of the transportation network company for a period of 12 hours immediately preceding and 12 hours immediately following the accident.

3. The dates and times that the driver involved in an accident logged out of the digital network or software application service of the transportation network company for a period of 12 hours immediately preceding and 12 hours immediately following the accident.

4. A clear description of the coverage, exclusions and limits provided under any policy of transportation network company insurance which applies.

Sec. 14. 1. A driver shall carry proof of coverage under a policy of transportation network company insurance at all times when the driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services.

2. A driver shall provide proof of coverage under a policy of transportation network company insurance and disclose whether he or she was logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services at the time of an

accident upon request to a law enforcement officer and to any party with whom the driver is involved in an accident.

Sec. 15. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 16 to 46, inclusive, of this act.

Sec. 16. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 17 to 20, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 17. "Authority" means the Nevada Transportation Authority.

Sec. 18. "Driver" means a natural person who:

1. Operates a motor vehicle that is owned, leased or otherwise authorized for use by the person; and

2. Enters into an agreement with a transportation network company to receive connections to potential passengers and related services from a transportation network company in exchange for the payment of a fee to the transportation network company.

Sec. 19. "Transportation network company" or "company" means an entity that uses a digital network or software application service to connect a passenger to a driver who can provide transportation services to the passenger.

Sec. 20. "Transportation services" means the transportation by a driver of one or more passengers between points chosen by the passenger or passengers and prearranged through the use of the digital network or software application service of a transportation network company. The term includes only the period beginning when a driver accepts a request by a passenger for transportation through the digital network or software application service of a transportation network company and ending when the last such passenger fully disembarks from the motor vehicle operated by the driver.

Sec. 21. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter to ensure the safety, reliability and cost effectiveness of the transportation services provided by drivers affiliated with transportation network companies in this State.

Sec. 22. The provisions of this chapter do not apply to:

1. Common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the Department of Health and Human Services entered into pursuant to NRS 422.2705.

2. A person who provides a digital network or software application service to enable persons who are interested in sharing expenses for transportation to a destination, commonly known as carpooling, to connect with each other, regardless of whether a fee is charged by the person who provides the digital network or software application service.

Sec. 23. Nothing in this chapter shall be construed to deem a motor vehicle operated by a driver to provide transportation services to be a commercial motor vehicle.

Sec. 24. Except as otherwise provided in this chapter and the regulations adopted pursuant thereto or by a written contract between a transportation network company and a driver, a company shall not control, direct or manage a driver or the motor vehicle operated by a driver.

Sec. 25. 1. A transportation network company shall not engage in business in this State unless the company holds a valid permit issued by the Authority pursuant to this chapter.

2. A driver shall not provide transportation services unless the company with which the driver is affiliated holds a valid permit issued by the Authority pursuant to this chapter.

3. The Authority is authorized and empowered to regulate, pursuant to the provisions of this chapter, all transportation network companies and drivers who operate or wish to operate within this State. The Authority shall not apply any provision of chapter 706 of NRS to a transportation network company or a driver who operates within the provisions of this chapter and the regulations adopted pursuant thereto.

Sec. 26. A person who desires to operate a transportation network company in this State must submit to the Authority an application for the issuance of a permit to operate a transportation network company. The application must be in the form required by the Authority and must include such information as the Authority, by regulation, determines is necessary to prove the person meets the requirements of this chapter for the issuance of a permit.

Sec. 27. 1. Upon receipt of a completed application and upon a determination by the Authority that an applicant meets the requirements for the issuance of a permit to operate a transportation network company, the Authority shall issue to the applicant within 30 days a permit to operate a transportation network company in this State.

2. In accordance with the provisions of this chapter, a permit issued pursuant to this section:

(a) Authorizes a transportation network company to connect one or more passengers through the use of a digital network or software application service to a driver who can provide transportation services.

(b) Authorizes a transportation network company to make its digital network or software application service available to one or more drivers to receive connections to potential passengers from the company in exchange for the payment of a fee by the driver to the company.

(c) Does not authorize a transportation network company or any driver to engage in any activity otherwise regulated pursuant to chapter 706 of NRS other than the activity authorized by this chapter.

3. Nothing in this chapter prohibits the issuance of a permit to operate a transportation network company to a person who is regulated pursuant to chapter 706 of NRS if the person submits an application pursuant to section 26 of this act and meets the requirements for the issuance of a permit.

Sec. 28. A transportation network company shall appoint and keep in this State a registered agent as provided in NRS 14.020.

Sec. 29. 1. A transportation network company may enter into an agreement with one or more drivers to receive connections to potential passengers from the company in exchange for the payment of a fee by the driver to the company.

2. Before a transportation network company allows a person to be connected to potential passengers using the digital network or software application service of the company pursuant to an agreement with the company, the company must:

(a) Require the person to submit an application to the company, which must include, without limitation:

(1) The name, age and address of the applicant.

(2) A copy of the driver's license of the applicant.

(3) A record of the driving history of the applicant.

(4) A description of the motor vehicle of the applicant and a copy of the motor vehicle registration.

(5) Proof that the applicant has complied with the requirements of NRS 485.185.

(b) At the time of application and not less than once every 3 years thereafter, conduct or contract with a third party to conduct an investigation of the criminal history of the applicant, which must include, without limitation:

(1) A review of a commercially available database containing criminal records from each state which are validated using a search of the primary source of each record.

(2) A search of a database containing the information available in the sex offender registry maintained by each state.

(c) At the time of application and not less than once every year thereafter, obtain and review a complete record of the driving history of the applicant.

3. A transportation network company may enter into an agreement with a driver if:

(a) The applicant is at least 19 years of age.

(b) The applicant possesses a valid driver's license issued by the Department of Motor Vehicles unless the applicant is exempt from the requirement to obtain a Nevada driver's license pursuant to NRS 483.240.

(c) The applicant provides proof that the motor vehicle operated by him or her is registered with the Department of Motor Vehicles unless the applicant is exempt from the requirement to register the motor vehicle in this State pursuant to NRS 482.385.

(d) The applicant provides proof that the motor vehicle operated by him or her is operated and maintained in compliance with all applicable federal, state and local laws.

(e) The applicant provides proof that he or she currently is in compliance with the provisions of NRS 485.185.

(f) In the 3 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of three or more violations of the motor vehicle laws of this State or any traffic ordinance of any city or town, the penalty prescribed for which is a misdemeanor.

(g) In the 3 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of any violation of the motor vehicle laws of this State or any traffic ordinance of any city or town, the penalty prescribed for which is a gross misdemeanor or felony.

(h) In the 7 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of any violation of federal, state or local law prohibiting driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance.

(i) In the 7 years immediately preceding the date on which the application is submitted, the applicant has not been found guilty of any crime involving an act of terrorism, an act of violence, a sexual offense, fraud, theft, damage to property of another or the use of a motor vehicle in the commission of a felony.

(j) The name of the applicant does not appear in the database searched pursuant to subparagraph (2) of paragraph (b) of subsection 2.

4. A transportation network company shall terminate an agreement with any driver who:

(a) Fails to submit to the transportation network company a change in his or her address, driver's license or motor vehicle registration within 30 days after the date of the change.

(b) Fails to immediately report to the transportation network company any change in his or her driving history or criminal history.

(c) Refuses to authorize the transportation network company to obtain and review an updated complete record of his or her driving history not less than once each year and an investigation of his or her criminal history not less than once every 3 years.

(d) Is determined by the transportation network company to be ineligible for an agreement pursuant to subsection 3 on the basis of any updated information received by the transportation network company.

Sec. 30. 1. In accordance with the provisions of this chapter, a transportation network company which holds a valid permit issued by the Authority pursuant to this chapter may, on behalf of a driver, charge a fare for transportation services provided to a passenger by the driver.

2. If a fare is charged, the company must disclose the rates charged by the company and the method by which the amount of a fare is calculated:

(a) On an Internet website maintained by the company; or

(b) Within the digital network or software application service of the company.

3. If a fare is charged, the company must offer to each passenger the option to receive, before the passenger enters the motor vehicle of a driver, an estimate of the amount of the fare that will be charged to the passenger.

4. A transportation network company may accept payment of a fare only electronically. A transportation network company or a driver shall not solicit or accept cash as payment of a fare.

5. A transportation network company shall not impose any additional charge for a driver who provides transportation services to a person with a physical disability because of the disability.

6. The Authority may adopt regulations establishing a maximum fare that may be charged during an emergency, as defined in NRS 414.0345.

Sec. 31. 1. A transportation network company shall not allow a driver to be connected to potential passengers using the digital network or software application service of the company if the motor vehicle operated by the driver to provide transportation services:

(a) Is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle.

(b) Has less than four doors.

(c) Is designed to carry more than eight passengers, including the driver.

(d) Is a farm tractor, mobile home, recreational vehicle, semitractor, semitrailer, trailer, bus, motorcycle or tow car.

2. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide transportation services and not less than once each year thereafter.

3. The inspection required by subsection 2 must include, without limitation, an inspection of the foot and emergency brakes, steering, windshield, rear window, other glass, windshield wipers, headlights, tail lights, turn indicator lights, braking lights, front seat adjustment mechanism, doors, horn, speedometer, bumpers, muffler, exhaust, tires, rear view mirrors and safety belts of the vehicle which ensures the proper functioning of each component.

Sec. 32. 1. A transportation network company shall adopt a policy which prohibits discrimination against a passenger or potential passenger on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression.

2. A driver shall not discriminate against a passenger or potential passenger on account of national origin, religion, age, disability, sex, race, color, sexual orientation or gender identity or expression.

3. A transportation network company shall provide to each passenger an opportunity to indicate whether the passenger requires transportation in a motor vehicle that is wheelchair accessible. If the company cannot provide the passenger with transportation services in a motor vehicle that is wheelchair accessible, the company must direct the passenger to an

alternative provider or means of transportation that is wheelchair accessible, if available.

Sec. 33. For each instance in which a driver provides transportation services to a passenger, the transportation network company which connected the passenger to the driver shall provide to the passenger, before the passenger enters the motor vehicle of a driver, a photograph of the driver who will provide the transportation services and the license plate number of the motor vehicle operated by the driver. The information required by this section must be provided to the passenger:

1. On an Internet website maintained by the company; or
2. Within the digital network or software application service of the company.

Sec. 34. A transportation network company which connected a passenger to a driver shall, within a reasonable period following the provision of transportation services by the driver to the passenger, transmit to the passenger an electronic receipt, which must include, without limitation:

1. A description of the point of origin and the destination of the transportation services;
2. The total time for which transportation services were provided;
3. The total distance traveled; and
4. An itemization of the fare, if any, charged for the transportation services.

Sec. 35. A transportation network company may enter into a contract with any agency of the Department of Health and Human Services to provide assistance in transportation pursuant to the programs administered by the agency.

Sec. 36. 1. A transportation network company shall maintain the following records relating to the business of the company for a period of at least 3 years after the date on which the record is created:

- (a) Trip records;
- (b) Driver records and vehicle inspection records;
- (c) Records of each complaint and the resolution of each complaint; and
- (d) Records of each accident or other incident that involved a driver and was reported to the transportation network company.

2. Each transportation network company shall make its records available for inspection by the Authority upon request and only as necessary for the Authority to investigate complaints. This subsection does not require a company to make any proprietary information available to the Authority. Any records provided to the Authority are confidential and must not be disclosed other than to employees of the Authority.

Sec. 37. 1. Each transportation network company shall:

- (a) Keep uniform and detailed accounts of all business transacted in this State and provide such accounts to the Authority upon request;

(b) On or before May 15 of each year, provide an annual report to the Authority regarding all business conducted by the company in this State during the preceding calendar year; and

(c) Provide the information determined by the Authority to be necessary to verify the collection of money owed to the State.

2. The Authority shall adopt regulations setting forth the form and contents of the information required to be provided pursuant to subsection 1.

3. If the Authority determines that a transportation network company has failed to include information in its accounts or report required pursuant to subsection 1, the Authority shall notify the company to provide such information. A company which receives a notice pursuant to this subsection shall provide the specified information within 15 days after receipt of such a notice.

4. All information required to be provided pursuant to this section must be signed by an officer or agent of, or other person authorized by, the transportation network company under oath.

Sec. 38. 1. A driver shall not solicit or accept a passenger or provide transportation services to any person unless the person has arranged for the transportation services through the digital network or software application service of the transportation network company.

2. With respect to a passenger's destination, a driver shall not:

(a) Deceive or attempt to deceive any passenger who rides or desires to ride in the driver's motor vehicle.

(b) Convey or attempt to convey any passenger to a destination other than the one directed by the passenger.

(c) Take a longer route to the passenger's destination than is necessary, unless specifically requested to do so by the passenger.

(d) Fail to comply with the reasonable and lawful requests of the passenger as to speed of travel and route to be taken.

3. A driver shall not, at the time the driver picks up a passenger, refuse or neglect to provide transportation services to any orderly passenger unless the driver can demonstrate to the satisfaction of the Authority that:

(a) The driver has good reason to fear for the driver's personal safety; or

(b) The driver is prohibited by law or regulation from carrying the person requesting transportation services.

Sec. 39. 1. A driver is prohibited from consuming, using or being under the influence of any intoxicating liquor or controlled substance during any period in which the driver is providing transportation services on behalf of the transportation network company and any period in which the driver is logged into the digital network or software application service of the transportation network company and available to receive requests for transportation services but is not providing transportation services.

2. Each transportation network company shall:

(a) Provide notice of the provisions of subsection 1:

(1) On an Internet website maintained by the company; or

(2) Within the digital network or software application service of the company; and

(b) Provide for the submission to the company of a complaint by a passenger who reasonably believes that a driver is operating a motor vehicle in violation of the provisions of subsection 1.

3. Upon receipt of a complaint submitted by a passenger who reasonably believes that a driver is operating a motor vehicle in violation of the provisions of subsection 1, a transportation network company shall immediately suspend the access of the driver to the digital network or software application service of the company and conduct an investigation of the complaint. The company shall not allow the driver to access the digital network or software application service of the company or provide transportation services in affiliation with the company until after the investigation is concluded.

4. If a transportation network company determines, pursuant to an investigation conducted pursuant to subsection 3, that a driver has violated the provisions of subsection 1, the company shall terminate the agreement entered into with the driver and shall not allow the driver to access the digital network or software application service of the company.

5. Each transportation network company shall maintain a record of each complaint described in subsection 3 and received by the company for a period of not less than 3 years after the date on which the complaint is received. The record must include, without limitation, the name of the driver, the date on which the complaint was received, a summary of the investigation conducted by the company and the results of the investigation.

Sec. 40. 1. Except as otherwise provided in this section, a transportation network company shall not disclose to any person the personally identifiable information of a passenger who received services from the company unless:

(a) The disclosure is otherwise required by law;

(b) The company determines that disclosure is required to protect or defend the terms of use of the services or to investigate violations of those terms of use; or

(c) The passenger consents to the disclosure.

2. A transportation network company may disclose to a driver the name and telephone number of a passenger for the purposes of facilitating correct identification of the passenger and facilitating communication between the driver and the passenger.

Sec. 41. Each transportation network company shall:

1. Provide notice of the contact information of the Authority on an Internet website maintained by the company or within the digital network or software application service of the company; and

2. Create a system to receive and address complaints from consumers which is available during normal business hours in this State.

Sec. 42. 1. If the Authority determines that a transportation network company or driver has violated the terms of a permit issued pursuant to this chapter or any provision of this chapter or any regulations adopted pursuant thereto, the Authority may, depending on whether the violation was committed by the company, the driver, or both:

(a) If the Authority determines that the violation is willful and endangers public safety, suspend or revoke the permit issued to the transportation network company;

(b) If the Authority determines that the violation is willful and endangers public safety, impose against the transportation network company an administrative fine in an amount not to exceed \$100,000 per violation;

(c) Prohibit a person from operating as a driver; or

(d) Impose any combination of the penalties provided in paragraphs (a), (b) and (c).

2. To determine the amount of an administrative fine imposed pursuant to paragraph (b) or (d) of subsection 1, the Authority shall consider:

(a) The size of the transportation network company;

(b) The severity of the violation;

(c) Any good faith efforts by the transportation network company to remedy the violation;

(d) The history of previous violations by the transportation network company; and

(e) Any other factor that the Authority determines to be relevant.

3. Notwithstanding the provisions of NRS 193.170, a person who violates any provision of this chapter is not subject to any criminal penalty for such a violation.

Sec. 43. 1. Except as otherwise provided in subsection 2, the provisions of this chapter do not exempt any person from any law governing the operation of a motor vehicle upon the highways of this State.

2. A transportation network company which holds a valid permit issued by the Authority pursuant to this chapter, a driver who has entered into an agreement with such a company and a vehicle operated by such a driver are exempt from:

(a) The provisions of chapter 704 relating to public utilities; and

(b) The provisions of chapter 706 of NRS.

↪ to the extent that the services provided by the company or driver are within the scope of the permit.

Sec. 44. 1. Except as otherwise provided in subsection 2, a local governmental entity shall not:

(a) Impose any tax or fee on a transportation network company operating within the scope of a valid permit issued by the Authority pursuant to this chapter, a driver who has entered into an agreement with such a company or a vehicle operated by such a driver or for transportation services provided by such a driver.

(b) Require a transportation network company operating within the scope of a valid permit issued by the Authority pursuant to this chapter to obtain from the local government any certificate, license or permit to operate within that scope or require a driver who has entered into an agreement with such a company to obtain from the local government any certificate, license or permit to provide transportation services.

(c) Impose any other requirement upon a transportation network company or a driver which is not of general applicability to all persons who operate a motor vehicle within the jurisdiction of the local government.

2. Nothing in this section:

(a) Prohibits a local governmental entity from requiring a transportation network company or driver to obtain from the local government a business license or to pay any business license fee in the same manner that is generally applicable to any other business that operates within the jurisdiction of the local government.

(b) Prohibits an airport or its governing body from requiring a transportation network company or a driver to:

(1) Obtain a permit or certification to operate at the airport;

(2) Pay a fee to operate at the airport; or

(3) Comply with any other requirement to operate at the airport.

(c) Exempts a vehicle operated by a driver from any tax imposed pursuant to NRS 354.705, 371.043 or 371.045.

3. The provisions of this chapter do not exempt any person from the requirement to obtain a state business license issued pursuant to chapter 76 of NRS. A transportation network company shall notify each driver of the requirement to obtain a state business license issued pursuant to chapter 76 of NRS and the penalties for failing to obtain a state business license.

Sec. 45. 1. Each transportation network company shall provide to the Authority reports containing information relating to motor vehicle accidents involving drivers affiliated with the company which occurred in this State while the driver was providing transportation services or logged into the digital network or software application service of the company and available to receive requests for transportation services. The reports required by this subsection must contain the information identified in subsection 2 and be submitted:

(a) For all accidents that occurred during the first 6 months that the company operates within this State, on or before the date 7 months after the company was issued a permit.

(b) For all accidents that occurred during the first 12 months that the company operates within this State, on or before the date 13 months after the company was issued a permit.

2. The reports submitted pursuant to subsection 1 must include, for the period of time specified in subsection 1:

(a) The number of motor vehicle accidents which occurred in this State involving such a driver;

(b) The highest, lowest and average amount paid for bodily injury or death to one or more persons that occurred as a result of such an accident; and

(c) The highest, lowest and average amount paid for damage to property that occurred as a result of such an accident.

3. The Authority shall collect the reports submitted by transportation network companies pursuant to subsection 1 and determine whether the limits of coverage required pursuant to section 11 of this act are sufficient. The Authority shall submit a report stating whether the limits of coverage required pursuant to section 11 of this act are sufficient and containing the information, in an aggregated format which does not reveal the identity of any person, submitted by transportation network companies pursuant to subsection 1 since the last report of the Authority pursuant to this subsection:

(a) To the Legislative Commission on or before December 1 of each odd-numbered year.

(b) To the Director of the Legislative Counsel Bureau for transmittal to the Nevada Legislature on or before December 1 of each even-numbered year.

Sec. 46. The Authority shall adopt such regulations as are necessary to carry out the provisions of this chapter.

Sec. 47. Section 14 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 14. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 15 to ~~46,~~ 28, inclusive, of this act.

Sec. 48. Section 25 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 25. A person who desires to operate a transportation network company in this State must submit to the ~~[Commission]~~ Authority an application for the issuance of a permit to operate a transportation network company. The application must be in the form required by the ~~[Commission]~~ Authority, must be accompanied by the fee required by section 27 of this act and must include such information as ~~reasonably required by~~ the ~~[Commission]~~ Authority, by regulation ~~[.]~~, determines is necessary to prove the person meets the requirements of this chapter for the issuance of a permit.

Sec. 49. Section 26 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 26. 1. Upon receipt of a completed application and payment of the required fee and upon a determination by the ~~[Commission]~~ Authority that an applicant meets the requirements for the issuance of a permit to operate a transportation network company, the ~~[Commission]~~ Authority shall issue to the applicant within ~~[120]~~ 30 days a permit to operate a transportation network company in this State.

2. In accordance with the provisions of this chapter, a permit issued pursuant to this section:

(a) Authorizes a transportation network company to connect one or more passengers through the use of a digital network or software application service to a driver who can provide transportation services.

(b) Authorizes a transportation network company to make its digital network or software application service available to one or more drivers to receive connections to potential passengers from the company in exchange for the payment of a fee by the driver to the company.

(c) Does not authorize a transportation network company or any driver to engage in any activity otherwise regulated pursuant to chapter 706 of NRS other than the activity authorized by ~~sections 15 to 46, inclusive, of~~ this ~~act~~ chapter.

3. Nothing in this chapter prohibits the issuance of a permit to operate a transportation network company to a person who is regulated pursuant to chapter 706 of NRS if the person submits an application pursuant to section 25 of this act and meets the requirements for the issuance of a permit.

Sec. 50. Section 27 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 27. 1. The ~~{Commission}~~ Authority shall charge and collect a fee in an amount established by the ~~{Commission}~~ Authority by regulation from each applicant for a permit to operate a transportation network company in this State. The fee required by this subsection is not refundable. The ~~{Commission}~~ Authority shall not issue a permit to operate a transportation network company in this State unless the applicant has paid the fee required by this subsection.

2. For each year after the year in which the ~~{Commission}~~ Authority issues a permit to a transportation network company, the ~~{Commission}~~ Authority shall levy and collect an annual assessment from the transportation network company at a rate determined by the ~~{Commission}~~ Authority based on the gross operating revenue derived from the intrastate operations of the transportation network company in this State.

3. The annual assessment levied and collected by the ~~{Commission}~~ Authority pursuant to subsection 2 must be used by the ~~{Commission}~~ Authority for the regulation of transportation network companies.

Sec. 51. Section 28 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 28. 1. In addition to any other fee or assessment imposed pursuant to this chapter, an excise tax is hereby imposed on the use of a digital network or software application service of a transportation network company to connect a passenger to a driver for the purpose of

providing transportation services at the rate of 3 percent of the total fare charged for transportation services, which must include, without limitation, all fees, surcharges, technology fees, convenience charges for the use of a credit or debit card and any other amount that is part of the fare. The ~~[Commission]~~ *Authority* shall charge and collect from each transportation network company the excise tax imposed by this subsection.

2. The excise tax collected by the ~~[Commission]~~ *Authority* pursuant to subsection 1 must be deposited with the State Treasurer in accordance with the provisions of section 53 of this act.

Sec. 52. Section 53 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 53. The State Treasurer shall deposit any money the State Treasurer receives from the ~~[Public Utilities Commission of]~~ Nevada *Transportation Authority* pursuant to ~~[section]~~ *sections* 28 ~~[of this act, the Authority pursuant to section]~~ and 51 of this act and the Taxicab Authority pursuant to section 52 of this act:

1. For the first \$5,000,000 of the combined amount of such money received in each biennium, for credit to the State Highway Fund.

2. For any additional amount of such money received in each fiscal year, for credit to the State General Fund.

Sec. 53. Section 58 of Assembly Bill No. 175 of this session is hereby amended to read as follows:

Sec. 58. 1. This section and sections ~~[2]~~ *14, 15, 17, 18, 19, 25 to [50,] 28, inclusive, 50, 53 and [53 to 57, inclusive,] 54* of this act become effective upon passage and approval.

2. Sections 51 and 52 of this act become effective on the 90th day after the effective date described in subsection 1.

3. Section 1 of this act becomes effective on October 1, 2015.

Sec. 54. 1. Notwithstanding any regulation adopted by the Nevada Transportation Authority pursuant to sections 16 to 46, inclusive, of this act, a transportation network company, as defined in section 19 of this act, which is issued a permit by the Nevada Transportation Authority pursuant to section 27 of this act on or before July 1, 2017, may commence operations in this State immediately upon being issued a permit.

2. Notwithstanding the effective date of any regulation adopted by the Nevada Transportation Authority pursuant to sections 16 to 46, inclusive, of this act on or before July 1, 2017, a transportation network company must not be required to comply with the provisions of the regulation until 30 days after the regulation is filed with the Secretary of State.

3. The Nevada Transportation Authority shall accept applications for a permit to operate a transportation network company within 30 days after the effective date of section 26 of this act.

4. Notwithstanding the provisions of section 27 of this act, the Nevada Transportation Authority shall not, before July 1, 2015, issue a permit to operate a transportation network company.

Sec. 55. 1. The Nevada Transportation Authority shall investigate and compare the efficacy, efficiency and effect on public safety of background checks performed pursuant to paragraph (b) of subsection 2 of section 29 of this act and background checks performed by submitting the fingerprints of a person by the Central Repository for Nevada Records of Criminal History to the Federal Bureau of Investigation for its report.

2. The Nevada Transportation Authority shall, on or before the date 6 months after the effective date of this section, report the results of its investigation to the Legislative Commission.

Sec. 56. 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. 2.5.]~~ Sec. 57. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 58. Sections 2 to 13, inclusive, 16, 20 to 24, inclusive, 29 to 49, inclusive, 55, 56 and 57 of Assembly Bill No. 175 of this session are hereby repealed.

~~[Sec. 3.]~~ Sec. 59. 1. This section, sections 2 to 46, inclusive, 54, 55 and 56 of this act ~~[becomes]~~ become effective upon passage and approval.

2. Sections 47 to 53, inclusive, and 58 of this act become effective upon passage and approval of Assembly Bill No. 175 of this session.

3. Sections 1 and 57 of this act become effective on January 1, 2016.

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

Amendment No. 965 to Assembly Bill No. 176 provides for the permitting by the Nevada Transportation Authority (NTA) of transportation network companies (TNC) and the regulation of the NTA of the revisions of the transportation services. Specifically the amendment requires the TNC to hold a valid permit issued by the NTA; establishes insurance requirements for the TNCs and requires the NTA to regulate TNCs and TNC drivers; establishes minimum qualifications for the drivers and requires the TNC to conduct certain types of background checks; requires an annual inspection of motor vehicles operated by the TNC drivers; prohibits a local government from imposing taxes, fees or certain other requirements on a TNC; and provides that neither the TNC or TNC driver are subject to the revisions of existing laws governing motor carriers of public utilities.

Amendment adopted.

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

Assembly Bill No. 421.

Bill read third time.

Remarks by Senator Gustavson.

Assembly Bill No. 421 creates the Spending and Government Efficiency Commission for the system of K-12 public education in this State. The Commission consists of 11 members who

have expertise in the operation of a business and one member who is a retired Nevada K-12 educator. This bill is effective on July 1, 2015, and expires by limitation on June 30, 2017.

Roll call on Assembly Bill No. 421:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 421 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Mr. President announced that if there were no objections, the Senate would recess subject to the call of the Chair.

Senate in recess at 1:22 a.m.

SENATE IN SESSION

At 1:27 a.m.

President Hutchison presiding.

Quorum present.

Assembly Bill No. 176.

Bill read third time.

Remarks by Senator Settlemeyer.

Assembly Bill No. 176 requires the regional transportation commission in a county whose population is 700,000 or more to establish and administer the Nevada Yellow Dot Program in coordination with each regional transportation commission in this State. The bill also requires this regional transportation commission to disseminate information about the Program to the public and to public safety agencies. The commission is authorized to obtain grants or sponsorships for the Program, and first responders are immune from civil liability for damages as a result of any act or omission they take relating to an emergency in connection with the Program.

The next two pages are about transportation network companies. We have all heard enough, and every time I talk more, it does not pass so I am done.

Roll call on Assembly Bill No. 176:

YEAS—19.

NAYS—None.

EXCUSED—Segerblom, Smith—2.

Assembly Bill No. 176 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 35, 62, 74, 78, 88, 94, 155, 268, 293, 303, 377, 410, 429, 441, 457; Assembly Bills Nos. 13, 16, 45, 46, 48, 60, 68, 78, 120, 164, 273, 435, 442, 465.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Woodhouse, the privilege of the floor of the Senate Chamber for this day was extended to students from Cartwright Elementary School: Valelia Ah You, Carmine Aitala, Jordynn Armstrong, Anthony Bell, Skyler Blades, Karli Brooks, Ryan Brzozowski, Madison Canida, Jayme Cajudoy, Jimena Cervantes, Alberto Chavez, Tristaney Church, Garrett Cox, Will Cox, Gianna Craner, Madilynn Crispin, Amberlee Cruz, Prince Davis, Aditya Dagar, Ananya Dagar, Brooks Evans, Janelle Flores, Bonnita Gallagher, Alexis Galvez, Rachel Gehien, Shelby Goetzelman, Rachel Grant, Cameron Green, Joey Harper, Jessica Henderson, Sahmaya Henderson, Destanee Henderson Hosley, Arianna Himmelsbach, Janlyah Hunsaker, Bailey Kachinsky, Seth Klein, Emily Lee, Juan Lopez, John Lynch, Christopher Juan, Joshua Manago, Amber Martin, Marlon Melu, Jessica Metz, Janelle Millan, Erick Miller, Denise Miller, Cain Mireles, Meli'ala Moniz, Patrick Moniz, Tonia Moniz, Anahis Mora, Anthony Morris, Collin Morville, Khol Nguyen, Kody Opiari, Mary Pallett, Catherine Parise, Annila Perez, Kristen Poselero, Sydney Randall, Samantha Rodriguez, Jessica Reimer, Stephanie Robinson, Juliano Saade, Nicolai Sarkis, Tonya Simmons, Cassidy Smith, Kaweihilani Takizawa, Jayda Tavares, Avery Thompson, Alondra Vasquez, Gina Vogt, Ryan Walker, Stacie Warnshoiz, Gracie Weeks and Payce Weight.

On request of President Hutchison, the privilege of the floor of the Senate Chamber for this day was extended to Libby Thornley.

Senator Roberson moved that the Senate adjourn until Monday, May 25, 2015, at 5:00 p.m.

Motion carried.

Senate adjourned at 1:31 a.m.

Approved:

MARK A. HUTCHISON

President of the Senate

Attest: CLAIRE J. CLIFT

Secretary of the Senate